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PERSONNEL GOALS / PRIORITY OBJECTIVES

The Board recognizes that dynamic and efficient staff members dedicated to education are necessary to maintain a constantly improving educational program. The Board is interested in its personnel as individuals, and it recognizes its responsibility for promoting the general welfare of the staff members.

Duties of these staff members shall be outlined and assigned by the Superintendent.

Additionally, the Board establishes, as personnel service goals, the following:

- Recruiting, selecting, and employing the best-qualified personnel to staff the school system.
- An employee appraisal program that will contribute to the continuous improvement of staff performance.
- Professional development and in-service training programs for employees that will improve their rates of performance and retention.
- Deployment of the available personnel to ensure that they are utilized as effectively as possible within budgetary constraints.
- Human relationships necessary to obtain maximum staff performance and satisfaction.
- A staff compensation program sufficient to attract and retain qualified employees within the fiscal limitations of the District.

Adopted: January 16, 2018

EQUAL EMPLOYMENT OPPORTUNITY

Discrimination against an otherwise qualified individual with a disability or any individual by reason of race, color, religion, sex, sexual orientation, age, or national origin is prohibited. Efforts will be made in recruitment and employment to ensure equal opportunity in employment for all qualified persons.

Adopted: date of manual adoption

LEGAL REF.: 20 U.S.C. § 1703, Equal Employment Opportunity Act of 1972
28-1-2 NMSA *et seq*

CROSS REF.: AC - Nondiscrimination
ACA - Sexual Harassment
IHBA - Special Instructional Programs and Accommodations for
Disabled Students
JB - Equal Educational Opportunities
KED - Public Concerns/Complaints about Facilities or Services

REGULATION**REGULATION****EQUAL EMPLOYMENT OPPORTUNITY****Compliance Officer**

The Superintendent shall be the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination by an agent or employee of the District or who knows of such discrimination against another person should file a complaint with the Superintendent. If the Superintendent is the one alleged to have unlawfully discriminated, the complaint shall be filed with the President of the Board.

Complaint Procedure

The District is committed to investigating each complaint and to taking appropriate action on all confirmed violations of policy. The Superintendent shall investigate and document complaints filed pursuant to this regulation as soon as reasonable. In investigating the complaint, the Superintendent will maintain confidentiality to the extent reasonably possible. The Superintendent shall also investigate incidents of policy violation that are raised by the Board, even though no complaint has been made.

If after the initial investigation the Superintendent has reason to believe that a violation of policy has occurred, the Superintendent shall determine whether or not to hold an administrative hearing and/or to recommend bringing the matter before the Board.

If the person alleged to have violated policy is a teacher or an administrator, the due process provisions of the District's Policy GCQF shall apply, except that the supervising administrator may be assigned to conduct the hearing. In cases of serious misconduct, dismissal or suspension proceedings in accordance with statutes may be initiated.

If the person alleged to have violated policy is a support staff employee, the Superintendent may follow due process and impose discipline under Policy GDQD if the evidence so warrants. The Superintendent also may recommend a suspension without pay, recommend dismissal, or impose other appropriate discipline.

If the person alleged to have violated policy is a student, the Superintendent may impose discipline in accordance with policies JK and JKD.

If the Superintendent's investigation reveals no reasonable cause to believe policy has been violated, the Superintendent shall so inform the complaining party in writing.

Timelines

The complaint must be filed within thirty (30) calendar days after the complaining party knew or should have known that there were grounds for a complaint/grievance.

Once the written complaint has been filed using the forms provided by the District, the Superintendent shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within five (5) working days.

If the immediate supervisor or site administrator does not respond, the Superintendent will have ten (10) additional working days to respond in writing to the complaining party.

If the Superintendent does not respond within the established time, then the complaining party may request in writing that the issue be brought before the Board. The Board will then review the record of the investigation and have thirty (30) days to respond to the complaining party in writing.

EXHIBIT**EXHIBIT****EQUAL EMPLOYMENT OPPORTUNITY****COMPLAINT FORM**

(To be filed with the compliance officer as provided in GBA-R)

Please print:

Name: _____ Date: _____

Address: _____

Telephone: _____ Secondary Telephone: _____

Best time to be reached: _____

E-mail address: _____ Address: _____

I wish to complain against:

Name of person, school (department), program, or activity:

Address: _____

Specify your complaint by stating the problem as you see it. Describe the incident, the participants, the background to the incident, and any attempts you have made to solve the problem. Be sure to note relevant dates, times, and places.

Date of the action against which you are complaining: _____

If there is anyone who could provide more information regarding this, please list name(s), address(es), and telephone number(s).

<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The projected solution

Indicate what you think can and should be done to solve the problem. Be as specific as possible.

I certify that this information is correct to the best of my knowledge.

Signature of Complainant

The compliance officer, as designated in GBA-R, shall give one (1) copy to the complainant and shall retain one (1) copy for the file.

G.0550 - STAFF STANDARDS OF CONDUCT (Policy)

District personnel shall maintain the highest standard of conduct and act in a mature and responsible manner at all times. District personnel shall not engage in activities which violate federal, state or local statutes and regulations or which, in any way, diminish the integrity, efficiency or discipline of the District. Employees shall be required to comply with administratively established standards of conduct.

District staff shall maintain appropriate professional behavior while working with students and refrain from harassment, malicious or prejudicial treatment, or abridgement of student rights.

Employees of the District shall serve as positive role models for students and set good examples in conduct, manners, dress and grooming. Employees shall be suitably attired and groomed during working hours and while attending District-sponsored events.

**Legal Reference: 22-5-4.4 NMSA
6.60.9.9 NMAC
6.68.2 NMAC
6.68.3 NMAC**

STAFF CONDUCT (Procedure)

No employee, while on or using school property, acting as an agent for the District, or working in an official capacity for the District shall:

- Engage in Physical or verbal abuse of, or threat of harm to, anyone.
- Cause damage, or threaten damage, to property of the District or property of a member of the community or a visitor to the school when the property is located on premises controlled by the District.
- Make any forceful or unauthorized entry to or occupation of District facilities, including buildings and grounds.
- Use, possess, distribute, or sell alcohol, drugs or illegal substances.
- Use profane or abusive language, symbols, or conduct.
- Fail to comply with lawful directions of District officials, security officers, or any other law-enforcement officer, or fail to identify himself or herself to such officials or officers when lawfully requested to do so.
- Carry or possess a weapon on school grounds without authorization from the

appropriate school administrator.

- Violate District policies and/or regulations.
- Engage in any conduct violating federal, state, or applicable municipal law or regulation.
- Engage in any other conduct that may obstruct, disrupt, or interfere with teaching, research, service, administrative, or disciplinary functions of the District, or any other activity sponsored or approved by the District.

In addition to the foregoing, all staff members are expected to:

- Thoroughly acquaint themselves with the rules, regulations, and other information applicable to them as contained within the policies of the Board and Procedures and regulations of the District.
- Conduct themselves in a manner consistent with effective and orderly education and the protection of students and District property.
- Maintain order in a manner consistent with District policies and regulations.
- Comply promptly with all orders of the Superintendent and their immediate supervisors.
- Dress in a manner and maintain a general appearance that their position and does not detract from the educational program of the school.
- Comply with the requirements of §22-5-4.4 NMSA 1978 by immediately reporting student drug or alcohol use or abuse to the Superintendent or other administrator.
- Guard against misappropriation of school assets and immediately report suspected theft or fraud to their immediate supervisor and/or the Superintendent.

Approved: January 16, 2018

STAFF ETHICS**(Statement of Ethics for School Employees)**

We, professional educators of New Mexico, affirm our belief in the worth and dignity of humanity. We recognize the supreme importance of the pursuit of truth, the encouragement of scholarship, and the promotion of democratic citizenship. We regard as essential to these goals the protection of freedom to learn and to teach with the guarantee of equal educational opportunity for all. We affirm and accept our responsibility to practice our profession according to the highest ethical standards. We acknowledge the magnitude of the profession we have chosen and engage ourselves, individually and collectively, to judge our colleagues and to be judged by them in accordance with the applicable provisions of this code.

Principle I: Commitment to the student. We measure success by the progress of each student toward achievement of their maximum potential. We therefore work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding and the thoughtful formulation of worthy goals. We recognize the importance of cooperative relationships with other community institutions, especially the home. In fulfilling our obligation to the student, we:

- deal justly and considerately with each student;
- encourage the student to study and express varying points of view and respect the student's right to form their own judgment;
- conduct conferences with or concerning students in an appropriate place and manner;
- seek constantly to improve learning facilities and opportunities.

Principle II: Commitment to the community. We believe that patriotism in its highest form requires dedication to the principles of our democratic heritage. We share with all other citizens the responsibility for the development of sound public policy. As educators, we are particularly accountable for participating in the development of educational programs and policies and for interpreting them to the public. In fulfilling our obligations to the community, we:

- share the responsibility for improving the educational opportunities for all;
- recognize that each educational institution has a person authorized to interpret its official policies;

- acknowledge the right and responsibility of the public to participate in the formulation of educational policy;
- evaluate through appropriate professional procedures conditions within a district or institution of learning, make known serious deficiencies and take action deemed necessary and proper;
- assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of our professional positions to promote political candidates of [or] partisan activities;
- protect the educational program against undesirable infringement and promote academic freedom.

Principle III: Commitment to the profession. We believe that the quality of the services of the education profession directly influence[s] the future of the nation and its citizens. We therefore exert every effort to raise educational standards, to improve our service, to promote a climate in which the exercise of professional judgment is encouraged, to demonstrate integrity in all work-related activities and interactions in the school setting and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, we contribute actively to the support, planning and programs of our professional organizations. In fulfilling our obligations to the profession, we:

- recognize that a profession must accept responsibility for the conduct of its members and understand that our own conduct may be regarded as representative of our profession;
- participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education;
- cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns and those colleagues new to their positions;
- accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities;
- refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student;
- refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues;
- keep the trust under which confidential information is exchanged;
- make appropriate use of the time granted for professional purposes;

- interpret and use the writings of others and the findings of educational research with intellectual honesty;
- maintain our integrity when dissenting by basing our public criticism of education on valid assumptions as established by careful evaluation of facts;
- respond accurately to requests for evaluation of colleagues seeking professional positions;
- provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.

Principle IV: Commitment to professional employment practices. We regard the employment agreement as a solemn pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. Sound professional personnel relationships with governing boards are built upon integrity, dignity and mutual respect between employees, administrators and local school boards. In fulfilling our obligations to professional employment practices, we:

- apply for or offer a position on the basis of professional and legal qualifications;
- apply for a specific position only when it is known to be vacant and refrain from such practices as underbidding or commenting adversely about other candidates;
- fill no vacancy except where the terms, conditions and policies are known;
- adhere to and respect the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent;
- give prompt notice of any change in availability of service, in status of applications or in change in position;
- conduct professional business through recognized educational and professional channels.

Adopted: January 16, 2018

LEGAL REF.: 6.60.9.8 NMAC
6.60.9.9 NMAC

STAFF CONFLICT OF INTEREST

Nepotism

A person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, of a member of the Board or Superintendent may not be initially employed or approved for employment in any capacity in the District. The school board may waive the nepotism rule for family members of a local superintendent. Nothing in this section of this policy shall prohibit the continued employment of such a person employed on or before March 1, 2003.

Prohibited Acts

In the event an officer or employee of the district is employed by a corporation or business or has a relative with a substantial interest in a corporation or business which is or may be interested in contracting with or furnishing goods and services to the District, the officer or employee shall declare the interest and refrain from being involved in the contracting process either directly or indirectly. Once such interest is publicly disclosed, the corporation or business can seek and obtain the business of the district through a public bidding process.

In accordance with the Governmental Conduct Act a public officer or employee:

- will not, while participating directly or indirectly in a district contracting process, also be the employee of a contractor seeking that contract.
- shall treat any position with the district as a public trust and shall use the powers and resources of that position to advance the public interest and not to obtain personal benefits or pursue private interests.
- shall maintain, at all times, the integrity and ethically high responsibilities of public service and discharge all duties in the same manner.
- shall conduct all interactions in a manner that justifies the confidence placed in the office or position by the public.
- shall fully disclose real or potential conflicts of interest and shall make reasonable efforts to avoid undue influence and abuse of the office or position.
- shall not request or receive nor offer a legislator, public official, or public employee any money, thing of value, or promise thereof that is conditional upon or given

in exchange for the promised performance of an official act.

- shall not directly or indirectly coerce or attempt to coerce another public officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose.
- shall not directly or indirectly coerce or attempt to coerce an employee by threatening, requiring, influencing or advising the employee regarding any political activity.
- shall not violate the officer's or employee's duty not to use property of the district, or allow its use, for other than authorized purposes.
- shall not take an official act for the primary purpose of directly enhancing a personal financial interest or position.
- shall be disqualified from engaging in any official act affecting a personal financial interest except if that interest is proportionately less than the benefit to the general public.
- shall not acquire a financial interest if it is believed the new interest will be directly affected by an official act.
- shall not use or disclose confidential information acquired by virtue of the office or position with the district for personal gain or another's private gain.
- will disclose any employment outside of the School District in writing to the district and will not participate in any decision or action involving the business identified in this disclosure unless permitted to do so by the Governmental Conduct Act.

No person shall sell or use a student, faculty or staff list with personal identifying information obtained from the district for the purpose of direct marketing of goods or services except for legitimate educational purposes or with the authorized release of each individual on the list(s).

Vendor Relations

No employee of the District will accept gifts from any person, group, or entity doing, or desiring to do, business with the District. The acceptance of any business-related gratuity is specifically prohibited, except for widely distributed, advertising items of nominal value.

This policy should not be construed to deem unacceptable inexpensive novelty advertising items of general distribution. Acceptance of business lunches and holiday gifts for general consumption are acceptable under this policy.

Adopted: January 16, 2018

LEGAL REF.: 10-16-1 et seq. NMSA
22-5-6 NMSA
6.10.6.8 NMAC

CROSS REF.: BCB - Board Member Conflict of Interest
DJ - Contracts for Purchases and Services
DJE - Bidding Purchasing Procedures
GBP - Prohibited Personnel Practices

EXHIBIT

EXHIBIT

STAFF CONFLICT OF INTEREST

I, _____, do hereby indicate:

1. That I am presently an officer/employee of the Central Consolidated School District;
2. That I (or my relative[s]: _____) have a substantial interest in the contract, sale, purchase, or service to or decision by the Central Consolidated School Board as described below.
3. That I shall refrain from participating in any manner in my capacity as an employee or officer of the Central Consolidated School District in such contract, sale, purchase, service to, or decision by the Board unless specifically permitted to do so by law.

Print Name

Signature

Date

Please identify and describe below any business in which you, or a family member (spouse, domestic partner, parent, sibling, and/or child), has/have a financial or substantial interest. Financial interest means an ownership interest in a business or any employment or prospective employment for which negotiations have already begun. Substantial interest means an ownership interest of a business that is greater than 20%.

Business: _____

Type of Interest: Financial _____ Substantial _____

Interested Person: Myself _____ Family Member _____ (Identify relationship)

EXHIBIT**EXHIBIT****STAFF CONFLICT OF INTEREST**

Employee Disclosure of Outside Employment/
Governmental Conduct Act (10-16-4.2 NMSA)

Name: _____ Date: _____

Position: _____

School or Location of Duty Assignment: _____

I, _____, as an employee of the Central Consolidated School District, am required to make this disclosure of outside employment pursuant to the Governmental Conduct Act (NMSA 1978, § 10-16-4.2):

Employer; date of hire; hours of work per week or other:

Position and description of duties:

Does employer contract with Central Consolidated School District:

Yes_____ No_____

If yes then a conflict of interest form stating the conflict must be completed and acknowledged at a public meeting.

Print Name

Signature

Date

STAFF CONDUCT

(Standards of Professional Conduct)

Preamble

We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and our position on the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, but also it stimulates us to discuss the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

Standard I – Duty to the student. We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but also by consistent and justifiable personal example. To satisfy this obligation, we:

- shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the

Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;

- shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;
- shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;
- shall not give a gift to any one (1) student unless all students situated similarly receive or are offered gifts of equal value for the same reason;
- shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;
- shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
 - all forms of sexual touching, sexual relations or romantic relations;
 - inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
 - any open displays of affection toward mostly-boys or mostly-girls; and
 - offering or giving a ride to a student unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;
- shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to

sexually harass any other student, which prohibited behavior includes:

- making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and
- creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

Standard II – Duty to the profession. The education profession has been vested by the public with an awesome trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession, and must strive consistently in educating the children of New Mexico, all of whom will one-day shape the future. To satisfy this obligation, we:

- shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;
- shall not orally or in writing misrepresent our professional qualifications;
- shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;
- shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;
- shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;
- shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;
- shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;
- shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100, excluding approved educational awards, honoraria, plaques, trophies, and prizes;
- shall avoid conduct connected with official duties that is unfair, improper, illegal or

gives the appearance of being improper or illegal;

- shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:
 - making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above; making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;
 - displaying or distributing any sexually oriented materials where the above-named individuals can see them; and
 - creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;
- shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the EEOC guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 *et seq.*) or contacting appropriate school human resources personnel;
- shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;
- shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;
- shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;
- shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall not engage in any outside employment:
 - the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;
 - where we use confidential/privileged information obtained from our public

- school employment as part or all of our private employment duties; and
 - that impairs our physical ability to perform our school duties;
- shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:
 - in connection with our official school duties;
 - in connection with another licensed person's official school duties;
 - in connection with any standardized or non-standardized testing;
 - in connection with any school application or disclosure process; and
 - in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;
- shall not in connection with any state board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;
- shall not engage in any conduct or make any statement:
 - that would breach the security of any standardized or non-standardized tests;
 - that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;
 - that would give students an unfair advantage in taking a standardized or non-standardized test;
 - that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and
 - that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;
- shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
- shall not hold, or continue to hold, employment for which educator licensure or

certification is required when the individual knew, should have known or is informed by the PED, that the individual does not hold the required credentials; and

- shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;
- shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:
 - striking, assaulting or restraining a student for no valid reason;
 - using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;
 - bringing firearms onto school property or possessing them on school property, except with proper authorization;
 - possessing or consuming alcohol beverages at school;
 - possessing or using illegal drugs;
 - being under the influence of alcohol or illegal drugs at school;
 - actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and
 - engaging in favoritism or preferential treatment toward any school employee or applicant in regards to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;
- shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9 NMAC with a student or other school employee to the local school authority within 30 days of obtaining such knowledge.

Sanctions

The standards of professional conduct establish minimal standards of accepted professional conduct with which all educators and administrators are required to comply. Therefore, the Secretary of Education through the professional licensure unit ("licensure unit") of the public education department (PED), may revoke or suspend the licensure of

any person, or may deny applications for licensure or re-licensure to any person, who is within the scope of this regulation and who after hearing is found to have failed to comply with one (1) or more of the enumerated provisions of the standards of professional conduct set forth in Section 6.60.9.9 NMAC, exclusive of the preamble.

In General

All employees of the District are expected to conduct themselves in a manner consistent with effective and orderly education and to protect students and District property. No employee shall, by action or inaction, interfere with or disrupt any District activity or encourage any such disruption. No employee, other than one who has obtained authorization from the appropriate school administrator, shall carry or possess a weapon on school grounds. All employees shall at all times attempt to maintain order, abide by the policies, rules, and regulations of the District, and carry out all applicable orders issued by the Superintendent.

Investigating and Reporting of Alleged Ethical Misconduct

The Superintendent shall investigate all allegations of ethical misconduct about any school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the Superintendent shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty days following the separation from employment or immediately if knowledge of the ethical misconduct is sexual harassment or sexual abuse of an adult or child. Copies of that form shall not be maintained in the school employee's personnel file.

The Superintendent shall also report allegations of sexual assault or sexual abuse involving any school employee, volunteer, contractor or a contractor's employee to the appropriate law enforcement agency.

No agreement between a departing school employee and the governing authority or Superintendent shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct to the department or, if legally mandated, to law enforcement, and any such agreement to the contrary is void.

A person's good faith reporting of conduct indicated above will not result in liability for civil damages. The person accused shall have the right to sue for any damages as a result of negligent or intentional reporting of inaccurate information or the disclosure of any information to unauthorized persons.

Adopted: August 20, 2019

LEGAL REF.: 22-5-4.4 NMSA (1978)

6.60.9.9 NMAC
6.68.2.1 et seq. NMAC
6.68.3.1 et seq. NMAC

CROSS REF.: GCF - Professional Staff Hiring
 JIC - Student Conduct
 JK - Student Discipline
 KFA - Public Conduct on School Property

STAFF CONDUCT

No employee, while on or using school property, otherwise acting as an agent, or working in an official capacity for the District shall engage in:

- Physical or verbal abuse of, or threat of harm to, anyone.
- Causing damage, or threat of damage, to property of the District or property of a member of the community or a visitor to the school when the property is located on premises controlled by the District.
- Forceful or unauthorized entry to or occupation of District facilities, including buildings and grounds.
- Use, possession, distribution, or sale of alcohol or of drugs or other illegal substances.
- Use of profane or abusive language, symbols, or conduct.
- Failure to comply with lawful direction of District officials, security officers, or any other law-enforcement officer, or failure to identify oneself to such officials or officers when lawfully requested to do so.
- The carrying or possession of a weapon on school grounds without authorization from the appropriate school administrator.
- A violation of District policies and regulations.
- Any conduct violating federal, state, or applicable municipal law or regulation.
- Any other conduct that may obstruct, disrupt, or interfere with teaching, research, service, administrative, or disciplinary functions of the District, or any other activity sponsored or approved by the Board.

In addition to the foregoing, all staff members are expected to:

- Thoroughly acquaint themselves with the rules, regulations, and other information applicable to them contained within the policies of the Board.
- Conduct themselves in a manner consistent with effective and orderly education

and to protect the students and the District property.

- Maintain order in a manner consistent with District policies and regulations.
- Comply promptly with all orders of the Superintendent and the administrator who is their immediate supervisor.
- Dress and maintain a general appearance that reflects their position and does not detract from the educational program of the school.
- Comply with the requirement of 22-5-4.4 NMSA 1978 by immediately reporting student drug or alcohol use or abuse to the Superintendent or the administrator who is their immediate supervisor.
- Guard against misappropriation of school assets and immediately report suspected theft or fraud to their immediate supervisor and/or the Superintendent.

Employees of the District who violate these rules are subject to disciplinary action.

STAFF CONDUCT WITH STUDENTS

Employees are expected to exercise general supervision over the conduct of students, not only while in the schoolroom, but also before and after school and during recess.

All personnel employed by the District are expected to relate to students of the District in a manner that maintains social and moral patterns of behavior consistent with community standards and acceptable professional conduct.

Relationships between staff members and students that include "dating," "courtship," "sexual relationship" or "romantic involvement" are prohibited. These behaviors deviate from ethical or professional standards and shall be deemed unacceptable and contrary to the expectations of District governance.

Staff/student relationships shall reflect mutual respect between staff members and students and shall support the dignity of the entire profession and educational process. Staff members shall establish and maintain appropriate personal boundaries with students and their families and not engage in any behavior that is prohibited by law, regulation, policy, or that creates the appearance of prohibited behavior.

Violations of this policy shall be considered serious and may result in severe disciplinary action in accord with policies on discipline of professional and support staff. Retaliatory or intimidating acts against any person who has made a complaint under this policy and its corresponding regulations, or against a person who has testified, assisted or participated in any manner in an investigation relating to a complaint or grievance, are specifically prohibited and constitute grounds for discipline. Knowingly submitting a false report or making false accusations under this policy shall subject that individual to disciplinary action.

Adopted: August 20, 2019

LEGAL REF.: 6.60.9.8 NMAC
6.60.9.9 NMAC

CROSS REF.: EEAG – Student Transportation in Private Vehicles
GBEA – Staff Ethics
GBEB – Staff Conduct
GCQF – Discipline, Suspension, and Dismissal of Professional
Staff Member
GDQD – Discipline, Suspension, and Dismissal of Support Staff
Members

IJNDB – Use of Technology Resources in Instruction
JIC - Student Conduct
JICD – Student Harassment/Bullying/Cyberbullying Prevention
JII – Student Concerns, Complaints, and Grievances
JLF – Reporting Child Abuse/Child Protection

REGULATION**REGULATION****STAFF CONDUCT WITH STUDENTS****(Maintaining Professional Boundaries)**

A boundary invasion is an act, omission, or pattern of behavior by a staff member that does not have an educational purpose and either abuses or compromises the staff/student professional relationship.

Clear and reasonable boundaries for interactions between students and staff members are necessary to protect students from sexual misconduct and abuse and to protect staff members from misunderstanding and false accusations. All staff are required to maintain appropriate professional, moral, and ethical relations in their conduct with students. They shall serve as positive role models for students at all times, whether on or off school property, both during and outside of school hours. Staff will not intrude on a student's physical and emotional boundaries, unless the intrusion is necessary to serve an educational, physical, mental, and/or emotional health purpose or to prevent an immediate risk of injury or harm to the student.

This regulation addresses a range of behaviors that include not only obviously unlawful or improper interactions with students, but also precursor grooming and other boundary-blurring behaviors that have the intention or effect of leading to more egregious misconduct.

All staff have a responsibility to provide and support an atmosphere conducive to learning through consistent, unambiguous, and fairly applied discipline. They shall maintain professional physical and emotional boundaries with students. These boundaries shall be maintained regardless of the student's age, the perceived consensual nature of the relationship or activity, the location of the activity, or whether the staff member directly supervises the student.

Working with the Community

Staff shall use good judgment in their relationships with students beyond their work responsibilities and/or outside the school setting. They shall also avoid excessive informal and social involvements with individual students and their relations with students and their families. Staff members have a responsibility to report to the administration when they suspect, recognize or observe the development of, or suspicion of the development of non-professional or potentially inappropriate personal relationships with students and/or their families.

Staff working in local communities face additional challenges in managing professional boundaries.

Following the advice offered here will assist staff to enjoy these social engagements without compromising their professional responsibilities. The guiding principles in managing these situations are that:

- Social contact should be generated via the relationship the staff member has with the parents/guardians of children and young people or by an event, such as a sporting event.
- Staff should avoid being alone or in unsupervised settings with children and young people in these situations.
- Staff should politely refuse to discuss matters relating to the workplace and should not discuss children and young people's learning or social progress, other than at times specifically set aside for that purpose.

Any concern a staff member has about whether or not a situation may be compromising or breaching a professional boundary should be discussed with an appropriate administrator.

Inappropriate Behavior Initiated by a Student

In the event that a student initiates inappropriate behavior toward a staff member, the staff member must immediately document the incident and report it to the appropriate administrator. If applicable, the appropriate administrator will intervene and speak with the student and the student's parent/guardian about the alleged inappropriate behavior, and implement necessary follow-up discipline or guidance.

The District shall provide guidelines with respect to the provisions of Policy GBEBB and this regulation to current and new staff, to School Board members and to volunteers who interact with students or routinely work on school grounds.

Contracts with virtual school programs and other vendors providing instructional services to students will include a requirement that those staff members will comply with Policy GBEBB and this regulation.

Exceptions

An emergency situation or a legitimate education reason may justify deviation from professional boundaries. The staff member shall articulate the reason for any deviation from policy to that student, to the parent or guardian, to their supervisor and will ensure that an appropriate relationship is maintained with the student.

Under no circumstance will an educational or other reason justify deviation from the "Romantic and Sexual Relationships" prohibition.

Adopted: August 20, 2019

EXHIBIT**EXHIBIT****STAFF CONDUCT WITH STUDENTS****Working One-on-One with Children and Young People**

The following summary of expectations applies to all situations where staff are providing one-on-one learning assistance or feedback, behavior assistance / monitoring, counseling, testing and / or assessment.

Make it Public	<ul style="list-style-type: none"> • The more visible and/or public the location, the better. • Use the authorized information technology systems. • Do not use personal e-mail, electronic communication, websites, and/or social media platforms to communicate with students or families.
Make it Authorized	<ul style="list-style-type: none"> • Parents/guardians should be informed and give consent. • Activity must be authorized by an appropriate administrator.
Make it Timely	<ul style="list-style-type: none"> • Provide support during normal work hours. • Do not conduct excessively long sessions.

Managing Privacy Expectations

School staff rely in different ways on being able to provide a degree of privacy for students. This may be to protect the student's dignity, to provide an environment conducive to the service/assessment being provided or to respect the student's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature of reporting harassment or bullying. For these reasons, staff need to find a careful balance between respecting the sensitive and private nature of counseling or service provided and the professional's duty of care obligations for the safety and well-being of the student.

Good practice in managing these circumstances is the following:

- Health/physical care should be provided with respect for the student's dignity and in a manner approved by the student, his/her parents/guardians, and within District policy.
- Counseling should be provided in unlocked rooms with part-glass doors, where possible, that are located near staff traffic areas.
- Avoid out-of-hours contact.

- While parental consent is often not applicable in many counseling situations, the school will provide all parents/guardians with written information about the school's counseling services which outlines confidentiality and privacy issues.
- Ensure student appointments and counseling notes are documented properly, while preserving appropriate levels of confidentiality.

Conducting Home Visits

Staff must ensure they follow the specific home visiting protocols that apply. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed.

A summary of general expectations is provided below.

Inform	Home visits must be authorized and documented by the administration and this must include information about when and where visits are being undertaken and the expected departure and return times.
Prepare	<ul style="list-style-type: none"> • All available information about the safety of the proposed visit must be considered and risks managed. • Mobile phones must be taken and school ID should be visible. • Parents/guardians are to be notified in advance of the intended visit.
Protect	<ul style="list-style-type: none"> • Do not enter the house if parents/guardians are not at home. • Speak with the student where the parent/guardian is present or clearly visible. • Do not interview or interact with students in bedrooms or other locations not conducive to the purpose of the visit. • Have a colleague present if problems are anticipated. • Document the visit.

Examples of Boundary Invasions by staff members, include, but are not limited to the following:

- Making any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under the law or policies addressing the prohibition against Harassment and Retaliation.
- Condoning hazing, initiations or other rituals that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to students, regardless of the student's willingness to participate.
- Showing inappropriate images to a student, including, but not limited to violent, disturbing or sexually explicit or pornographic subject matter.
- Dating a student, or discussing or planning a future romantic or sexual relations with a student.
- Making sexual advances toward a student, including but not limited to personalized comments about a student's body, appearance, physical features, attributes or attractiveness, off color jokes, or sexual innuendoes.

- Telling off color jokes or making comments with sexual innuendo.
- Encouraging a flirtatious, romantic, or sexual relationship with a student.
- Unnecessarily invading a student's personal space or privacy.
- Singling out a particular student or students for personal attention and friendship beyond the professional staff/student relationship.
- Socializing where students are consuming alcohol, drugs, or tobacco.
- Providing or offering to provide alcohol, drugs, or tobacco to students.
- For non-guidance/non-counseling staff, excessively encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to immediately use professional judgement as contained in this training and refer the student to appropriate guidance/counseling staff.
- Sending students on personal errands unrelated to any educational, athletic, non-curricular or extracurricular purpose.
- Bantering, joking or making comments of a sexual nature with students.
- Asking a student to keep a secret.
- Disclosing inappropriate personal, sexual, family, employment concerns, or other inappropriate private matters to one (1) or more students.
- Addressing students with personalized terms of endearment or pet names that would suggest the staff member feels love or affection for the student. As a staff member, permitting students to address you by your first name, nickname, personalized terms of endearment, pet names, or otherwise in an overly familiar manner.
- Maintaining personal contact with a student outside of school by telephone, text message, e-mail, Instant Messenger, Internet chat rooms, social networking websites or letters beyond homework or other legitimate school business.
- Exchanging gifts cards or letters that are personal or extravagant in nature with a student beyond customary student-staff gifts.
- Socializing or spending time with students outside of school-related or school-sponsored curricular or extracurricular activities or organized community activities, including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling and recreational activities.
- Giving a student a ride alone in a vehicle in a non-emergency situation or in a situation that can be avoided. If a staff member is approved to give a student a ride, the student shall ride in the back seat of the vehicle when possible, and staff member must attempt to gain prior permission from the parent for the transportation arrangement.

Romantic or Sexual Relationship examples, include, but are not limited to the following:

- Staff members shall be prohibited from dating, courting, or entering, into or attempting to form a romantic or sexual relationship with any student enrolled in the school or any other public or private school, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with staff members.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body, appearance, attractiveness or physical attributes.
- Sexual jokes, notes, stories, drawings, gestures, or pictures.
- Spreading sexual or romantic rumors.
- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages, or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.
- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
- Displaying or transmitting sexual objects, pictures, or depictions.

Inappropriate social interactions, including, but not limited to the following:

In order to maintain professional boundaries, staff shall ensure that their interactions with students are appropriate. Examples of prohibited conduct that violates professional boundaries include, but are not limited to:

- Touching students without a legitimate educational reason. Reasons could include, but are not limited to, the need for assistance when injured, restraint or intervention to prevent separate students who are fighting, threatening to fight or posing a risk of violence or harm to others, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction.
- Taking a student out of class without a legitimate educational reason.
- Being alone with a student behind closed doors without a legitimate educational reason.
- Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
- Inviting a student to the staff member's home.
- Taking a student on outings without prior notification to and approval from both the parent's guardian and the building principal.
- Engaging in harassing, bullying, discriminatory, or other conduct prohibited by other District policies or by state or federal law and regulations.

Appearances of Impropriety

The following activities are boundary invasions and can create an actual impropriety or the appearance of impropriety. Whenever possible, staff should avoid these situations. If unavoidable, these activities must be pre-approved by the appropriate administrator. If not

pre-approved, the staff member must immediately report the occurrence to the principal or other appropriate administrator.

- Conducting ongoing, private conversations with individual students that do not have an educational purpose, are unrelated to school activities or the well-being of the student, and that take place in locations inaccessible to or not observable by others.
- Being alone with an individual student out of the view of others or in an inaccessible location, except in the context of school counselors providing professional counseling support services teachers working with students in an after-school setting or during testing, or a school nurse providing medical services to a student.
- Inviting students for social contact off school grounds without the prior knowledge and express permission of the parent/guardian and an appropriate administrator.
- Social networking with students for non-educational purposes.

Staff members are expected to be aware of the appearance of impropriety in their conduct with students. Staff members are encouraged to discuss issues with the appropriate administrator whenever they are unsure whether particular conduct may constitute a violation of Policy GBEBB and this regulation.

Electronic Communication

The District supports the use of technology to communicate for educational purposes. However, employees acting in their District capacity are prohibited from inappropriate online socializing, phone calls, texting, skyping, instant messaging, or use of any other telecommunication device, or from engaging in any conduct that violates the law, District policies or other generally recognized professional standards. Employees must conduct themselves in ways that do not distract from or disrupt the educational process. Nothing in Policy GBEBB and this regulation prohibits employees, faculty, staff or students from the use of approved educational websites if such sites are used solely for educational purposes.

Electronic and online communication between staff members and students must be transparent, contemporaneously accessible to administrators and parents/guardians, and must be professional in content and tone. Such communication must be professional, non-sexual, appropriate to the circumstances, and unambiguous in meaning. Staff members must restrict one-on-one electronic communications with individual students to accounts, systems, and platforms that are provided by and accessible to the District schools or with the prior express permission of the appropriate administrator and the parent/guardian.

As with in-person communications, staff members shall avoid appearances of impropriety and refrain from inappropriate electronic communications with students. Factor that may be considered in determining whether an electronic communication is inappropriate include, but are not limited to:

- The subject, content, purpose, authorization, timing, and frequency of the communication;
- Whether there was an attempt to conceal, shield, or misrepresent the nature of the communication from administrators and/or parents/guardians.
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; and/or
- Whether the communication contained sexual innuendo, such as for purposes of grooming the student for victimization.

Adopted: August 20, 2019

EXHIBIT**EXHIBIT****STAFF CONDUCT WITH STUDENTS**

REPORTING BOUNDARY VIOLATIONS AND SUSPECTED BOUNDARY VIOLATIONS

Name: _____

E-mail: _____

Phone: _____

Describe what happened/what is happening: _____

When did it happen? _____ Date: _____ Time: _____

Where did it happen? _____

_____ At School _____ At School Event _____ In a School Parking Lot

_____ On a School Playground _____ On the School Bus

Other: _____

Location Details: _____

Who was committing the boundary violation? _____

Who was the victim of the boundary violation? _____

Did anyone else witness the boundary violation? _____

Were you or the other persons physically or emotionally hurt? _____

Have you told anyone about the boundary violation? _____

Has this happened before? _____

Adopted: August 20, 2019

GIFTS TO AND SOLICITATIONS BY STAFF MEMBERS

Gifts

An employee, or that person's family, shall not knowingly accept from a restricted donor a gift of a market value greater than two hundred fifty dollars (\$250) and a licensed educator must not accept a gift with a market value exceeding one hundred dollars (\$100). A restricted donor is a person or agent of a person:

- seeking a transaction with the donee's agency.
- who will be directly and substantially affected financially by performance of the donee's duties or the effect will be greater on a class of persons to whom the donor belongs than to the general public.
- with a matter pending before a regulatory agency in which the donee has discretionary authority.
- who is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction.

An employee shall not solicit gifts or donations for a charity in such a manner that it appears that the purpose of the donor in making the gift is to influence the employee in the performance of an official duty.

(Definitions for the terms gift, family and restricted donor can be found in the Gift Act cited below for purposes of interpreting the above section of policy.)

Students, parents, and other patrons of the District shall be discouraged from the routine presentation of gifts to employees. This shall not be interpreted as intended to discourage acts of generosity in unusual situations, and simple remembrances expressive of affection or gratitude shall not be regarded as violations of this policy.

Gifts to students by staff members shall be discouraged. Simple remembrances on certain occasions to all students in a class or section shall not be regarded as a violation of this policy.

Solicitations

A school employee's position in the District shall not be used to influence parents or students to purchase books or other merchandise, except for materials approved by the Superintendent for use in the classroom.

Staff-member solicitation(s) of other employees and/or students for any profit, nonprofit, or

charitable groups, institutions, or organizations must have the approval of the Superintendent in advance.

No other solicitations shall be made by or of employees during official duty time.

Adopted: January 16, 2018

LEGAL REF.: 10-16B-1 NMSA - Gift Act
6.60.9.9 NMAC

DRUG – FREE WORKPLACE

No employee shall violate the law or District policy in the manufacture, distribution, dispensing, possession, or use, on or in the workplace, of alcohol or any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation at 21 C.F.R. 1308.11 through 1308.15.

Workplace includes any school building or any school premises and any school-owned vehicle or any other school-approved vehicle used to transport staff members or students to and from school or school activities or on school business. Off school property, the workplace includes any school-sponsored or school-approved activity, event, or function where students or staff members are under the jurisdiction of the District. In addition, the workplace shall include all property owned, leased, or used by the District for any educational or District business purpose.

Any employee who has been convicted under any criminal drug statute for a violation occurring in the workplace, as defined above, shall notify the supervisor within five (5) days thereof that such conviction has occurred.

As a condition of employment, each employee shall abide by the terms of the District policy respecting a drug-free workplace.

Any employee who violates this policy in any manner is subject to discipline, which may include, but is not limited to, dismissal.

Adopted: January 16, 2018

LEGAL REF.: P.L. 100-690 Title V, Subtitle D.
34 C.F.R. Part 85

CROSS REF.: EEAEAA - Drug and Alcohol Testing of Transportation Employees

DRUG – FREE WORKPLACE**NOTICE TO EMPLOYEES**

YOU ARE HEREBY NOTIFIED that it is a violation of Policy GBEC for any employee to violate the law or District policy in the manufacture, distribution, dispensing, possession, or use, on or in the workplace, of alcohol or any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation at 21 C.F.R. 1308.11 through 1308.15.

Workplace includes any place where work is performed, including a school building or other school premises; any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities; and off school property during any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the District. In addition, the workplace shall include all property owned, leased, or used by the District for any educational purpose.

YOU ARE FURTHER NOTIFIED that it is a condition of your employment that you will comply with Policy GBEC, and will notify your supervisor of your conviction under any criminal drug statute for a violation occurring in the workplace, not later than five (5) days after such conviction.

Any employee who violates the terms of the District's drug-free workplace policy in any manner is subject to discipline, which may include, but is not limited to, dismissal and/or referral for prosecution.

- - - - -

I have been provided with two (2) copies of this **Notice to Employees** for my review and signature. I understand that a signed copy will be placed in my personnel file.

Signature

Date

DRUG – FREE WORKPLACE

In order to comply with federal funding requirements, the District shall:

- Gather information relative to availability of local community drug and alcohol counseling, rehabilitation, and reentry programs that are available to employees and make such information available to employees.
- Provide each employee a copy of standards of conduct and the statement of disciplinary sanctions that apply to alcohol and drug violations. Use exhibit GBEC-EA to notify employees that compliance with such standards is mandatory.

The District should perform a biennial review of the programs to:

- Ensure that disciplinary sanctions for employees are consistently enforced.
- Determine program effectiveness and implement change to the program if needed.

NONMEDICAL USE OR ABUSE OF DRUGS OR ALCOHOL

The District's posture in dealing with employees who engage in the nonmedical use of drugs and/or the abuse of alcohol is to be one of constructive confrontation in a supportive environment and supportive relationship. This approach is based on the following premises:

- Each employee is responsible for the employee's own actions.
- Each employee is a role model for students.
- Each employee who seeks help is to be given the opportunity to do so in a supportive environment.
- The District shall not ignore employee problems.
- Constructive confrontation will be utilized to make employees aware of opportunities and choices for help.
- Efforts to maintain confidentiality will be made by the District.
- Outside referrals to non-school personnel will be provided, at employee expense, to employees who indicate an interest.
- Employees will be required to provide information on progress in dealing with problems.
- Supervisory staff members will receive orientation on methods of constructive confrontation.
- Opportunities for self-referral will be provided.
- As recommended by outside professional sources, the District will consider support to an employee during reentry into the workplace.
- The District's right to intervene is based on (1) a basic concern for the health and welfare of the persons whom it employs and (2) the right to expect quality job performance.

- School employees are human and should not be considered any less vulnerable or immune to human stress than any other person.
- In spite of the above, school employees whose nonmedical use of drugs or use of alcohol endangers the health and safety of students or other employees may of necessity be dealt with summarily.

Employee Drug Use or Abuse

The nonmedical possession or use or abuse of drugs and/or use of alcohol is forbidden on school property or at school-sponsored activities away from school property. Employees determined to be in possession of, using, or abusing drugs or using alcohol shall be reported immediately to the principal or other person in charge. The Superintendent shall be notified immediately.

The Superintendent will conduct an investigation in consultation with legal counsel as necessary. If the investigation shows sufficient evidence to suggest that the employee was involved with distribution or otherwise in violation of the law, law enforcement authorities shall be notified. If the results of the investigation show that the employee's actions endangered the health and/or safety of students or other employees, the Superintendent shall take disciplinary action or recommend disciplinary action to the Board in accordance with existing policies and statutes. If the results of the investigation suggest that the employee be provided options under the provisions of this policy, the Superintendent shall so direct the immediate supervisor of the employee.

Adopted: January 16, 2018

LEGAL REF.: P.L. 100-690 Title V, Subtitle D.
34 C.F.R. Part 85

CROSS REF.: EEAEAA - Drug and Alcohol Testing of Transportation Employees

ALCOHOL USE BY STAFF MEMBERS**(Illegal Drugs)**

The use or possession of intoxicants or illegal drugs on school property or at school events is prohibited.

Any person in violation of the provisions of the above paragraph shall be subject to removal from school property and shall be subject to prosecution in accordance with the provisions of the law.

Staff members of the District who are in violation of the provisions of this policy shall be subject to disciplinary actions in accordance with the provisions of school regulations.

A staff member apparently has consumed alcoholic beverages or illegal drugs on or off school property and/or before a school activity will not be allowed to be on school property or to participate in school activities. Staff members who violate this policy will be subject to the same penalties as for possession and/or consumption on school property.

An employee of the District who, pursuant to local conditions or an employment contract with the District, resides on District property or resides in District housing is prohibited from possessing and consuming alcohol at the employee's residence subject to the following:

- Navajo Nation Code § 410. Possession of Liquor and,
- CCSD Lease Agreement-Rules and Regulations-4b. Conduct.

Adopted: January 16, 2018

TOBACCO USE BY STAFF MEMBERS / SMOKING

The use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs is prohibited in all district property and premises owned, leased or contracted by the district, including:

- School grounds, including athletic fields and other outdoor property
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events
- Administrative offices and other district owned, non-school sites

These activities are prohibited at any time, including non-school hours (24/7).

The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9. In addition, products designed or manufactured to imitate the products included in the definitions are prohibited, regardless of whether they contain tobacco or nicotine. Notice of this policy shall be made by a listing of prohibited items that will be included in a Tobacco, Drug and Alcohol Free School notice posted at the entrance to school buildings and athletic events.

The administration will develop a communication plan including information in student and employee handbooks, announcements at school-sponsored or school-related events, and appropriate signage that contains a listing of prohibited items posted in buildings and on school property in a manner and location that adequately notify students, staff and visitors including at the entrance to school buildings and athletic events.

Referrals to resources to help staff overcome tobacco addictions shall be provided to staff who are found to be in violation of this policy.

The Superintendent may establish procedures necessary to implement this policy. Disciplinary penalties may be imposed in accord with policies of the District regarding

employee conduct and disciplinary actions.

The prohibitions do not apply to an adult when possession or use of the tobacco products are for demonstration purposes as a necessary instructional component of a tobacco prevention or cessation program that is:

- Approved by the school.
- Established in accord with New Mexico Revised Statute.

Adopted: January 16, 2018

LEGAL REF.: 24-16-3 et seq. NMSA Dee Johnson Clean Air Act
6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083 Pro-Children Act of 1994 (Environmental Tobacco Smoke).
34 C.F.R. Part 85 Drug Free Workplace Act

CROSS REF.: GBEB - Staff Conduct
GCQF - Discipline, Suspension, Termination and Discharge of Professional Staff Members
GDQD - Discipline, Suspension, Termination and Discharge of Support Staff Members
JICG - Tobacco Use by Students
KF - Community Use of School Facilities
KFAA - Tobacco Use on School Premises at Public Functions

STAFF PERSONAL SECURITY AND SAFETY**Violence**

Any employee who observes or has direct knowledge of an act of violence upon an employee during the performance of the employees duties or of an act of vandalism to school property shall file an incident report in accordance with procedures established by the New Mexico Secretary of Education.

Threats

The Superintendent shall establish procedures that provide for the protection of any employee who is threatened with harm by an individual or a group while carrying out assigned duties.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-33 NMSA (1978)
30-3-9 NMSA (1978)
30-3-9.1 NMSA (1978)
6.19.3.6 NMAC *et seq.*

STAFF PERSONAL SECURITY AND SAFETY**Threats**

Any employee who is threatened with harm by an individual or a group while carrying out assigned duties shall immediately notify the school principal or supervisor. The principal or supervisor shall then immediately notify the Superintendent's office of the threat and together they shall take immediate steps in cooperation with the employee to provide every reasonable precaution for the employee's safety. Precautionary steps, including contacting law enforcement, seeking injunctive relief or any advisable legal action, shall be reported to the Superintendent's office at the earliest possible time.

EMPLOYEE ASSISTANCE

When, in the opinion of the immediate supervisor and/or the Superintendent, the employee's physical or emotional condition warrants, the District may require a complete examination, at District expense, by a licensed physician selected by the District.

The Superintendent shall have procedures for complying with the requirements of the Occupational Safety and Health Administration (OSHA), including an exposure-control plan, methods of compliance, work-practice controls, post-exposure evaluation and follow-up, and administering vaccine to employees exposed to Hepatitis B virus.

All employees who as a result of their employment have had significant exposure to bloodborne pathogens (Hepatitis B/Human Immunodeficiency Virus) are required to report the details of the exposure in writing to the District and are required to follow post-exposure evaluation and follow-up activities in accordance with New Mexico and federal laws. An employee who chooses not to complete these reporting requirements will be at risk of losing any claim to rights.

Employee Assistance Program

Employees may be referred to an Employee Assistance Program when the employee's job performance or attendance is unsatisfactory and the employee is unable or unwilling to correct the situation, regardless of paid leave time available to the employee. The employee has the responsibility to perform job duties and to have regular dependable attendance. Employees who have drug or alcohol abuse problems are encouraged to voluntarily seek assistance.

The Employee Assistance Program will consist of referrals to Board approved community or other area counseling and rehabilitation programs through the personnel office.

Failure to exhibit continuous and ongoing improvement of the unsatisfactory work performance after assistance has been offered and/or accepted will result in termination or non-renewal of the employee, according to prescribed school District policy, administrative regulations, local, state and federal laws.

Any employee who voluntarily seeks support and assistance from the District for a drug or alcohol problem before it becomes an employment issue will be granted unpaid leave, sick leave, or a combination of both to secure treatment/counseling for their problem.

The District employer reserves the right to request a second medical opinion, if the employer questions the employee returning to work in a timely manner.

Adopted: January 16, 2018

LEGAL REF.: 29 U.S.C. 653

CROSS REF.: EBBB - Accident Reports

EMPLOYEE ASSISTANCE

(Bloodborne Pathogen Requirements)

Exposure Control Plan

Employee(s) with occupational exposure to human blood, human blood components, products made from human blood, or pathogenic microorganisms, including but not limited to Hepatitis B virus or HIV, shall comply with this Exposure Control Plan designed to eliminate or minimize employee exposure.

This Exposure Control Plan contains the following elements:

- The exposure determination outlined below.
- The schedule and method of implementation.
- The procedure for the evaluation of circumstances surrounding exposure.

A copy of this Exposure Control Plan shall be accessible to employees.

This Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures that affect occupational exposure, and to reflect new or revised employee positions with occupational exposure.

This Exposure Control Plan shall be made available to the Assistant Secretary of Labor and the Director of the Occupational Safety and Health Administration upon request for examination and copying.

Exposure Determination

The District has determined that employee positions may involve the following levels of exposure to bloodborne pathogens as a collateral function to the primary job description:

- High risk - Coaches, physical education instructors, custodians, certain special education program personnel, playground duty personnel, health services personnel, and security personnel.
- Moderate risk - Regular instructional program personnel, other special education

program personnel, school level office personnel, maintenance personnel, food services personnel, and special assignment personnel (e.g., counselors, librarians).

- Low risk - District level office personnel.

Methods of Compliance

General. Universal precautions shall be observed by all District employees to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

Engineering and work practice controls:

- Engineering and work practice controls shall be used to eliminate or minimize employee exposure. If occupational exposure remains after institution of these controls, personal protective equipment shall also be used.
- Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.
- The District shall provide hand-washing facilities that are readily accessible to employees.
- When provision of hand-washing facilities is not feasible, the District shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.
- The District requires that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment. Supervisory personnel shall ensure compliance.
- The District requires that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials. Supervisory personnel shall ensure compliance.
- Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted below. Shearing or breaking of contaminated needles is prohibited.
 - Contaminated needles and other contaminated sharps shall not be

recapped or removed unless no other alternative is feasible or such action is required by a specific medical procedure as determined by a competent medical professional qualified to make such determination.

- Such recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.
- Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:
 - Puncture resistant.
 - Labeled or color coded in accordance with this standard.
 - Leak-proof on the sides and bottom.
 - In accordance with legal requirements for reusable sharps.
- Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
- Food and drink shall not be kept in refrigerators, freezers, shelves, or cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present.
- All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.
- Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.
- Specimens of blood or other potentially infectious materials shall be placed in a container that prevents leakage during collection, handling, processing, storage, transport, or shipping.
 - The container for storage, transport, or shipping shall be labeled or color coded according to law and closed prior to being stored, transported, or shipped. When a facility utilizes "universal precautions" in the handling of all specimens, the labeling/color coding of specimens is not necessary, provided containers are recognizable as containing specimens. This exemption applies only while such specimens/containers remain with the facility. Labeling or color coding is required when such specimens/containers leave the facility.
 - If outside contamination of the primary container occurs, the primary

container shall be placed within a second container that prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color coded according to the requirements of this standard.

- If the specimen could puncture the primary container, the primary container shall be placed within a secondary container that is puncture resistant in addition to the above characteristics.
- Equipment that may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the decontamination of such equipment or portions of such equipment is not feasible as determined by a supervisory employee assigned to make such determination.
 - A readily observable label in accordance with law shall be attached to the equipment stating which portions remain contaminated.
 - This information shall be conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

Personal protective equipment:

- *Provision.* When occupational exposure occurs, the District shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time that the protective equipment will be used.
- *Use.* The District requires that all exposed employees use appropriate personal protective equipment unless the District documents that a specific employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was such employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgment, the circumstances shall be reported by the employee and investigated and documented by the District in order to determine whether changes can be instituted to prevent such occurrences in the future.

- *Accessibility.* Appropriate personal protective equipment in the appropriate sizes must be readily accessible at the work site or issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to employees who are allergic to the gloves normally provided.
- *Cleaning, laundering, and disposal.* The District shall clean, launder, and dispose of *personal protective equipment required* in this standard, at no cost to the employee.
- *Repair and replacement.* The District shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.
- Any garment(s) penetrated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible.
- All personal protective equipment shall be removed prior to leaving the work area.
- When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination, or disposal.
- *Gloves.* Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures; and when handling or touching contaminated items or surfaces.
 - Disposable (single-use) gloves, such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or their ability to function as a barrier is compromised.
 - Disposable (single-use) gloves shall not be washed or decontaminated for reuse.
 - Utility gloves may be decontaminated for reuse if the integrity of the gloves is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

Housekeeping:

- *General.* The work site must be maintained in a clean and sanitary condition.

The District shall establish, attach hereto, and implement an appropriate written schedule for cleaning and the method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

- All school activity areas are cleaned daily.
- In cleaning operations involving human blood, a cleaning solution consisting of ten to one (10:1) ratio of water and bleach will be used.
- All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.
 - Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures, immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials, and at the end of the work shift if the surface may have become contaminated since the last cleaning.
 - Protective coverings - such as plastic wrap, aluminum foil, or imperviously backed absorbent paper used to cover equipment and environmental surfaces - shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the work shift if they may have become contaminated during the shift.
 - All bins, pails, cans, and similar receptacles intended for reuse that have a reasonable likelihood of becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.
 - Broken glassware that may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means such as a brush and dust pan, tongs, or forceps.
 - Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
- *Regulated waste:*
 - Contaminated sharps discarding and containment:

- Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:
 - ❖ Closable.
 - ❖ Puncture resistant.
 - ❖ Leak proof on sides and bottom.
 - ❖ Labeled or color coded.
- During use, containers for contaminated sharps shall be:
 - ❖ Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries).
 - ❖ Maintained upright throughout use.
 - ❖ Replaced routinely and not be allowed to overfill.
- When moving containers of contaminated sharps from the area of use, the containers shall be:
 - ❖ Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
 - ❖ Placed in a secondary container if leakage is possible. The second container shall be:
 - Closable.
 - Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping.
 - Labeled or color coded.
- Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner that would expose employees to the risk of percutaneous injury.
- Other regulated waste containment:
 - Regulated waste shall be placed in containers that are:

- ❖ Closable.
- ❖ Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping.
- ❖ Labeled or color coded.
- ❖ Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
- If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:
 - ❖ Closable.
 - ❖ Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping.
 - ❖ Labeled or color coded.
 - ❖ Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
- Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states, territories, and political subdivisions of states and territories.
- Laundry:
 - Contaminated laundry shall be handled as little as possible, with a minimum of agitation.
 - Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.
 - Contaminated laundry shall be placed and transported in bags or containers labeled or color coded. When a facility utilizes universal precautions in the handling of all soiled laundry, alternative labeling or color coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions.
 - Whenever contaminated laundry is wet and presents a reasonable

likelihood of soak-through of or leakage from the bag or container, the laundry shall be placed and transported in bags or containers that prevent soaking-through and/or leakage of fluids to the exterior.

- Employees who have contact with contaminated laundry must wear protective gloves and other appropriate personal protective equipment.
- When a facility ships contaminated laundry off-site to a second facility, which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers that are labeled or color-coded.

Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up

General:

- **The District shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.**
- The District requires that all medical evaluations and procedures, including the hepatitis B vaccine, and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:
 - Made available at no cost to the employee.
 - Made available to the employee at a reasonable time and place.
 - Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed health care professional.
 - Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified in this section on hepatitis B vaccination and post-exposure evaluation and follow-up.
- The District requires that all laboratory tests be conducted by an accredited laboratory at no cost to the employee.

Hepatitis B vaccination:

- Hepatitis B vaccination shall be made available after the employee has received the training required and within ten (10) working days of initial assignment to all employees who have occupational exposure unless the employee has previously

received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

- The District shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.
- If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the District shall make available hepatitis B vaccination at that time.
- The District requires all employees who decline to accept hepatitis B vaccination that is offered to sign the following statement:

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

- If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available.

Post-exposure evaluation and follow-up. Following a report of an exposure incident, the District shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

- Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred.
- Identification and documentation of the source individual, unless the District can establish that identification is infeasible or prohibited by state or local law.
 - The source individual's blood shall be tested as soon as feasible, and after consent is obtained, in order to determine HBV and HIV infectivity. If consent is not obtained, the District shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the result documented.

- When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.
- Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.
- Collection and testing of blood for HBV and HIV serological status:
 - The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.
 - If the employee consents to base-line blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety (90) days. If within ninety (90) days of the exposure incident the employee elects to have the base-line sample tested, such testing shall be done as soon as feasible.
- Post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service.
- Counseling.
- Evaluation of reported illnesses.

Information provided to the health care professional:

- The health care professional responsible for the employee's hepatitis B vaccination shall be provided a copy of this document.
- The health care professional evaluating an employee after an exposure incident shall be provided the following information:
 - A copy of this document.
 - A description of the exposed employee's duties as they relate to the exposure incident.
 - Documentation of the route(s) of exposure and circumstances under which exposure occurred.
 - Results of the source individual's blood testing, if available.

- All medical records relevant to the appropriate treatment of the employee, including vaccination status that are the District's responsibility to maintain.

Health care professional's written opinion. The District shall obtain and provide the employee with a copy of the evaluating health care professional's written opinion within fifteen (15) days of the completion of the evaluation.

- The health care professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee and whether the employee has received such vaccination.
- The health care professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:
 - That the employee has been informed of the results of the evaluation.
 - That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials that require further evaluation or treatment.
- All other findings or diagnoses shall remain confidential and shall not be included in the written report.

Medical record keeping. Medical records required by this standard shall be maintained.

Communication of Hazards to Employees

Labels:

- Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material, and other containers used to store, transport, or ship blood or other potentially infectious materials, except as provided in law.
- These labels shall contain the "biohazard" label.
- These labels shall be fluorescent orange or orange-red or predominantly so, with lettering or symbols in a contrasting color.
- Labels are required to be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.
- Red bags or red containers may be substituted for labels.

- Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of this section on communication of hazards to employees.
- Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment, or disposal are exempted from the labeling requirements.
- Labels required for contaminated equipment shall be in accordance with this section and shall also state which portions of the equipment remain contaminated.
- Regulated waste that has been decontaminated need not be labeled or color coded.

Information and training:

- All employees with occupational exposure shall participate in a training program, which must be provided at no cost to the employees and during working hours.
- Training shall be provided as follows:
 - At the time of initial assignment to tasks where occupational exposure may take place.
 - Within ninety (90) days after the effective date of the standard.
 - At least annually thereafter.
- For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard that were not included need be provided.
- Annual training for all employees shall be provided within one (1) year of their previous training.
- The District shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affects the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.
- Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

- The training program shall contain at a minimum the following elements:
 - An accessible copy of the regulatory text of this standard and an explanation of its contents.
 - A general explanation of the epidemiology and symptoms of bloodborne diseases.
 - An explanation of the modes of transmission of bloodborne pathogens.
 - An explanation of the District's Exposure Control Plan and the means by which the employee can obtain a copy of the written plan.
 - An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials.
 - An explanation of the use and limitations of methods that will prevent or reduce exposure, including appropriate engineering controls, work practices, and personal protective equipment.
 - Information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment.
 - An explanation of the basis for selection of personal protective equipment.
 - Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge.
 - Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials.
 - An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available.
 - Information on the post-exposure evaluation and follow-up that the District is required to provide for the employee following an exposure incident.
 - An explanation of the labels and/or color coding required.
 - An opportunity for interactive questions and answers with the person conducting the training session.

- The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

Record Keeping

Medical records:

- The District shall establish and maintain an accurate record for each employee with occupational exposure as defined herein.
- This record shall include:
 - The name and Social Security number of the employee.
 - A copy of the employee's hepatitis B vaccination status, including the dates of all hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination.
 - A copy of all results of examinations, medical testing, and follow-up procedures.
 - The District's copy of the health care professional's written opinion.
 - A copy of the information provided to the health care professional.
- *Confidentiality.* The District shall ensure that employee medical records required by law are:
 - Kept confidential.
 - Not disclosed or reported, without the employee's express written consent, to any person within or outside the workplace, except as required by law.
- The District shall maintain the records required by law for at least the duration of employment plus thirty (30) years.

Training records:

- Training records shall include the following information:
 - The dates of the training sessions.
 - The contents or a summary of the training sessions.

- The names and qualifications of persons conducting the training.
- The names and job titles of all persons attending the training sessions.
- Training records shall be maintained for three (3) years from the date on which the training occurred.

Availability:

- The District shall ensure that all records required to be maintained shall be made available, upon request, to the Assistant Secretary of Labor and the Director of the Occupational Safety and Health Administration for examination and copying.
- Employee training records required by law shall be provided upon request for examination and copying to employees, to employee representatives, to the Director of the Occupational Safety and Health Administration, and to the Assistant Secretary of Labor.
- Employee medical records required by law shall be provided upon request, for examination and copying, to the subject employee, to anyone having written consent of the subject employee, to the Director of the Occupational Safety and Health Administration, and to the Assistant Secretary of Labor.

Transfer of records:

- The District shall comply with the legal requirements involving transfer of records.
- If the District ceases to do business and there is no successor district to receive and retain the records for the prescribed period, the District shall notify the Director of the Occupational Safety and Health Administration, at least three (3) months prior to their disposal, and transmit them to the Director of the Occupational Safety and Health Administration, if required by the Director of the Occupational Safety and Health Administration to do so, within that three (3) month period.

WELLNESS PROGRAMS

(Communicable Diseases)

The Board believes that the health and safety of the students and employees of the District are primary concerns, and that it is necessary, therefore, to adopt a policy governing the manner in which the Board and the administration address such concern when a current or potential employee is infected with a communicable disease. While designed to protect students and employees, this policy also protects the legitimate interests and rights of employees or potential employees having a communicable disease or are carriers of a communicable disease. Employees with a communicable disease or being a carrier of a communicable disease will be permitted to retain their positions, whenever, after reasonable accommodations and without undue hardship, there is no risk of transmission of the disease to others, provided an employee is able to continue to perform the essential functions of the position.

Any decision affecting the employment, continued employment, or suspension from duty will be based upon competent medical advice and will balance the rights of the infected individual against the legitimate interest of the District in protecting the health and safety of the students and remaining employees. Such decisions shall be made in accordance with the provisions of this policy and District administrative procedures. Applicants for employment who are carriers of or who have a communicable disease are obligated to disclose that fact before being employed. Current employees who are carriers of or who have a communicable disease are obligated to disclose that fact to their immediate supervisor as soon as the employee is aware of the condition. The District will not require mandatory testing or screening of individuals for communicable diseases as a condition of employment, either initially or annually, however, if District authorities have reasonable cause to believe that an employee has or is a carrier of a communicable disease, such individual may be required to submit to an appropriate medical examination at the expense of the District.

Employees may voluntarily choose to absent themselves from their position using the Board's other employment policies including sick leave or any other appropriate leaves for any period during which the employee's condition is infectious and/or communicable, provided that such absence is supported by a competent medical professional. Employees who have or are carriers of communicable diseases and who have not voluntarily absented themselves from their duties, will have their employment situation reviewed by a Review Team consisting of:

- the employee's physician;
- a physician selected by the District;

- the employee;
- the employee's immediate supervisor; and
- the Superintendent or the Superintendent's designee.

The Review Team will make a recommendation to the Superintendent for employment or placement action. The Superintendent shall develop and implement administrative procedures for administering this policy.

Medical Examinations. If at any time there is a question as to the ability of a District employee to perform essential job-related functions, the District may require a complete medical examination by a District appointed physician at the expense of the District. Such action may be taken to protect the health and safety of the employee, other employees or the students while at the same time protecting the legitimate rights and interests of the employee. Such a medical examination will be considered job-related and consistent with business necessity, and therefore permissible, in the following situations:

- When an employee wishes to return to work following an absence due to illness or injury. An examination may be conducted to determine if the employee, with reasonable accommodation, can safely and effectively perform the essential functions of the job.
- When an employee requests an accommodation. If an employee requests an accommodation on the basis of a claimed disability, an examination may be conducted to determine if the employee is an "individual with a disability" to whom a duty of accommodation is owed and, if so, to help identify potential accommodations.
- When an employee is having difficulty performing the assigned job effectively, the District may require the employee to undergo a medical examination to determine if the performance problems are a result of an underlying medical condition.
- When the examination is required by law, medical examinations or monitoring are required under certain circumstances by regulations issued by the Department of Transportation and the Occupational Safety and Health Administration.

The District may conduct voluntary medical examinations as part of an employee health or wellness program. All information obtained through medical inquiries or examinations must be treated as confidential. Thus, medical information must be kept in a confidential file, separate from other personnel information about the employee. The Superintendent shall develop and implement administrative procedures necessary to administer this policy.

Universal Precautions

The District shall follow the "Universal Precautions Standard" set forth in the attached Exhibit GBGCA-E to protect employees who are at risk of being exposed to blood and body fluids in the course of their work.

Food Service Workers

The District shall follow the guidance of the U.S. Department of Health and Human Services concerning infectious and communicable diseases transmitted through the handling of food, and special precautions required for food services workers.

HIV/AIDS

Current medical information indicates that HIV can be transmitted by sexual intercourse with an infected partner, by injection of infected blood products, and by transmission from an infected mother to her child *in utero* or during the birth process. None of the identified cases of HIV infection in the United States are known to have been transmitted in a school setting or through any other casual person-to-person contact. There is no evidence that HIV is spread by sneezing, coughing, shaking hands, hugging, or sharing toilets, food, water, or utensils. According to best medical knowledge and judgments, the use of the "universal precautions" and other procedures that implement this policy are sufficient to protect staff members and students from transmission of HIV at school.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-34 NMSA
29 U.S.C. 794 *et seq.* (Sec. 504 of the Rehabilitation Act)
42 U.S.C. 12101 *et seq.* (Americans with Disabilities Act)
29 C.F.R. 1630 (ADA guidelines)
29 C.F.R. 1910.10 (OSHA Universal Precautions Standard)

CROSS REF.: GBGC - Employee Assistance
JLCB - Immunizations of Students

EXHIBIT**EXHIBIT****WELLNESS PROGRAMS****(Communicable Diseases)****Handling Body Fluids in Schools**

The following guidelines are meant to provide simple and effective precautions against transmission of disease for all people potentially exposed to the blood or body fluids of any person (student and/or school employee). No distinction is made between body fluids from persons with a known disease or those from persons without symptoms or with an undiagnosed disease.

The body fluids of all people should be considered to contain potentially infectious agents. The term *body fluids* includes blood, semen, drainage from scrapes and cuts, feces, urine, vomit, respiratory secretions (such as nasal discharge), and saliva.

- Whenever possible, avoid direct skin contact with body fluids. Disposable gloves are recommended when direct hand contact with body fluids is anticipated. If extensive contact is made with body fluids, hands must be washed afterwards. Gloves used for this purpose should be put in a plastic bag, secured, and disposed of daily.
- If direct skin contact does occur, hands and other affected skin areas of all exposed people shall be routinely washed with soap and water.
- Proper handwashing requires the use of soap and water and vigorous washing under a stream of running water for approximately ten (10) seconds.
- Clothing and other non-disposable items that are soaked through with body fluids should be rinsed and placed in plastic bags. If presoaking is required to remove stains, rinse or soak the item in cold water prior to bagging. Clothing should be sent home with the student for washing, with appropriate directions to parents and teachers (see *laundry instructions* below). Always wear gloves when handling items that have come in contact with body fluids.
- Contaminated disposable items shall be handled with disposable gloves, put in a plastic bag, secured, and disposed of daily.
- Body fluid spills on hard surfaces (i.e., floors, countertops, books, etc.) shall be disinfected with bleach (diluted to ten [10] parts water and one [1] part bleach).

Gloves shall always be worn during cleanup.

- Cleaning equipment:
 - Non-disposable cleaning equipment (such as dust pans, brooms, and buckets) shall be disinfected by thoroughly rinsing in diluted bleach (ten [10] parts water and one [1] part bleach). Mops shall be soaked in the disinfectant after use and then rinsed with hot water. The disinfectant solution shall be promptly disposed of down a drain pipe.
 - Disposable cleaning equipment (such as paper towels, the vacuum bag, or sweepings) shall be placed in plastic bags, secured, and disposed of daily. No special handling is required for vacuuming equipment. Gloves shall always be used during cleanup.
- Laundry instructions:
 - Clothing soaked with body fluids shall be washed separately from other items. Presoaking may be required for heavily soiled clothing. Otherwise, wash and dry as usual. If the material can be bleached, add one-half (1/2) cup of household bleach to the wash cycle. If the material is not colorfast, add one-half (1/2) cup of all-fabric bleach to the wash cycle.

WORKERS' COMPENSATION

All employees shall be covered by workers' compensation insurance for any accident while on assignment, including an accident on school property or while on official business off school property. An employee must report any such accident to the supervisor's office immediately, since a report on the time of the accident, persons involved, and how it happened is required.

Adopted: January 16, 2018

LEGAL REF.: 6.50.3.9 NMAC
6.50.14.9 NMAC

CROSS REF.: EBBB - Accident Reports
GBGC - Employee Assistance

REGULATION**REGULATION****WORKER'S COMPENSATION**

Any employee who has an injury or accident, no matter how slight, while on duty shall notify the supervisor immediately. Failure to follow this procedure could result in the loss of workers' compensation benefits.

After being notified by an employee, the supervisor shall complete and submit the Report of Industrial Injury to the District office.

The Superintendent, upon receiving the supervisor's report, shall, within ten (10) days after notification, submit the Report of Industrial Injury to the insurance carrier.

Compensation Claims

When a job-related injury/accident requires medical attention and absence from the workplace, the following conditions shall apply:

- The physician will be responsible for reporting the circumstances of the injury to the District, the Industrial Commission, and the District's insurance carrier.
- During the first seven (7) days of absence due to a job-related injury/accident, the employee will be placed on sick leave, provided the employee has accumulated sufficient sick leave.
- If a job-related injury/accident results in more than seven (7) days absence, the insurance carrier will be responsible for handling the claim for lost pay. During such period the employee may be directed to:
 - Endorse over to the District the payments received from the insurance carrier, continue to receive a regular salary, and be charged sick leave. When the amount of the insurance payment is determined and received by the District, the employee's sick leave record will be adjusted for that fraction of the time paid by the insurance carrier (e.g., the insurance carrier pays two-thirds $[2/3]$ of the normal salary of the employee, the sick leave will be adjusted on a pro rata basis); or
 - Draw compensation from the insurance carrier, provide the District with a record of such payment, and receive payment for sick leave pay for the uncompensated portion of missed time, up to the limit of accumulated sick leave.

- In no event will an employee receive a combined salary and worker's compensation in excess of the employee's regular salary.
- An employee who has used all accumulated sick leave will be removed from the payroll and will receive only such amounts as are paid by the District's insurance carrier.

EXHIBIT**EXHIBIT****WORKERS' COMPENSATION****(Early Return to Work)****Determining if a Job Offer can be Made for Early Return from an Illness or Injury**

The District need only consider an early return when a job that can be performed by the early return employee is available. Creation of a position is not required.

When considering an early return assignment the District should:

- Analyze the job and determine its purpose and essential functions.
- Consult with the employee to determine the precise job limitations imposed by the attending physician.
- Determine if the employee can perform the duties of the job.
- Analyze the risk of re-injury or deterioration of the employee's condition.

Adjustments in the job description for personal accommodations such as an amenity or convenience that is not job related shall not be the responsibility of the District. The District shall require that all aspects of the job description be performed adequately.

STAFF PARTICIPATION IN POLITICAL ACTIVITIES

The Board recognizes the right of its employees, as citizens, to engage in political activity. However, school time may not be used for political purposes. Staff members who intend to engage in political activities shall be guided by the following:

- No employee shall engage in political activities upon property under the jurisdiction of the Board, unless permission has been granted for that purpose through the "Community Use of School Facilities" policy of the Board.
- Campaigning and other election activities must be done in off-duty hours, when not working in an official capacity for the District, and without the participation of District employees or students acting in the capacity of District or school representatives.
- Invitations to participate in election activities on a given campus, except when extended by groups leasing or using school facilities, shall be extended only when such invitations are extended to all candidates for the office.
- The use of District equipment, supplies, materials, buildings, or other resources to influence the outcome of any election is not permitted.
- Political circulars or petitions may not be posted or distributed in school.
- The collection of campaign funds and/or the solicitation of campaign workers is prohibited on school property.
- The use of students for writing or addressing material intended to influence the outcome of any election, or the distribution of such materials to or by students, is forbidden.
- Employees of the District may not use the authority of their position to influence the vote or political activities of any subordinate employee.

District employees who hold elective or appointive office are not entitled to time off from their school duties for reasons incident to such offices, except as such time may qualify under the leave policies of the Board.

The discussion and study of politics and political issues, when such discussion and study are appropriate to classroom studies, are not precluded under the provisions of this policy.

This policy shall apply only when an employee is serving as an agent of or working in an official capacity for the District.

Adopted: January 16, 2018

LEGAL REF.: 22-14-14 NMSA
6.60.9.8 NMAC

PERSONNEL RECORDS AND FILES

Professional employees are required to supply the District office with current and complete official transcripts of all college credits.

It is the duty and responsibility of each licensed employee to keep such license current.

The District will maintain a complete and current official personnel file for each District Employee. Employees will be advised of, and will be permitted to review and comment on, all information of a derogatory nature to be placed in their respective personnel files. The employee may prepare a written reply to such information, and such reply, if any, will be appended to the information in the file.

All documents within a personnel file are confidential, and the District may create such sub-files within a personnel file as are appropriate to ensure confidentiality and efficient use of the file. Access to personnel files will be limited to authorized District officials and employees. Individual Board members shall have access only when specifically authorized by the Board, as evidenced by action of a quorum of the Board in a legal meeting properly noticed. Employees may review their own files by making written requests to the Superintendent. Confidential information obtained prior to an employee's employment, such as recommendations, will not be available for review by the employee.

Specific information contained in the record, may be considered public information under the law and will be released in accordance with the Inspection of Public Records Act, Confidential Materials Act and Board policy and procedure relative to the disclosure of the District's public records.

Adopted: January 16, 2018

LEGAL REF.: 14-2-1 NMSA *et seq.* (1978)

CROSS REF.: DKA - Payroll Procedures/Schedules
KDB - Public's Right to Know/Freedom of Information

EMPLOYMENT RECOMMENDATION

Board Findings

The Board of Education finds as follows:

- That under current New Mexico law, an employer and individual employees may be held liable for having provided incomplete or misleading employment references or recommendations in regard to the employer's current or former employees under certain circumstances;
- That individual employees of the District who wish to provide employment references or recommendations for current or former employees may not be in possession of all pertinent information regarding a current or former employee necessary to provide a complete and fair employment reference or recommendation;
- That under current law, an individual employee of the District who provides a recommendation or reference for a current or former employee of the District may be mistakenly perceived as providing such reference or recommendation on behalf of the District; and
- That limitations and conditions are required to prevent employment references or recommendations by individual employees from being attributed to the District when such references or recommendations have not been authorized by the District.

Rules Regarding Employment References and Recommendations

In view of the foregoing, no employee of the District is authorized to issue a written or oral employment reference or recommendation for a current or former employee of the District except in compliance with-the following:

- No employee may issue or provide an employment reference or recommendation in his or her capacity as an employee of the District for a current or former employee orally – all such references or recommendations shall be in writing only.
- No employee may issue or provide an employment reference or recommendation in his or her capacity as an employee of the District for a current or former employee of the District without first:

- Providing a copy of the proposed reference or recommendation to the Superintendent for approval; and
- Receiving the written authorization of the reference or recommendation provided.
- An employee who wishes to provide an employment reference or recommendation in his or her personal capacity only for a current or former employee of the District, without the authorization or endorsement of the District, shall observe the following limitations and conditions:
 - No employee providing such personal reference or recommendation orally may do so during working hours, or while on District premises, or through the use of a telephone or other communications media owned by the District;
 - No employee providing such personal reference or recommendation in writing may do so during working hours or while on District premises, or using any District or school letterhead or any communications media owned by the District, or by other means that suggests District authorization or agreement; and
 - An employee providing any such oral or written reference or recommendation shall specify in providing the reference or recommendation that he or she is speaking for himself or herself, and not on behalf of the Central Consolidated School District.

Investigation and Record-Keeping

Upon receiving a copy of or a request for a proposed reference for a former employee the Superintendent shall make appropriate inquiries about the former employee of building administrators at each building in which the former employee worked while employed by the District and shall compile a record of all information regarding the former employee's competency, turpitude, and proper performance of duties. In approving the issuance of a recommendation on behalf of the District, the Superintendent shall ensure that the recommendation fairly reflects all relevant and reliable information bearing upon the former employee's competency, turpitude, and proper performance of duties.

The Superintendent shall keep and maintain copies of all proposed references or recommendations, copies of information compiled as to each, and the responses to each such proposed reference or recommendation.

Penalties

Any violation of the provisions of this policy or any of its procedures by any employee shall subject such employee to discipline, including termination or discharge.

Adopted: January 16, 2018

LEGAL REF.: 14-2-1 NMSA *et seq.* (1978)

CROSS REF.: KDB - Public's Right to Know/Freedom of Information

STAFF GRIEVANCES

Effective communication between District employees, the administrative staff, and the Board is essential for proper operation of the schools. The Board, therefore, authorizes the Superintendent to establish a grievance procedure for employees as the prescribed means of resolving grievances at the earliest date and the lowest possible administrative level.

The Superintendent shall have final authority to resolve grievances.

Limitations: The following situations are not covered by the grievance procedure:

- The discretionary act(s) of professional judgment relating to the evaluation of the work performance of any employee by the designated evaluator(s).
- A personnel decision made by the Superintendent including, but not limited to, a termination or discharge, a demotion, transfer, assignment or Board action directly and adversely affecting an employee's employment that may be subject to redress through provisions of State law and regulation.
- Situations in which the Superintendent and the Board are without authority to act or where the power to remedy the employee's concern resides exclusively with some person, agency or authority other than the Board.
- Situations as to which a different procedure for remedy has been provided by the Board, or where District procedure is prescribed by State or Federal authority.

The decision of the Board is final.

Adopted: January 16, 2018

REGULATION**REGULATION****STAFF GRIEVANCES****Definitions**

A *grievance* is a complaint by a District employee alleging a violation or misinterpretation, as to the employee, of any District policy or regulation that directly and specifically governs the employee's terms and conditions of employment.

A *grievant* shall be any employee of the District filing a grievance.

Terms and conditions of employment means the hours of employment, the compensation therefor, including fringe benefits, and the employer's personnel policies directly affecting the employee. In the case of professional employees, the term does not include educational policies of the District. A *day* is any day during which the District conducts business. The *immediate supervisor* is the lowest-level administrator having line supervisory authority over the grievant.

Informal Level

Before filing a formal written grievance, the grievant must attempt to resolve the matter by one (1) or more informal conferences with the immediate supervisor. The first of these informal conferences must be conducted within ten (10) days after the employee knew, or should have known, of the act or omission giving rise to the grievance. A second or any subsequent conference must occur within five (5) days after the initial informal conference, or any subsequent conference.

Formal Level

Level I. Within fifteen (15) days after the employee knew, or should have known, of the act or omission giving rise to the grievance, the grievant must present the grievance in writing to the immediate supervisor.

The grievance shall be a clear, concise statement of the circumstances giving rise to the grievance, a citation of the specific article, section, and paragraph of the policy or regulation that directly and specifically governs the employee's terms and conditions of employment that are alleged to have been violated, the decision rendered at the informal conference, and the specific remedy sought.

The immediate supervisor shall communicate a decision to the employee in writing within five (5) days after receiving the grievance.

Within the above time limits either party may request a personal conference to attempt to resolve the matter.

Level II. In the event the grievant is not satisfied with the decision at Level I, the decision may be appealed to the Superintendent within five (5) days after receipt of the decision.

The appeal shall include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal. The Superintendent shall communicate a decision within five (5) days after receiving the appeal. Either the grievant or the Superintendent may request a personal conference within the above time limits.

General provisions:

- Failure at any step of this procedure to appeal a grievance to the next step within the specified time limits shall be deemed an acceptance of the decision rendered at that step, and there shall be no further right of appeal. Failure to file a grievance within fifteen (15) days after the employee knew, or should have known, of the circumstances upon which the grievance is based shall constitute a waiver of that grievance. The filing or pendency of any grievance under the provisions of this policy shall in no way operate to impede, delay, or interfere with the jurisdiction of the Board or the Superintendent.
- No person(s) shall suffer retaliation, recrimination, discrimination, harassment, or be otherwise adversely affected because of the use of the grievance procedure.
- Whenever possible, a grievance conference or hearing, at any level, shall be scheduled during a mutually convenient time that does not conflict with the regularly scheduled school program.
- A grievant requiring the attendance and testimony of other employees shall have the right to bring such witnesses as are willing to testify on behalf of the employee. When hearings must be scheduled during the work day, any necessary substitutes or released time shall be provided at District expense.
- A separate file shall be maintained by the District for all grievances. To the extent permitted by law, all documents produced during the processing of a grievance shall be filed therein. Nothing herein shall be construed to prevent the District from taking appropriate corrective action, reporting and documenting such action, and maintaining such documentation in any appropriate files maintained by the District.

- Nothing contained herein shall be construed to limit, in any way, the ability of the District and the grievant to resolve any grievance by informal means, and nothing herein shall be construed as requiring resorting to the formal procedures when grievable problems arise.
- A grievant may terminate the process at any level he/she indicates, in writing, a desire to do so, accepts the resolution at that level, or fails to pursue the grievance by filing at the next level within the specified time limit.
- All grievances shall be filed and processed on grievance forms provided by the District and made available at each school and building site.
- The time limits at any level may be extended by mutual agreement between the grievant and the appropriate respondent or hearing authority.
- The grievant may be represented by legal counsel or union representative, if applicable, in conferences or hearings, except the informal conference. Any representative who intends to represent a grievant at a conference or hearing shall notify the Superintendent of that intention within a reasonable time before the conference or hearing. Failure to do so may justify postponement of the conference or hearing or suspension of the deadline while the Superintendent arranges for or consults with District legal counsel.
- The grievance proceedings shall focus only on the issues raised by the written grievance as filed and any related issues as the parties in interest may agree to have considered.

PROHIBITED PERSONNEL PRACTICES

Whistleblower Retaliatory Action Prohibited

It is a prohibited personnel practice to take a retaliatory action against a public employee for the following activities if, in good faith, the employee believes that the action they have taken is based on an act or failure to act on the part of the school district which constitutes unlawful or improper activity:

- communicating to a public body or third (3rd) party,
- providing information to, or testifying before a public body,
- objecting to or refusing to participate in an activity, policy or practice of a public body.

Posting Required

Every public employer shall keep posted in a conspicuous place on the public employer's premises notices prepared by the employer that set forth the provisions of the Whistleblower Protection Act.

Business Sales Prohibited

A public officer or employee shall not sell, coerce the sale of or be a party to a transaction for goods, services, contraction or personal property directly or indirectly through a personal or family business in which a substantial interest is held to:

- an employee supervised by the public officer or employee. (If a supervised employee initiates the sale or the public officer or employee, in good faith, is not aware that the employee is under their supervision the prohibition does not apply.)
- a person over whom the public officer or employee has regulatory authority.

A public officer or employee shall not receive a commission or profit from a transaction for goods, services, construction or personal property directly or indirectly through a personal or family business in which a substantial interest is held to a person over whom the public officer or employee has regulatory authority.

A public officer or employee shall not accept an offer of employment or contract for goods, services, construction or personal property or other things of value from a

person over whom the public officer or employee has regulatory authority.

Contributions Prohibited

A business providing financial services involving the investment of public money or issuance of bonds for public projects shall not knowingly contribute anything of value to a public officer or employee of the district who has authority over investment or bonds nor shall such a public office or employee accept any contribution of value from such business (this does not mean food or refreshment valued at less than one hundred dollars (\$100) consumed in a day.)

Honoraria Prohibited

No public officer or employee may request or receive an honorarium (money or thing of value worth over \$100) for a speech or service rendered that relates to the performance of public duties. Reasonable reimbursement for meals, lodging or actual travel expenses are acceptable for making the speech or rendering the service.

Adopted: January 16, 2018

LEGAL REF.: 10-16-13 NMSA
10-16-13.3 NMSA

CROSS REF.: BCB - Board Member Conflict of Interest
DJ - Contracts for Purchases and Services
DJE - Bidding Purchasing Procedures
GBEAA - Staff Conflict of Interest

EXHIBIT**EXHIBIT****PROHIBITED PERSONNEL PRACTICES****(Whistleblower Protection Act Summary)**

It is a prohibited personnel practice to take a retaliatory action against a public employee for the following activities if, in good faith, the employee believes that the action they have taken is based on an act or failure to act on the part of the school district which constitutes unlawful or improper activity:

- communicating to a public body or third (3rd) party,
- providing information to, or testifying before a public body,
- objecting to or refusing to participate in an activity, policy or practice of a public body.

Damages

A public employer that violates the provisions of the Whistleblower Protection Act shall be liable to the public employee for actual damages, reinstatement with the same seniority status that the employee would have had but for the violation, two (2) times the amount of back pay with interest on the back pay and compensation for any special damage sustained as a result of the violation. In addition, an employer shall be required to pay the litigation costs and reasonable attorney fees of the employee. An employee may bring an action pursuant to this section in any court of competent jurisdiction.

Affirmative Defense

It shall be an affirmative defense to a civil action brought pursuant to this section that the action taken by a public employer against a public employee was due to the employee's misconduct, the employee's poor job performance, a reduction in work force or other legitimate business purpose unrelated to conduct prohibited pursuant to the Whistleblower Protection Act and that retaliatory action was not a motivating factor.

Remedies

The remedies provided for in the Whistleblower Protection Act are not exclusive and shall be in addition to any other remedies provided for in any other law or available under common law. Nothing in the Whistleblower Protection Act precludes civil actions or criminal sanctions for libel, slander or other civil or criminal claims against a person who files a false claim under that act.

Applicability

The provisions of this act apply only to civil actions that occurred on or after July 1, 2008 for damages resulting from retaliatory action filed within two (2) years from the date on which the retaliatory action occurred.

DRUG AND ALCOHOL TESTING OF EMPLOYEES**(Other than Transportation Employees)**

Under this policy, any employee of the District (other than a transportation employee) must submit to drug and alcohol testing if the employee's supervisor has reason to believe that the employee's job performance has been impaired by the use of alcohol or a drug.

In addition to the above, an employee shall voluntarily submit to drug and alcohol testing:

- After being involved in an accident involving a school vehicle; or
- After an accident involving equipment used in the performance of the employee's duties; and
- When, based on knowledge of the events and circumstances of an accident, the supervisor has reason to believe that the employee's involvement in the accident was influenced by the use of alcohol or a drug. When possible, the reason shall be documented by an affidavit signed by the supervisor.

The Superintendent shall develop procedures for drug and alcohol testing of employees subject to the following:

- The District shall assume the costs of the drug and alcohol testing of employees.
- An employee who refuses to submit to drug and alcohol testing or whose test results are positive may be terminated from employment.
- An employee who is to be terminated as a result of test findings shall be granted an appeal, upon request, under Policies GCQF and GDQD, as appropriate, as well as relevant provisions of law.

Adopted: January 16, 2018

CROSS REF.: EEAEAA - Drug and Alcohol Testing of Transportation Employees
 GBEC - Drug-Free Workplace
 GBECA - Nonmedical Use or Abuse of Drugs or Alcohol

REGULATION**REGULATION****DRUG AND ALCOHOL TESTING OF EMPLOYEES****(Other than Transportation Employees)**

Substance use that impairs the job performance of an employee will be considered proper cause for disciplinary action up to and including termination, even for a first offense.

The following procedures shall be adhered to in enforcing the policy:

- Responsibility for enforcing these procedures shall be placed with, and shall be considered incumbent on, the Superintendent.
- Drug and alcohol testing shall be required as follows:
 - Testing shall be required whenever an individual charged with enforcing these procedures has reason to suspect that an employee's job performance has been impaired by the use of alcohol or a drug.
 - When possible, the reason(s) shall be documented by an affidavit signed by the person who observed the employee and the employee's supervisor.
 - Post-accident testing shall be required whenever the supervisor has reason, based on knowledge of the events and circumstances of the accident, to suspect that the employee's involvement in the accident was influenced by the use of alcohol or a drug.
 - When possible, reason(s) shall be documented by an affidavit signed by the employee's supervisor.
- Procedure for testing:
 - Facilities selected by the District shall provide the testing. A list of authorized facilities shall be maintained by the District.
 - When reason exists to suspect that the use of alcohol or a drug contributed to or influenced either an employee's impaired job performance or an accident involving a vehicle used to transport students or equipment used by the employee in such job performance, the employee shall immediately

be transported to an approved testing facility by a member of the staff designated by the Superintendent.

- Testing may include a preliminary examination by medical personnel. Tests that will detect the use of alcohol or a drug will be administered. The tests that may be administered to detect alcohol or a drug are breath analysis, urinalysis, and blood analysis.
- A positive test shall be reason to recommend termination.
- Administrative leave is authorized until the test results are available. The District shall pay the employee for the test day and the time off while awaiting the results.
- An employee who refuses to cooperate in such testing, or who tests positive, shall be directed to take alternate transportation home or to a destination where assistance is available. As a last resort, a transportation staff member may be directed to transport the individual to an appropriate destination using a District vehicle. If an employee insists on driving from the premises, local law enforcement authorities shall be notified.
- The District shall assume the costs of the drug and alcohol testing of any employee.
- Appeal of test findings:
 - The District, in cooperation with the testing facility, shall develop a procedure for the employee to obtain a second laboratory opinion on the test findings.
 - The employee shall be notified of the procedure for obtaining a second laboratory opinion on the test findings.
- Penalties:
 - Refusal to immediately take a test, or failure to cooperate fully as requested during testing procedures, shall be considered an act of insubordination and is cause for termination.
 - A staff member with the responsibility of enforcing these procedures who has knowledge of a violation and does not act according to the District policy and procedures shall have violated District policy, and such violation is cause for termination.

- An employee having a positive test indicating use of alcohol or a drug under the above-described circumstances shall be recommended for termination.

Nothing in this procedure shall in any way limit the authority of the District to utilize information other than drug and alcohol testing in the discipline and termination of employees for drug and alcohol use.

DRUG AND ALCOHOL TESTING OF EMPLOYEES**(Other than Transportation Employees)**

I, _____, do hereby swear and affirm:

1. That I am presently an officer/employee of the _____
School District;

2. That I observed _____
(name of employee)

on _____ at _____ doing the following:
(day, date) (time)

3. Reason(s) exist that indicate that the above observed occurrence was the
result of the influence of alcohol and/or a drug, as evidenced by:

(date) (affiant signature) (supervisor signature)

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires:

Notary Public

PROFESSIONAL STAFF POSITIONS

An employee must be a licensed school employee to be considered a professional staff member. Licensed school employee means teachers, school administrators and instructional support providers – a person who is employed to support the instructional program of a public school, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician. This definition does not apply to a person performing the functions of a practice teacher or teaching intern.

The District will attempt to activate a sufficient number of positions to accomplish the District's goals and objectives.

Before establishment of any new position, the Superintendent will present a job description for the position that specifies the qualifications and the performance responsibilities.

The Superintendent will maintain a comprehensive and up-to-date set of jobs descriptions of all positions in the school system.

Adopted: August 20, 2019

LEGAL REF.: 22-1-2 NMSA
22-5-14 NMSA
22-10A-2 NMSA
22-10A-3 NMSA
6.20.2.12 NMAC
6.60.9.8 NMAC

CROSS REF.: CCB - Line and Staff Relations
GCQF – Discipline, Suspension, and Termination and Discharge of
Professional Staff Members

PROFESSIONAL STAFF CONTRACTS AND COMPENSATION

All employment contracts between Superintendents and licensed school employees shall be in writing on forms approved by the department. These forms shall contain and specify the term of service, the salary to be paid, the method of payment, the causes for termination of the contract and other provisions required by the regulations of the Secretary of Public Education.

All employment contracts between Superintendents and licensed school employees shall be for a period of one (1) school year except:

- contracts for less than one (1) school year are permitted to fill personnel vacancies which occur during the school year;
- contracts for the remainder of a school year are permitted to staff programs when the availability of funds for the programs is not known until after the beginning of the school year;
- contracts for less than one (1) school year are permitted to staff summer school programs and to staff federally funded programs in which the federally approved programs are specified to be conducted for less than one (1) school year;
- contracts not to exceed three (3) years are allowed at the discretion of the governing authority for Superintendents; and
- contracts not to exceed three (3) years are allowed at the discretion of the governing authority for licensed school employees in public schools who have been employed in the School District for three (3) consecutive school years.

Except as provided in Section 22-10A-22 NMSA 1978, a person employed by contract pursuant to this section has no legitimate objective expectancy of reemployment, and no contract entered into pursuant to this section shall be construed as an implied promise of continued employment pursuant to a subsequent contract.

Salaries in the District will be differentiated in relationship to duties and responsibilities.

The Superintendent will provide recommendations on salaries and fringe benefits to the Board each year.

After receipt of the Superintendent's recommendations, the Board will annually establish the salaries and benefits for all employees within the budgetary constraints of the District.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-10 NMSA (1978)
22-10A-21 NMSA (1978)
22-10A-22 NMSA (1978)
6.66.2.8 NMAC
6.66.3.8 NMAC

PROFESSIONAL STAFF SALARY SYSTEMS

Prior to the beginning of each school year, each superintendent shall file with the department the school district salary system, which salary system shall incorporate any salary increases or compensation measures specifically mandated by the legislature. Salaries for teachers and school administrators shall be aligned with the licensure framework provided for in the School Personnel Act [Chapter 22, Article 10A NMSA 1978].

A superintendent shall not reduce the school district salary system established above without the prior written approval of the Secretary of Education.

Other Provisions

Any person who does not work the full term as set up by salary system shall be paid on a prorated basis for the number of days to be worked for the remainder of the school year, this shall include school days taught plus the number of days required for orientation.

Adopted: January 16, 2018

LEGAL REF.: 22-5-11 NMSA (1978)
22-5-14 NMSA (1978)

PROFESSIONAL STAFF SUPPLEMENTARY PAY PLANS**(Extra-Duty Pay)**

The Superintendent will recommend to the Board an extra-duty pay system for extra class activities each year for its review and action.

Any increment/supplemental duties assigned to an employee for which pay is received may be modified or discontinued at any time by the District. An employee who requests to relinquish a paid increment/supplemental duty must do so with a written request and the subsequent approval of the Superintendent. This policy does not create any continued contractual obligation to any employee; employees shall hold no expectancy of continuing employment in any assigned incremental/supplemental duty.

Adopted: January 16, 2018

PROFESSIONAL STAFF FRINGE BENEFITS

The Board will review professional staff fringe benefits each year during the budget process and may modify the benefits to meet the best interest of the District.

Minimum standards of eligibility for fringe benefits will be determined by the Board annually.

Adopted: January 16, 2018

CROSS REF.: DKB - Salary Deductions

PROFESSIONAL / SUPPORT STAFF LEAVES AND ABSENCES**(Absent Without Leave)**

An employee shall be deemed "absent without leave" when absent from work because of:

- A reason that conforms to a policy currently in effect but the maximum days provided for in that policy will be exceeded; *or*
- A reason that does not conform to any policy currently in effect; *or*
- Failure to report to work without prior notification to the Superintendent.

In no case shall an employee be compensated for time lost due to being absent without leave.

An employee who is absent from work without prior approval is subject to disciplinary action, as is one who was unable to obtain prior approval due to unusual circumstances and such approval is denied upon the employee's return.

Exhausted Leave Benefits

The District will continue to pay the employer's portion of School Board approved insurance premiums for a period of thirty (30) calendar days after the employee has exhausted all approved leave. At the end of the thirty (30) day period, and at the discretion of the District, the employee shall have the option of continuing insurance coverage by paying the total premium (employer's and employee's share).

Adopted: January 16, 2018

PROFESSIONAL / SUPPORT STAFF SICK LEAVE

At the end of the contract year, unused paid leave will convert to sick leave. The following guidelines will apply to the use of paid leave after it converts to sick leave.

Sick leave may be used for:

- Illness of the employee;
- Serious family illness;
- Dental and medical appointments; or
- Death of a close relative.

Family is defined as the employee's:

- Mother;
- Stepmother;
- Mother-in-law;
- Father;
- Stepfather;
- Father-in-law;
- Spouse;
- Son;
- Stepson;
- Son-in-law;
- Daughter;
- Stepdaughter;

- Daughter-in-law;
- Brother;
- Stepbrother;
- Brother-in-law;
- Sister;
- Stepsister;
- Sister-in-law;
- Aunt;
- Uncle;
- Grandparent;
- Legal guardian;
- Foster children;
- Grandchildren; or
- Any other relative living in the employee's home.

Adopted: January 16, 2018

**PROFESSIONAL / SUPPORT STAFF
PERSONAL / EMERGENCY /
RELIGIOUS LEAVE**

(Paid Leave/Personal Leave)

Employees are urged to use professionalism, maturity, and judgment in using leave. Responsible use of leave will be a factor in every employee's summative evaluation.

Paid leave. Every eligible employee is credited with leave days to be used for any combination of illness, doctor appointments, family business, inclement weather if the employee deems it unsafe to drive to work, bereavement, childcare, or any other personal needs.

Personal leave will be defined as three (3) leave days for family business, inclement weather if the employee deems it unsafe to drive to work, childcare, bereavement, or any other personal needs.

Paid/personal leave is defined as the current years leave which is defined below. Consolidated School District (CCSD) personnel are granted earned paid/personal leave as follows:

- For CCSD personnel employed within the range of one hundred seventy-six (176) through one hundred ninety-six (196) days according to the schedule:
 - Ten (10) - seven (7) paid leave days and three (3) personal leave days.
- For CCSD personnel employed within the range of one hundred ninety-seven through two hundred nine (209) days according to the schedule:
 - Eleven (11) - eight (8) paid leave days and three (3) personal leave days.
- For CCSD personnel employed within the range of two hundred ten (210) through two hundred twenty-three (223) days according to the schedule:
 - Twelve (12) - nine (9) paid leave days and three (3) personal leave days.
- For CCSD personnel who are twelve (12) month employees:
 - Fourteen (14) - eleven (11) paid leave days and three (3) personal leave days.

- Late starts/half-time employees will receive a prorated amount of leave days. For example, if an employee works half time, the employee will receive half the number of appropriate leave days. If the employee works a sixty percent (60%) contract, the employee will receive sixty percent (60%) of the number of appropriate leave days.
- Paid/personal leave shall be accrued yearly. Any unused paid/personal leave will convert to accrued sick leave with unlimited accumulation. The annual leave will be allocated with the beginning of the contract year. However, upon termination of a contract, the District will check the amount of leave used by the employee. When more leave has been used than what would have been accumulated on an accrual basis, the District will deduct the overuse of leave from the payout of the contract. Total annual leave accruals for the school year shall not exceed total days allowed above. (Dock days shall result when all paid leave and vacation days are taken without sufficient accrued leave.)
- The supervisor will request a statement from the employee's doctor for patterned misuse of annual leave for medical reasons. Extended leave due to health reasons will require a statement from the employee's physician. Additionally, employees requiring extended leave for health reasons who are not eligible for Family and Medical Leave and/or whose leave exceeds twelve (12) weeks must request an unpaid leave of absence.
- Maternity leave, paternity leave, and other extended leave will be handled under the guidelines for FMLA leave and will count as part of an employee's FMLA rights.
- The Board may approve an incentive payment to CCSD employees for unused paid leave accumulated during the immediate prior fiscal year. If the District determines that sufficient budget exists to provide compensation to employees who did not use all annual leave during the previous year, the Superintendent may establish a fixed amount to be paid to employees based on unused annual leave.

In order to receive the incentive payment, the individual must have been employed by the District at the end of the previous fiscal year and have been employed continuously in the current year up to two (2) weeks prior to the established incentive payment date.

If, however, the District determines that sufficient budget does not exist to provide compensation to employees, no such payment shall be made in that fiscal year.

Employees will not lose any leave accumulated because of this incentive payment.

An employee serving as a volunteer emergency responder in a declared emergency of up to ten (10) regular business days by the State Governor or President of the United States may not be terminated, demoted or discriminated against in the terms and conditions of employment. The employer may charge regular pay against the employee for the time the employee is absent from employment due to service as an emergency responder.

Adopted: January 16, 2018

LEGAL REF.: 12-10C-1 *et seq.* - Voluntary Emergency Responder Leave Act
 50-4-2 *et seq.* - Domestic Abuse Act

**PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

The District recognizes that on occasion extenuating circumstances arise that may necessitate absence from duty that is not covered by other specific leave provisions of the District. To address such situations, a leave of absence, without pay, may be granted a member of the certificated or support staff for not longer than one (1) year.

Leave of absence may be requested for, but not limited to, the following purposes:

- For additional education that relates to the employee's primary assignment. A plan of contemplated course work must be presented.
- To provide for an unpaid leave in a situation where the employee will be absent from work because of (1) a reason that conforms to a policy currently in effect but the maximum number of days provided for in that policy will be exceeded, or (2) failure to report to work without prior notification to the Superintendent.
- For a leave of absence that benefits or is in the best interest of the District, as determined by the Board upon review of the application.
- For leave under the Family and Medical Leave Act.

A leave of absence requested pursuant to this policy may be:

- Approved by the Superintendent if the leave period does not exceed twelve (12) weeks; or
- Recommended by the Superintendent and approved by the Governing Board if the leave period exceeds twelve (12) weeks.

A request for leave of absence shall not be denied by the District if the employee is entitled to the leave under the Family and Medical Leave Act. All other applications for leave of absence may be granted or denied by the District, in its sole discretion.

Each request for such a leave of absence shall be in a written application stating the purpose, starting date, and duration of the leave of absence, the reasons for its necessity or desirability, and any other information the applicant deems relevant to the request.

The leave of absence shall be only for the purpose and duration approved and may not be extended without written approval by the District.

If the unpaid leave of absence is for a full school year, the employee must notify the Superintendent in writing no later than April 1 whether he/she intends to return to work at the start of the following school year. The School District will not guarantee the employee's return to the vacated position and placement for the following school year will be at the discretion of the School District. Failure to notify by this date will be treated as a resignation from the School District.

All rights of continuing status (certificated teachers only), retirement, salary increments, and other benefits shall be restored at the level earned when the leave was granted. All accrued sick, vacation, personal, and other paid leave shall be applied to the leave period unless otherwise agreed to by the District or prohibited by the Family and Medical Leave Act.

Family and Medical Leave Act (FMLA)

The District shall fully comply with the Family and Medical Leave Act and all interim and final regulations interpreting the FMLA issued by the U.S. Department of Labor. Accordingly, all portions of this policy that pertain to the FMLA shall be interpreted in a manner consistent with the FMLA and its regulations. Subject to the conditions set forth herein, any eligible employee of the District may take up to twelve (12) weeks of leave (FMLA leave) measured backward for each employee from the first time such employee uses leave under FMLA, without pay, for any one (1) or more of the following reasons:

- Because of the birth of a child of the employee and in order to care for such child.
- Because of the placement of a child with the employee for adoption or foster care.
- In order to care for the spouse or a son, daughter, or parent of the employee, if such person has a serious health condition.
- Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
- Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

An *eligible* employee is one who has been employed by the District at least twelve (12) months and who has completed at least one thousand two hundred fifty (1,250) hours of service immediately prior to the time the FMLA leave is to commence, and if there are at least fifty (50) employees of the district within a seventy-five (75) mile radius.

Serious health condition means an illness, injury, impairment, or physical condition that

involves inpatient care in a hospital, hospice, or residential medical facility, or outpatient care with continuing medical treatment by a licensed physician. Any employee who has been employed by the District at least twelve (12) months and who has completed at least one thousand two hundred fifty (1,250) hours of service immediately prior to the time the leave is to commence shall be eligible for FMLA leave.

Special conditions applicable to FMLA. Entitlement to leave for the birth of a child or the placement of a child for adoption or foster care ends at the expiration of a twelve (12)-month period, beginning on the date of the event. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service-member shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12)-month period to care for the service-member. The leave described to care for a covered service-member shall only be available during a one (1) single twelve (12)-month period.

A husband and wife working for the District may be limited to a total of twelve (12) weeks of leave during each applicable twelve (12)-month period for leave for the birth of a child or the placement of a child for adoption or foster care and to care for an employee's parent with a serious health condition. The aggregate number of workweeks of leave to which both the husband and wife may be entitled under covered service-member family leave combined with leave as described in the previous sentence shall be limited to twenty-six (26) workweeks during one (1) single twelve (12)-month period.

The District shall not require an employee to substitute accrued sick leave for FMLA leave used by reason of a birth, adoption, or foster placement. An employee shall substitute accrued vacation or personal leave for FMLA leave used by reason of a birth, adoption, or foster placement, to the extent available by policy, unless otherwise agreed to by the District. In any other circumstance, an employee's accrued sick, vacation, personal, or other applicable leave shall be substituted for FMLA leave, to the extent available by policy, unless otherwise agreed to by the District.

Notice. An employee must provide at least thirty (30) day notice before the FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption, or foster care, planned medical treatment for a serious health condition, or military service leave of the employee or family member. If thirty (30) day notice is not practicable, notice must be given as soon as practicable. The notice shall be in the form of a request for leave of absence as specified in this policy. The District may deny FMLA leave to any eligible employee until such time as the employee has provided the required notice.

Certification. All FMLA leave shall be supported by medical certificate provided by the employee's health provider in the form of the exhibit accompanying this policy. In any instance where the FMLA leave must be preceded by thirty (30) day notice, the medical certificate should accompany the request for leave of absence. In any other instance, the medical certificate should be provided within fifteen (15) days after the

FMLA leave commences.

Certification of active military duty or call to active duty in support of a contingency operation for purpose of receiving family leave shall be required under the same conditions as FMLA certification for leave indicated above.

The employee may be requested (at the District's expense) to provide recertification of medical conditions in support of leave if the District feels that the circumstances so warrant and notice is given. Recertification shall not be required for intervals shorter than thirty (30) days.

Whenever a medical certification or recertification is required of an employee, notice describing such requirement and providing the form of such certification shall be provided to the employee. An employee shall not be denied FMLA leave or other rights under the FMLA unless a notice required by FMLA in such situation has first been provided to the employee.

In the case of continuation, recurrence, or onset of a serious health condition to the employee, covered family of the employee (including a service-member being cared for by an employee) and the employee is unable to return to work, certification issued by the health care provider of the entity with the serious health condition shall be required to support the inability of the employee to return to work.

Intermittent or reduced time (IRT) leave. FMLA leave may be taken intermittently or on a reduced leave schedule under the following circumstances:

- If medically necessary to care for a family member or for the employee's own serious health condition;
- Because of any qualifying exigency the spouse, or a son, daughter, or parent, of the employee is on active duty, or notified of an impending call or order to active duty in support of a contingency operation; or
- If approved by the District.

The District may, for the term of the leave, transfer the employee to an alternative position with equivalent pay and benefits.

If the IRT leave is for an *instructional employee* (one whose principal function is to instruct students in a class, small group, or as individuals), the District can require the employee either to take leave for a period or periods of a particular duration not greater than the duration of the planned treatment or to transfer temporarily to an available alternative position with equivalent pay and benefits that provides better accommodation of recurring periods of leave, provided the leave is:

- Requested to care for a qualifying family member or as a result of the employee's serious health condition preventing job performance;
- Foreseeable, based upon planned medical treatment; and
- For more than twenty percent (20%) of the working days in the leave period.

The employee may be granted leave under these circumstances, subject to reasonable efforts to schedule treatment so as not to unduly disrupt the educational program.

Special end-of-semester circumstances for instructional employees. Under each of the following conditions, leave for an instructional employee may be required to continue to the end of the academic semester:

- Leave begins more than five (5) weeks before the end of the semester, leave is for at least three (3) weeks, and return to employment would occur during the last three (3) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last five (5) weeks of the semester, leave is for greater than two (2) weeks duration, and return to employment would occur during the last two (2) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last three (3) weeks of the semester and leave exceeds five (5) working days.

Employee notification. With each request for FMLA leave, the employee shall be notified:

- About FMLA by provision of the FMLA fact sheet (Exhibit EE).
- As appropriate concerning the expectations, obligations, and consequences of taking FMLA leave per 29 C.F.R. 825.301 of FMLA.
- That FMLA leave may be withheld until a requested notice is provided or the time frame is met.
- That if leave is granted to an employee who is unable to perform the work required, restoration may be denied until the employee has complied with the request to provide medical certification of ability to return to work.

The District will post notices in conspicuous places on the District premises that provide a summary of FMLA and information on how to file a charge for an FMLA violation.

Health care continuation. An employee taking FMLA leave shall be entitled to have
CENTRAL CONSOLIDATED SCHOOL DISTRICT
JANUARY 16, 2018

the health care plan in which the employee is participating continue under the same terms and conditions applicable to actively working employees. The District shall require the repayment of any health care premiums paid by the District for continuing coverage during the period of the FMLA leave if the employee fails to return to work after the FMLA leave expires and the failure to return is not due to circumstances beyond the employee's control.

Position restoration. Upon return from FMLA leave, an employee shall be restored to the same position held before the FMLA leave commenced or to an equivalent position with equivalent pay, benefits, and working conditions. The District requires an employee to provide a medical certificate from a health care provider that the employee is able to resume work before returning from FMLA leave for a serious personal health condition. The District may delay the return of an instructional employee from FMLA leave at the end of a semester, in accordance with Section 825.602 of FMLA rules. The District may deny restoration of position to any key employee (i.e., one who is among the highest-paid ten percent [10%] of all employees of the District), in accordance with Section 825.218 of FMLA rules.

Adopted: January 16, 2018

LEGAL REF.: Family and Medical Leave Act of 1993
 29 C.F.R. Part 825

EXHIBIT**EXHIBIT****PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

Section I: For Completion by the Employer

Instructions to the Employer: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, re-certifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

Section II: For Completion by the Employee

Instructions to the Employee: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at

least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

Section III: For Completion by the Health Care Provider

Instructions to the Health Care Provider: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: _____ Fax: _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

2. Probable duration of condition: _____

Mark below as applicable:

3. Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

____No____Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

4. Will the patient need to have treatment visits at least twice per year due to the condition?

____No____Yes

5. Was medication, other than over-the-counter medication, prescribed?

_____No_____Yes

6. Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

_____No_____Yes

If so, state the nature of such treatments and expected duration of treatment:

7. Is the medical condition pregnancy?

_____No_____Yes If so, expected delivery date: _____

8. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions. Is the employee unable to perform any of his/her job functions due to the condition:

_____No_____Yes

If so, identify the job functions the employee is unable to perform:

9. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

10. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery?

_____No_____Yes

If so, estimate the beginning and ending dates for the period of incapacity:

11. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition?

_____No_____Yes

If so, are the treatments or the reduced number of hours of work medically necessary?

_____No_____Yes

12. Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: _____

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

13. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions?

_____No_____Yes

14. Is it medically necessary for the employee to be absent from work during the flare-ups?

_____No_____Yes If so, explain: _____

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____times per _____week(s) _____month(s)

Duration: _____hours or _____day(s) per episode

Additional Information: Identify question number with your additional answer.

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. ***DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.***

EXHIBIT**EXHIBIT****PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY****EMPLOYER RESPONSE TO EMPLOYEE REQUEST
FOR FAMILY OR MEDICAL LEAVE
(Family and Medical Leave Act of 1993
Optional Use Form - See 29 C.F.R. § 825.301)**

Date: _____

To: _____
(Employee's Name)From: _____
(Name of Appropriate Employer Representative)Subject: **REQUEST FOR FAMILY/MEDICAL LEAVE**On _____, you notified us of your need to take family/medical leave due to:
(Date)

- ☐ The birth of a child, or the placement of a child with you for adoption or foster care; or
- ☐ A serious health condition that makes you unable to perform the essential functions for your job; or
- ☐ A serious health condition affecting your ☐ spouse, ☐ child, ☐ parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _____.
(Date)and that you expect leave to continue until on or about _____.
(Date)

Except as explained below, you have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on

your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: *(check appropriate boxes: explain where indicated)*

1. You are ☐ eligible ☐ not eligible for leave under the FMLA.
2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.
3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by _____ (insert date) (must be at least 15 days after you are notified of this requirement), or we may delay the commencement of your leave until the certification is submitted.
4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used, the following conditions will apply: (Explain)
5. (a) If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you, and it is agreed that you will make premium payments as follows: (Set forth dates, e.g., the 10th of each month, or pay periods, etc., that specifically cover the agreement with the employee.)

(b) You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c) We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.
6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until certification is provided.

7. (a) You ☐ are ☐ are not a "key employee" as described in § 825.217 of the FMLA

regulations. If you are a "key employee:" restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to the District as discussed in § 825.218.

(b) We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. ([a] and/or [b] may be explained if requested. See §825.219 of the FMLA regulations.)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _____ (indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (see §825.309 of the FMLA regulations). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report to work.
9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the FMLA regulations.)

This optional use form may be used to satisfy mandatory employer requirements to provide employees taking FMLA leave with written notice detailing specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. (29 C.F.R. 825.301(b).)

**PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

**YOUR RIGHTS UNDER THE FAMILY AND
MEDICAL LEAVE ACT OF 1993**

The Family and Medical Leave Act of 1993 (FMLA) requires covered employers to provide up to twelve (12) weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there are at least fifty (50) employees within seventy-five (75) miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Reasons for Taking Leave

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

Advance Notice and Medical Certification

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide thirty (30) days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA.
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information

If you have access to the Internet visit the FMLA website: <http://www.dol.gov/esa/whd/fmla>. To locate your nearest Wage-Hour Office, telephone the Wage-Hour toll-free information and help line at 1-866-4USWAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm in your time zone; or log onto the following at <http://www.wagehour.dol.gov>.

***A Spanish translation of this form may be
downloaded at <http://www.dol.gov/esa/whd/fmla/>***

**PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

MILITARY FAMILY LEAVE

On January 28, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the Family and Medical Leave Act of 1993 (FMLA) to provide eligible employees working for covered employers two (2) important new leave rights related to military service:

- (1) New Qualifying Reason for Leave.** Eligible employees are entitled to up to twelve (12) weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining "any qualifying exigency." In the interim, employers are encouraged to provide this type of leave to qualifying employees.
- (2) New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six (26) weeks of leave in a single twelve (12)-month period to care for the service member. This provision became effective immediately upon enactment. This military caregiver leave is available during "a single twelve (12)-month period" during which an eligible employee is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.

***A Spanish translation of this form may be downloaded at
<http://www.dol.gov/esa/whd/fmla/>***

EXHIBIT**EXHIBIT****PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY****FACT SHEET NO. 28:
THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress.

The FMLA became effective on August 5, 1993 for most employers and entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12)-month period for specified family and medical reasons. Amendments to the FMLA by the National Defense Authorization Act for FY 2008 (NDAA). Public Law 110-181, expanded the FMLA to allow eligible employees to take up to twelve (12) weeks of job-protected leave in the applicable twelve (12)-month period for any "qualifying exigency" arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to twenty-six (26) weeks of job-protected leave in a "single twelve (12)-month period" to care for a covered service member with a serious injury or illness.

Employer Coverage

FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), *and* private-sector employers who employed fifty (50) or more employees in twenty (20) or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

Employee Eligibility

To be eligible for FMLA benefits, an employee *must*:

- work for a covered employer;
- have worked for the employer for a total of twelve (12) months;
- have worked at least one thousand two hundred fifty (1,250) hours over the previous twelve (12) months; and

- work at a location in the United States or in any territory or possession of the United States where at least fifty (50) employees are employed by the employer within seventy-five (75) miles.

While the twelve (12) months of employment need not be consecutive, employment periods prior to a break in service of seven (7) years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service. *See, special rules for returning reservists under USERRA.*

Leave Entitlement

A covered employer must grant an eligible employee up to a total of *twelve (12) workweeks of unpaid* leave during any twelve (12)-month period for one (1) or more of the following reasons:

- For the birth and care of a newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for a spouse, son, daughter, or parent with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition; or
- For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

A covered employer also must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of *twenty-six (26) workweeks of unpaid* leave during a "single twelve (12)-month period" to care for the service member.

Spouses employed by the same employer are limited in the *amount of* family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of twelve (12) weeks (or twenty-six [26] weeks if leave to care for a covered service member with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within twelve (12) months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently - taking leave in separate blocks of time for a single qualifying reason - or on a reduced leave schedule - reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

Under certain conditions, employees or employers may choose to "substitute" (run concurrently) accrued *paid* leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

"*Serious health condition*" means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; *or*
- Continuing treatment by a health care provider, which includes:
 - A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that *also* includes:
 - treatment two (2) or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within seven (7) days and both within thirty (30) days of the first day of incapacity); *or*
 - one (1) treatment by a health care provider (i.e., an in-person visit within seven (7) days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); *or*
 - Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; *or*
 - Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; *or*

- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; *or*
- Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

Maintenance of Health Benefits

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

Job Restoration

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to *before* using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

Notice and Certification

Employee Notice

Employees seeking to use FMLA leave are required to provide thirty (30)-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than thirty (30) days in advance, the employee must provide notice as soon as practicable - generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's

usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave for a FMLA-qualifying reason for the *first* time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee *must* specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subject to a fine of up to one hundred ten dollars (\$110) for each separate offense. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the employer has enough information to determine that leave is being taken for a FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave.

Certification

Employers may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. An employer may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official - but not the employee's direct supervisor - to authenticate or clarify a medical certification of a serious health condition. An employer may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, an employer may, under certain circumstances, require such a certification for employees returning from

intermittent FMLA leave.

Unlawful Acts

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

Enforce

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

Other Provisions

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent leave or when leave is required near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 C.F.R. Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an "eligible" employee's use of leave required by FMLA.

For additional information, visit the Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call the toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866- 4USWAGE (1-866-487-9243).

EXHIBIT**EXHIBIT**

**PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)

Section I: For Completion by the Employer

Instructions to the Employer: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact:

Section II: For Completion by the Employee

Instructions to the Employee: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
 First Middle Last

Name of family member for whom you will provide care:

First

Middle

Last

Relation of family member to you: _____

If family member is your son or daughter, date of birth: _____

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature

Date

Section III: For Completion by the Health Care Provider

Instructions to the Health Care Provider: Your patient has requested leave under the FMLA. Answer, fully, and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: _____ Fax: _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

2. Probable duration of condition: _____

Mark below as applicable:

3. Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

_____No_____Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

4. Will the patient need to have treatment visits at least twice per year due to the condition?

_____No_____Yes

5. Was medication, other than over-the-counter medication, prescribed?

_____No_____Yes

6. Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

_____No_____Yes

If so, state the nature of such treatments and expected duration of treatment:

7. Is the medical condition pregnancy?

_____No_____Yes If so, expected delivery date: _____

8. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

9. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery?

____No____Yes

If so, estimate the beginning and ending dates for the period of incapacity:

During this time, will the patient need care?

____No____Yes

Explain the care needed by the patient and why such care is medically necessary:

10. Will the patient require follow-up treatments, including any time for recovery?

____No____Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary:

11. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery?

____No____Yes

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient and why such care is medically necessary:

12. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities?

_____ No _____ Yes

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups?

_____ No _____ Yes

Explain the care needed by the patient and why such care is medically necessary:

Additional Information: Identify question number with your additional answer.

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. ***DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT***

PROFESSIONAL / SUPPORT STAFF MILITARY / LEGAL LEAVE

The Board recognizes the fact that its employees have citizenship responsibilities. In order to make it possible for said employees to carry out their responsibilities to the city, county, state, or nation, the Board will grant leaves, in addition to jury duty, or when an employee is called to military services or to attend training for the Military Reserve or National Guard.

Any employee whose work day begins more than two (2) hours after the time of opening the polls or ends more than three (3) hours prior to the end of closing the polls will not be allowed time off to vote. If the above conditions do not apply, the employee will be allowed time to vote as long as the time to vote does not interfere with the instructional program.

When an employee receives notice that requires leave as delineated above, it is the responsibility of the employee to notify the Superintendent or principal.

Subpoena

The District shall not discharge, discipline, or otherwise penalize an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. The leave will be charged to the District if the subpoena is related to school business or upon the District's request. It will be without pay or charged to personal business otherwise.

Jury Duty

It is recognized by the Board that no employee is exempt from jury duty and that leaves of absence for such duty must be granted.

- Only the regular salary may be received by an employee on jury duty except that mileage paid for jury duty is the property of the employee. An employee excused from jury duty after being summoned shall report for regular duty as soon as possible. Failure to report for duty will result in a deduction equal to that portion of a contract day missed.

The supervisor may request any employee to provide a sealed notice verifying his/her attendance for jury duty. The notification is easily obtained from the court clerk upon request; however, it will only be sealed at the end of the day.

Military Leave

- An employee who is a member of the army or air national guard or army, air force, navy, marine or coast guard reserves shall be given not to exceed fifteen working days' military leave with pay per federal fiscal year when they are ordered to duty for training, such leave to be in addition to other leave or vacation time with pay to which such employees are otherwise entitled.
- An employee who is a member of the uniformed service may use any vacation leave or other accumulated paid time off during their service, or may take unpaid leave of absence.
- The District must reemploy uniformed service members, as defined in 38 U.S.C. 4303, returning from a period of service, if the service member:
 - Was employed by the District.
 - Gave the District notice that he or she was leaving the job for service in the uniformed services, unless giving notice was precluded by military necessity or otherwise impossible or unreasonable.
 - Has a cumulative period of service in the uniformed services not exceeding five (5) years.
 - Was not released from service under dishonorable or other punitive conditions.
 - Has reported back to the District in a timely manner or has submitted a timely application for reemployment in accordance with the Uniformed Services Employment and Reemployment Rights Act.

Adopted: January 16, 2018

LEGAL REF.: 20-4-7 NMSA, Military leave for National Guard and Reserves.
38 U.S.C. 4301 *et seq.*, Uniformed Services Employment and Reemployment Rights Act

CROSS REF.: GCCC - Professional/Support Staff Leaves of Absence Without Pay

EXHIBIT**EXHIBIT****PROFESSIONAL/SUPPORT STAFF
MILITARY/LEGAL LEAVE**

Part 200 – Regulations Under the Uniformed Services
Employment and Reemployment Rights Act of 1994

Appendix to Part 1002 - Your Rights Under USERRA**The Uniformed Services Employment and Reemployment Rights Act**

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

Reemployment Rights

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

Health Insurance Protection

- If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed,

generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

Enforcement

- The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

Right to be Free from Discrimination and Retaliation

If you:

- are a past or present member of the uniformed service;
- have applied for membership in the uniformed service; or
- are obligated to serve in the uniformed service;

then an employer may not deny you:

- initial employment;
- reemployment;
- retention in employment;
- promotion; or
- any benefit of employment;

Because of this status.

- For assistance in filing a complaint, or for any other information on USERRA, contact VETS at 1-866-4-USA-DOL or visit its website at <http://www.dol.gov/vets>. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.

- If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice for representation.
- You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. This notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying this notice where they customarily place notices for employees.

U.S. Department of Labor, Veterans
Employment and Training Service
Washington, DC 20210
1-866-487-2365

**PROFESSIONAL STAFF
CONFERENCES / VISITATIONS / WORKSHOPS**

All travel must support the District's Educational Plan for Student Success (EPSS).

To attend meetings or conferences, licensed employees must obtain approval from the administration at least two weeks or ten (10) week days prior to the meeting or conference dates (whenever such prior request is possible). Out of state travel must be approved by the Superintendent as must travel expenses that commence more than 24 hours prior to the start of any approved training.

The following guides will be used in granting released time and/or travel expense:

- Value of the meeting or conference.
- Funds available in the appropriate budgets.
- Availability of a substitute, if one is necessary.

A per diem subsistence allowance, and/or mileage, for private automobiles may be paid as provided in state law or Board policies. The necessary forms and instructions for filing travel claims are available at the administration office.

Adopted: January 16, 2018

SABBATICAL LEAVE

Upon approval as a part of a compensation plan the Board may grant sabbatical leave to licensed teaching and administrative personnel for a maximum of one (1) year in accordance with 22-10A-2 (1), 22-10A-35 through 22-10A-38 NMSA 1978, and 6.66.4.8 NMAC

Adopted: August 20, 2019

LEGAL REF.: 22-10A-2 NMSA
 22-10A-35 through 22-10A-38 NMSA (1978)
 6.66.4.8 NMAC

PROFESSIONAL / SUPPORT STAFF VOLUNTARY TRANSFER OF ACCRUED ANNUAL OR SICK LEAVE

The District recognizes the existence of circumstances under which non-job-related, seriously incapacitating, and extended illnesses and injury may exhaust accrued leave of employees. To provide some measure of relief in such situations, a limited mechanism, based upon voluntary transfer of accrued annual or sick leave, is established. The mechanism will be termed transfer of accrued annual or sick leave for a medical emergency. The **sick leave bank** policy previously in existence will be cancelled and any donated leave will be returned to the donor upon adoption of this policy.

The definition of a 'medical emergency' will be as follows: A medical condition of the employee or a family member of the employee that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available apart from the leave-sharing plan.

Limits to Donations:

- The donated leave will be limited to annual leave or sick leave (sick leave will be any paid leave that the district, by policy, allows to be used for that purpose).
- The person donating may only donate already accrued leave up to twenty (20) days and shall maintain in accrued leave at least twenty-eight (28) days of sick leave (or the equivalent) at the time of the donation.
- Donations will be by accrued days of leave, using either the donor's current daily wages or hourly wages earned for each donated day. The recipient shall receive the donation converted to the daily wages they currently earn.
- All donations shall be for the current contract year and shall not exceed that period based upon the current contract earnings of the person to whom the donation is made.
- All donations shall be on behalf of a specific recipient with the donation made to the district plan for transfer of leave based upon a medical emergency.
- All unused donated leave shall revert to the donating employees on a prorated basis.

Notice and receipt of donations.

- Notice of need for leave donations will be posted by need for licensed professional staff, central office and building level professional supervisory staff, and support staff including the name of the individual.
- Posting will be by placing the notice of need at the central office, and by the mailboxes used for staff members of the district.
- Forms will be provided on which employees may make their donations known to the district office.

Eligibility (for use of transferred leave). The approved applicant shall:

- Be a full-time employee (an employee eligible to earn sick leave).
- Have a "medical emergency" as defined in this policy.
- Have exhausted all earned/accrued leave of any nature or kind including compensatory time and be eligible for an unpaid leave of absence.
- Not be eligible at the time of request for disability benefits, including but not limited to Social Security.
- Be one whose return to duty is projected to occur no later than the beginning of their next contract year.
- Submit an application, which shall be received by the District office at least ten (10) days prior to the beginning of the applicant's unpaid leave status, when practicable.

Determining eligibility:

- The Superintendent shall appoint an advisory committee consisting of at a minimum, one health education professional, one support staff member, one licensed teacher and one professional supervisory person to review the applications and make a recommendation to the Superintendent.
- The Superintendent shall receive the applications and make the final determination of eligibility using the criterion of eligibility and in consideration of the recommendation of the advisory committee.

No continuing rights are established by this policy. In compliance with established procedure, the Governing Board reserves the right to modify, change, or delete any policy in accord with its own guidelines. An appeal of the decision of the Superintendent may only be taken using the Staff Grievance Policy GBK.

Adopted: January 16, 2018

LEGAL REF.: To be announced

CROSS REF.: GBK - Staff Grievance
GCC - Professional / Support Staff Leaves and Absences
GDC - Support Staff Leaves and Absences

REGULATION**REGULATION****PROFESSIONAL / SUPPORT STAFF VOLUNTARY
TRANSFER OF ACCRUED ANNUAL OR SICK LEAVE****(Application Screening)**

The application must be in writing.

The application must be supported by a certified document by a health care provider that describes the nature, severity, and anticipated duration of the emergency medical condition of the recipient and that includes a statement that the recipient is unable to work all or a portion of the recipient's work hours.

The application should be received by the District office prior to the applicant beginning unpaid leave status.

PROFESSIONAL STAFF VACATIONS AND HOLIDAYS**Vacations**

The District shall grant employees sick, annual and/or personal leave pursuant to the employee's position. Employees will be compensated for unused vacation leave upon termination of employment with the District. The Superintendent, or his/her designee, shall establish appropriate formulas and designations for leave.

Holidays

Holidays may be established by the school calendar. The Board of Education annually shall approve recognized holidays.

Adopted: January 16, 2018

PROFESSIONAL STAFF VACATIONS AND HOLIDAYS

Vacations

Personnel employed for twelve-months are granted eighteen (18) days per year vacation time.

Vacation time is accrued at the rate of one and one-half (1 1/2) days per month July 1 to June 30. Twelve (12) month employees are not allowed to carry over more than thirty-six (36) days of vacation time into the next school year beginning July 1. As accumulated vacation days are used and drop below thirty-six (36) days, an eligible employee may again accumulate vacation up to the maximum limit. All vacation time will be scheduled according to the work load and in consultation with the immediate supervisor. If workloads disallow vacations as established, the Superintendent may approve vacation days during the school year.

Employees will be compensated for unused vacation leave upon termination with the District.

Holidays

The approved holidays for teachers and ten (10) and eleven (11) month employees are shown on each year's approved school calendar.

Adopted: January 16, 2018

PROFESSIONAL STAFF HIRING

It shall be the policy of the District to employ and retain the best qualified personnel. The Board adopts the following general criteria, which shall be utilized in the selection process for initial employment:

- There will be no discrimination in the hiring process due to race, color, religion, sex, sexual orientation, age, national origin, or disability of an otherwise qualified individual.
- A candidate for secondary school teaching should have a major, minor, or equivalent in the candidate's teaching field. An elementary school candidate should have a major or equivalent in elementary education or in the special area of assignment.
- Candidates for all teaching positions shall be able to deliver quality instruction.
- Each candidate shall provide evidence of meeting state requirements for certification.
- Each candidate shall be required to provide fingerprint cards or electronic fingerprints upon being offered employment for purposes of obtaining a criminal history background record before finalization of employment.
- A "background investigation" - consisting of communication with the applicant's (or employee's) former employer that concerns education, training, experience, qualifications, and job performance for the purpose of evaluation for employment - shall be conducted on each individual to be considered for a recommendation of employment. Forms developed for this purpose are to be used.

Any employee's misstatement of fact that is material to qualifications for employment or the determination of salary shall be considered by the Board to constitute grounds for dismissal.

All offers of employment are contingent upon the satisfactory completion of background investigations.

Reemployment Contract

Each licensed teaching employee shall deliver an acceptance or rejection of reemployment to the Superintendent within fifteen (15) days from the following:

- The date written notice of reemployment is served upon the person; or
- The last day of the school year when no written notice of reemployment or termination is served upon the licensed school employee on or before fifteen (15) working days prior to the last day of the school year.

Delivery of the written acceptance of reemployment by a licensed school employee creates a binding employment contract between the licensed school employee and the Superintendent until the parties enter into a formal written employment contract. Written employment contracts between the Superintendent and licensed school employees shall be executed by the parties not later than ten days before the first day of a school year.

A person not directly involved in the employment decision affecting the specific applicant shall not be permitted unauthorized access to criminal history record information or background information.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-5 NMSA (1978)
28-1-2 NMSA *et seq.*

REGULATION**REGULATION****PROFESSIONAL STAFF HIRING****Definition**

A *background investigation* is defined as any communication with an applicant's (or employee's) former employer that concerns the education, training, experience, qualifications, and job performance of the individual and that is used for the purpose of evaluation for employment. Background investigation does not include the results of any state or federal criminal history records check.

Background Investigation Requirements

Only persons designated by the Superintendent shall perform background investigations. Prior to contacting former employers or other persons, the background investigator shall:

- Ascertain that the standard employment application for the type of position has been completed in full.
- Obtain from the individual a consent to background investigation and release as determined by the District.
- Make certain that the individual has identified at least two (2) persons from each past employer who can verify basic job information and discuss the individual's work performance and reason for leaving.
- Examine the application for a complete work history, accounting for any gaps in employment.

Two (2) persons should be contacted at each past employer if possible (any exceptions should be documented). Upon making contact, the contacts or the former employer or employer's agent should be provided the following information:

- The name and identifying information of the District.
- The name of the District representative making the inquiry and how the representative can be contacted.
- The name of the former employee and period of employment as indicated by the individual whose background is being investigated.

- The position for which the individual has applied, with descriptive information as to the duties, if requested or necessary to understanding of the inquiry.

The background investigator shall:

- Ask the questions, and complete the background check form(s) as provided by the District.
- Make impression notes as necessary based upon the questions and responses, and determine if there may be cause to contact others or make further inquiries based upon the responses.
- Provide the information to the Superintendent.

PROFESSIONAL STAFF CERTIFICATION AND CREDENTIALING REQUIREMENTS

(Fingerprinting Requirements)

New Hires

All licensed personnel offered employment by the District, who have not been initially licensed within twenty-four (24) months of applying for employment, shall be required to provide fingerprint cards or electronic fingerprints for licensure in accord with state law. The public school shall pay the cost of obtaining fingerprint or criminal history records. A contractor or contractor's employee, or a volunteer who will have unsupervised access to students on school premises shall also be required to provide fingerprint cards or electronic fingerprints and may be required to pay the cost of obtaining fingerprint or criminal history records.

The candidate's fingerprints shall be submitted, along with the form presented as an exhibit to this policy, immediately upon being selected as a finalist for possible employment. The form shall be considered a part of the application for employment. Convictions of felonies or misdemeanors involving moral turpitude if directly related to employment which are contained in the criminal history investigation record shall be used to deny, suspend or revoke employment in accordance with the Criminal Offender Employment Act. However, if the conviction does not directly relate to employment, completion of probation or parole supervision or expiration of a period of three years after final discharge or release from imprisonment without subsequent conviction shall create a presumption of sufficient rehabilitation. Other information contained in the investigation record, if supported by independent evidence, may also form the basis for the employment decisions for good and just cause. A candidate's conviction of trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse regardless of rehabilitation shall warrant denial, suspension or revocation of employment. Records of arrest not followed by conviction or misdemeanors NOT involving moral turpitude may not be used, distributed or disseminated regarding public employment.

A person who makes a false statement, representation, or certification in any application for employment with the School District may be denied employment or terminated.

Reasons for a decision not to employ an individual based upon conviction of any indicated crime or misdemeanor involving moral turpitude shall be provided to the candidate. An appeal of denial, suspension or revocation of employment based upon the Criminal Offender Employment Act may be requested in accord with the grievance procedure provided in policy.

A person not directly involved in the employment decision affecting the specific applicant shall not be permitted unauthorized access to criminal history record information or background information. All fingerprint or criminal history records are to be confidential records and are to be maintained as personnel records in accord with the "Rights to inspect public records, exceptions".

The Superintendent shall report to the Public Education Department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the employee.

Adopted: August 20, 2019

LEGAL REF.: 14-2-1 NMSA
22-10A-5 NMSA (1978)
28-2-1 *et seq.* NMSA
6.60.8.7 NMAC
6.60.8.8 NMAC
6.60.8.9 NMAC

CROSS REF.: GBK - Staff Grievances
GCF - Professional Staff Hiring
GCG - Part-Time and Substitute Professional Staff Employment
IJOC - School Volunteers

EXHIBIT**EXHIBIT**

**PROFESSIONAL STAFF CERTIFICATION
AND CREDENTIALING REQUIREMENTS**

Name: _____ Position: _____

I, _____, being duly sworn, do hereby certify that I have never been convicted of or admitted in open court or pursuant to a plea agreement committing, and am not now awaiting trial for committing, any of the following criminal offenses in the state of New Mexico or similar offenses in any other jurisdiction:

Sexual abuse of a minor Incest First- or second-degree murder Kidnapping Arson Sexual assault Sexual exploitation of a minor Felony offenses involving contributing to the delinquency of a minor Commercial sexual exploitation of a minor Felony offenses involving sale, distribution, or transportation of, offer to sell, transport, or distribute, or conspiracy to sell, transport, or distribute marijuana or dangerous or narcotic drugs	Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs Misdemeanor offenses involving the Possession or use of marijuana or dangerous drugs Burglary in the first degree Burglary in the second or third degree Aggravated or armed robbery Robbery Child abuse Sexual conduct with a minor Molestation of a child Manslaughter Assault or Aggravated assault Exploitation of minors involving drug offenses
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Employee signature _____

Date signed

Subscribed, sworn to, and acknowledged before me by _____

_____, this _____ day of _____, 20____,

in _____ County, New Mexico.

My Commission Expires

Notary Public

PART - TIME AND SUBSTITUTE PROFESSIONAL STAFF EMPLOYMENT

Substitute Teachers

When it becomes necessary for a regularly assigned teacher to be absent, it is that teacher's responsibility to notify the school principal at the earliest opportunity of the probable duration of the absence. The selection of a substitute teacher will be made by the principal only from a list of approved substitute teachers provided to each principal by the Superintendent, or designee. The Superintendent shall develop and implement administrative procedures necessary to effectively employ, assign, monitor, evaluate, compensate and retain highly qualified substitute teachers for the District.

Employment Qualifications. All applicants for initial substitute teacher licensure shall have attained eighteen (18) years of age for those seeking to perform instructional services in grades kindergarten (K) through eight (8), and twenty-one (21) years of age for those seeking to perform instructional services in grades nine (9) through twelve (12), and have earned a high school diploma or high school diploma equivalency and hold a current New Mexico Substitute Teachers License by:

- Completing an approved teacher preparation program from a regionally accredited college or university; or
- Holding a current substitute or standard teaching license from another state; or
- Having met two (2) of the following requirements:
 - Have, within twelve (12) months of their date for initial employment with the District received on-the-job training by serving as a voluntary assistant to a licensed teacher in a school classroom in the District for a minimum of three (3) hours during three (3) days;
 - Have observed three (3) hours or more of teaching at the grade level of students in which the substitute will serve;
 - Have completed a District substitute teacher workshop. The District shall conduct, at least once a year, a comprehensive workshop for current substitute teachers and substitute teacher applicants that is conducted by licensed teaching and administrative staff and provides training in the essential functions and most recent strategies related to effective teaching;

- Have, within the past three (3) school years of application for employment or licensure, performed at least three (3) hours of instructional services as a substitute teacher in any school accredited or recognized by the Secretary of Public Education;
- Have engaged in any paid employment in the three (3) years prior to applying for a New Mexico Substitute Teaching license or employment which, after verification by and in the opinion of the Superintendent, or designee, invests that applicant with relevant work experience;
- Have completed at least sixty (60) hours of college credit courses in a regionally accredited college;
- Have completed or be currently enrolled in an approved college course or program from a regionally accredited college, where the course or program is structured to provide primary/secondary school teacher preparation.

As a condition of employment with the District as a substitute teacher, every applicant must initially submit to and be cleared of a fingerprint-based criminal history and background check pursuant to state law and regulation. No applicant for initial employment shall be employed by the District until a background check has been reviewed and cleared by the State Public Education Department.

Substitute Teacher Tracking / Monitoring. The District shall maintain a systematic tracking process that monitors and records the assignment of all substitute teachers by classroom placement and the time and performance assessment in such placement. The tracking record shall be kept as part of the employee's personnel record and shall be used as a key element in the reemployment of the substitute teacher.

Continuing Licensure. The District shall develop an advancement plan to allow substitute teachers to gain a Level II license. Such plan shall, at a minimum, require a substitute teacher to:

- Complete with a passing grade three (3) semester hours of credit from a regionally accredited college or university in areas related to the District's Educational Plan for Student Success, student standards, or the substitute teacher's classroom assignment; or
- Complete forty-eight (48) contact hours in professional development activities approved by the District in areas related to the District's Educational Plan for Student Success, student standards, or the substitute teacher's classroom assignment; or
- Obtain a written certification from the Superintendent that the substitute teacher has completed at least two hundred seventy (270) hours of providing satisfactory

services as a substitute teacher.

Compensation. Substitute teachers will be compensated for the number of hours on duty at a rate, approved annually by the Board that is commensurate with the Substitute's level of licensure and experience in the District.

Limitations. No single class may be taught by a substitute teacher in lieu of a licensed teacher, under contract, for more than a total of forty-five (45) school days during a school year unless otherwise approved by the Secretary of Public Education.

Exceptions. No person holding a valid New Mexico teaching or administrative license is required to obtain substitute teacher licensure in order to perform instructional services.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-15 NMSA (1978)
6.63.10.10 NMAC
6.29.1.9

**ARRANGEMENTS FOR SUBSTITUTE
STAFF MEMBERS**

The Superintendent will establish procedures for reporting the need for and arranging for professional staff substitutes.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-15 NMSA (1978)
6.63.10.10 NMAC

REGULATION**REGULATION****ARRANGEMENTS FOR SUBSTITUTE
STAFF MEMBERS**

When utilizing the leave policies of the District, it shall be the responsibility of the teacher to notify the supervising principal, as soon as possible, of the need for a substitute teacher. In the event the principal is not available, the secretary may be notified.

If the teacher knows in advance that a return to duty will be assured on a certain day, the principal should be so notified in order that the substitute may be informed.

PROFESSIONAL STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees. Those staff members not present at the orientation / training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in annual training as underlined per statute. The orientation and training may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- Disciplinary and conduct rules and procedures.
 - Annually, train staff regarding behavioral supports or behavioral management and the use of restraint and seclusion techniques.
 - Provide activities that create an awareness among staff of homeless student behaviors and direct them toward strategies and support so that out of school suspension or expulsion would be used only as a last resort.
- Bullying prevention and reporting.
- Salary and fringe-benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.
- Child abuse reporting responsibilities.
- Ethics training.

Adopted: December 17, 2019

LEGAL REF.: 22-35-1 NMSA *et seq.* NMSA
6.11.2.10 NMAC
29 U.S.C. 653
42 U.S.C. 11301 McKinny-Vento Homeless Assistance Act of
2001, as amended by the Every Student Succeeds Act
(ESSA) of 2015

CROSS REF.: GBEBB – Staff Conduct with Students
GDBGC – Employee Assistance
JK – Student Discipline
JLF – Child Abuse / Child Protection
JLI – Student Safety

PROFESSIONAL STAFF DEVELOPMENT

The Board recognizes its particular responsibility to provide opportunity for the continual professional growth of its certificated staff. Such opportunities include, within budgetary limitation, special in-service training courses, workshops, school or District visitations, conferences, professional library, and assistance from supervisors and consultants.

In line with such opportunities, the Board encourages educational research by staff members when the conduct of the project does not conflict with the major functions of the schools.

In-Service Training Courses

The Superintendent may establish local in-service training courses for teachers and other licensed employees in the schools.

Adopted: date of manual adoption

PROFESSIONAL STAFF ASSIGNMENTS AND TRANSFERS

Assignments

The Superintendent will determine all licensed professional staff assignments. Such assignments shall be based on the needs of the District. In addition, no right to school, grade, or subject assignment shall be inferred from the standard teacher's contract.

Transfers

The procedure for assignment and transfer of professional staff members will be based on the needs of the instructional program. Assignments may be changed to serve the best interests of the District and students.

Professional staff members may apply for transfer or reassignment, whether or not a vacancy exists. Generally, transfers will not be approved during the school year unless the needs of the District dictate such approval.

The Superintendent will be responsible to ensure that professional personnel be assigned on the basis of their qualifications, the needs of the District, and their expressed desires. When it is not possible to meet all three (3) conditions, personnel shall be assigned first in accordance with the needs of the District, second where the Superintendent determines the employee is most qualified to serve, and third as to expressed preference of the employees.

In the case of vacancies in new or existing positions, first consideration will be given to qualified applicants among current employees.

The Superintendent shall have the responsibility for the assignment of all personnel throughout the District.

The resolution of any conflicts over the need for a transfer shall be based on what is best for the instructional program, the needs of the students, and the overall needs of the District as defined by the Superintendent.

Adopted: January 16, 2018

PROFESSIONAL STAFF SCHEDULES AND CALENDARS

All professional staff members shall report to their duty stations on time each workday and shall, as scheduled, be available there until the designated time(s) they are scheduled to leave. The Superintendent may alter or extend the school day for meetings, special events, and activities.

Professional staff members are expected to be in their respective rooms or work areas as the schedule prescribes so that they may see students, parents, and/or attend to other duties as assigned. Family members are not allowed in teacher work areas during scheduled duty hours. Children of staff members may not be at school with staff during the regular school workday, except in extenuating circumstances which require prior written permission of the administration. Children must be under direct supervision of their parent.

In order to ensure the safety of students and the security of school campuses, teachers may be assigned supervisory duty during the teaching day. These duty assignments shall be considered a regular part of a teacher's duties and shall be fulfilled accordingly. Teachers shall not be required to perform the following noninstructional duties; noon hall duty, noon ground duty and noon cafeteria duty.

Teachers will perform duties other than classroom teaching. Extra duty assignments will be made by the Administration.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-20 NMSA

CROSS REF.: GCMF - Professional Staff Duties and Responsibilities
JLIA- Supervision of Students

PROFESSIONAL STAFF MEETINGS

The Superintendent will arrange for and hold staff meetings as the need may arise. This authority may be delegated to the school principals, who may hold such building meetings on a regularly scheduled basis or as they may arise.

All teachers are required to attend any such meetings unless officially excused by the principal or the Superintendent prior to the meeting.

Adopted: January 16, 2018

CROSS REF.: IKACA - Parent Conferences

PROFESSIONAL STAFF EXTRA DUTY

All coaching schedules will be managed by the building athletic director in accordance with New Mexico Activity Association (NMAA) guidelines.

Head coaches, assistants and volunteer coaches shall be licensed by the state of New Mexico.

It is the responsibility of the employee to maintain a valid license and to obtain appropriate training for recertification.

Adopted: January 16, 2018

LEGAL REF.: 6.63.8.8 NMAC

**PROFESSIONAL STAFF DUTIES
AND RESPONSIBILITIES**

Each licensed school employee shall:

- Enforce all laws and rules applicable to the employee's public school;
- If teaching, teach the prescribed courses
- Exercise supervision over students on public school premises and while the students are under the control of the public school; and
- Furnish reports as required.

A teacher shall not use sectarian or denominational books or teach any sectarian doctrines or conduct religious exercises (separation of church and state).

Any person violating this prohibition by teaching sectarian doctrine in a public school shall be immediately discharged from further employment with a school district.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-27 through 22-10A-31 NMSA (1978)
22-13-15 NMSA (1978)

EVALUATION OF PROFESSIONAL STAFF MEMBERS

The Board believes the procedures by which professional employees are supervised and evaluated must provide the employee and the supervisor the opportunity to identify both strengths and weaknesses and to work cooperatively toward satisfactory work performance. Each licensed professional staff member shall devise a professional development plan for the coming year which shall be a part of the evaluation process.

The Superintendent shall develop and implement a systematic plan for the evaluation of all licensed professional employees. The plan shall be consistent with all state statutory and regulatory requirements.

Classroom or site visitations shall be made to document the employee demonstration of the standards and competencies set forth by the State, the Secretary of Public Education and the Board. A written report of the evaluation will be prepared, reviewed with the employee and filed in the employee's personnel record. No evaluation report shall be placed in an employee's record without review and discussion between the employee and the employee's supervisor. An employee in disagreement with the contents of the evaluation report may submit a written rebuttal to be attached to the report and kept on file.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-19 NMSA (1978)
22-10A-21 NMSA (1978)
22-10A-22 NMSA (1978)
22-10A-23 NMSA (1978)
22-10A-24 NMSA (1978)
22-10A-25 NMSA (1978)
22-10A-26 NMSA (1978)
22-10A-27 NMSA (1978)
22-10A-28 NMSA (1978)
22-10A-29 NMSA (1978)
22-10A-30 NMSA (1978)
6.67.2.8 NMAC
6.69.3.8 NMAC *et seq.*
6.69.2.8 NMAC
6.69.4.1 *et seq.*

REGULATION**REGULATION****EVALUATION OF PROFESSIONAL
STAFF MEMBERS****Purpose**

The purpose of evaluation shall be the improvement of performance. Such a process, to achieve the greater measure of success, shall be predicated on the assumption that the evaluation will be a cooperative procedure, with the evaluator and the evaluatee having full knowledge of the criteria, process, and results.

The following statements give more specific purposes for evaluation:

- Evaluations determine how well the objectives held by the school are being carried out. The success of the educational program is dependent upon the quality of classroom instruction, supervision, and administration.
- Evaluations provide the basis for motivation and for self-improvement, permitting personnel to be aware of their strengths and weaknesses in order to improve.
- Evaluations provide a basis for planning in-service training and supervisory activities. Such activities can be most effective when they are based upon clear evidence of need as shown by evaluation studies.
- Evaluations provide the basis for administrative decisions. Such decisions may include the employment of personnel, their assignment, promotion, demotion, or termination.
- Evaluations aid in determining satisfactory or unsatisfactory performance.

Evaluators

The Superintendent shall designate the evaluators. The evaluator shall be responsible for the final written and official statement of evaluation, which shall be in writing, and a copy shall be transmitted to the certificated teacher within five (5) days after completion of the evaluation.

The District is responsible for an in-service training program for evaluators. This program shall incorporate classroom observation techniques, conference skills, and growth planning. Evaluators shall attend a training program to improve their evaluation, administrative and instructional leadership skills at least every two (2) years.

Licensed Teacher Evaluation

Classroom visitations by evaluator. Formal observations shall be spaced and of sufficient duration (minimum of *thirty [30]* uninterrupted minutes) so as to ensure that the evaluators have an opportunity to grasp an overall concept of a person's performance over a full schedule.

Formal observations are prearranged through initiation by either the observer or the teacher. Formal observations shall be defined as those that are written and provide an opportunity for a pre-observation conference and follow-up conference.

Informal observations may be made at the discretion of the administrator.

Procedural steps in the process of evaluation:

- At the beginning of the school year, the principal shall assign a mentor for all Level one teachers whose responsibilities shall be defined in a program established by the District in accord with statute and submitted to the Public Education Department as required.
- At the beginning of the school year, the principal shall meet with the school's faculty for the purpose of orienting the teachers to the total evaluation plan. A teacher's use of personal leave and up to ten days sick leave shall not affect that teacher's performance evaluation if used in accord with district policy. A low attendance score may be reflected in the evaluation if the teacher is determined to have used sick leave inconsistently with district policy.
- A professional development plan shall be devised by each teacher and provided to the evaluator on a schedule as determined by the evaluator.
- Observations in the classroom shall be completed.
- An opportunity for a conference shall precede and follow each formal observation-visitation.
- A written record shall be made of each formal observation, with a copy to the observed.
- The official evaluation, consisting of a minimum of two (2) formal observations, shall be reduced to writing and signed by both the teacher and the evaluator. The teacher's signature shall not mean concurrence. The teacher shall be allowed ten (10) days to write and submit any comments, which shall be attached to the evaluation.

- A copy of the written evaluation shall be transmitted to the teacher within five (5) days after completion of the evaluation, and a copy shall be retained for the principal's file. A third copy shall be placed in the teacher's personnel file and made available to authorized District officers and employees.
- All evaluations shall remain confidential.

Frequency of written evaluations. Evaluations shall be made at least two (2) times per year for Level one (1) teachers, and at least once per year for Level two (2) and three (3) teachers.

Evaluation schedule:

- *Level one (1) licensing:*
 - During the week of orientation, evaluation procedures shall be reviewed at each school. Any teacher who is hired after orientation week shall be individually oriented by the evaluator.
 - Prior to January 10, the first evaluation, including observations, written evaluation, and conference shall be completed. If unsatisfactory work performance is indicated pursuant to the evaluation a conference will be conducted and a plan prepared to allow correction of the work performance. Such information will be recorded in writing, signed by all parties present and provided to the person evaluated. (see 6.69.2.8 (B)(2) for refusal to sign)
 - Prior to April 15, a second evaluation shall be completed. If unsatisfactory work performance is indicated pursuant to the evaluation a conference will be conducted and a plan prepared specifying the areas for correction of the work performance, while noting any areas of improvement if improvement is required. An employee whose performance continues to be unsatisfactory shall be given a notice of unsatisfactory performance. The notice shall specify the nature of the inadequacy with such particularity as to furnish the teacher an opportunity to correct the inadequacies and overcome the grounds for the charge of inadequacy of work performance.
 - Prior to the last day of the school year, the Superintendent shall authorize, as necessary, and send notice to employees who will be terminated. A copy of any evaluation(s) pertinent to the charges not to reemploy will be included in the written notice of intention not to reemploy.
 - This written notice of termination shall be delivered personally or sent by registered or certified mail with delivery by a time certain at least fourteen (14) days prior to the last day of the school year, to the teacher's place of residence, as recorded in the District's records. Within ten (10) days of a

request from the employee, the Superintendent shall provide the reason(s) for the decision to terminate.

- *Level two (2) and three (3) licensing:*
 - Level two (2) and three (3) licensed employees shall be evaluated at least once each year. During the week of orientation, evaluation procedures shall be reviewed at each school. Any teacher who is hired after orientation week shall be individually oriented by the evaluator.
 - Prior to March 15, the evaluation shall be completed. If less than satisfactory work performance and competency is indicated pursuant to the evaluation a conference will be conducted and a plan prepared specifying the areas for correction of the work performance, while noting any areas of improvement if improvement is required. An employee whose performance continues to be unsatisfactory shall be given a notice of unsatisfactory performance. A second conference shall be held at the time the notice is given. The notice shall specify the nature of the inadequacy with such particularity as to furnish the teacher an opportunity to correct the inadequacies and overcome the grounds for the charge of inadequacy of work performance.
 - The principal shall establish a mentoring and peer intervention program as is seen necessary. Persons used for mentoring or intervention may be trained as evaluators. If the employee is unable to demonstrate satisfactory performance and competency by the end of a period of sixty (60) calendar days, the peer interveners may make a recommendation to the supervising administrator which may be termination. If the teacher does not demonstrate essential competency in a given school year, the School District shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, the District may choose not to contract with the teacher to teach in the classroom (terminate).
 - At least fourteen (14) days prior to the last day of the school year, the Superintendent shall authorize, as necessary, and send notice to employees who will be terminated. A copy of any evaluation(s) pertinent to the charges not to reemploy will be included in the written notice of termination.
 - This written notice of termination shall be delivered personally or sent by registered or certified mail with delivery by a time certain prior to the last day of the school year, to the teacher's place of residence, as recorded in the District's records.
 - Subject to the provisions of NMSA the Superintendent shall offer to each

Level two (2) and Level three (3) teacher under contract of employment with the District for the current year a contract renewal for the next ensuing school year unless the Superintendent gives notice to the teacher of the intent not to offer a contract and to terminate the teacher as provided in NMSA.

- All provisions of the New Mexico Revised Statutes shall be complied with in the dismissal of continuing teachers.

Evaluation program. The specific format for the teacher evaluation system will be developed in compliance with Policy GCO, this regulation, NMSA, and NMAC under the leadership of the Superintendent. Compliance with Public Education Department (PED) Regulation 6.69.4, Performance Evaluation System Requirements for Teachers, will be completed as specified in the teacher performance evaluation for three (3)-tiered licensure.

Evaluation of Licensed Administrators and Other Licensed Non-Teaching Employees

Continuous evaluation of all aspects of the total educational program, including student progress, personnel, curriculum, and facilities, will include a formal process of evaluating all administrators and licensed non-teaching employees. The purpose of this evaluation shall be the improvement of the quality of the educational program in the District and improvement of the performance of each employee. The evaluation will be a cooperative procedure, with the evaluator and the evaluatee having full knowledge of the criteria, process, and results.

The following statements give more specific purposes for evaluation:

- Evaluations determine how well the objectives held by the school and District are being carried out. The success of the educational program is dependent upon many factors, which include the quality supervision, and administration.
- Evaluations provide the basis for motivation and for self-improvement, permitting administrative personnel to be aware of strengths and weaknesses in order to improve the operation of the District's programs.

Procedural steps in the process of evaluation:

The specific format for the evaluation system for licensed administrators and licensed non-teaching employees will be developed under the leadership of the Superintendent and shall involve all principals and supervisors of principals in the development of evaluation criteria and data collection procedures. One (1) component of the evaluation tool for school administrators shall be evaluation by other school employees.

- At the beginning of the school year, the licensed administrators and licensed

non-teaching employees will be oriented to the total evaluation plan.

- A professional development plan shall be devised by each employee and provided to the evaluator on a schedule as determined by the evaluator.
- Observations and data gathering shall be completed.
- The official evaluation shall be reduced to writing and signed by both the employee and the evaluator. The employee's signature shall not mean concurrence. The employee shall be allowed ten (10) days to write and submit any comments, which shall be attached to the evaluation.
- A copy of the written evaluation shall be transmitted to the administrator within five (5) days after completion of the evaluation, and a copy shall be retained for the employee's file. A third copy shall be placed in the employee's personnel file and made available to authorized District officers and employees.
- All evaluations shall remain confidential.

Adopted: August 20, 2019

PROFESSIONAL STAFF PROMOTIONS

The Superintendent will fill positions of increased responsibility with the best available candidates.

Adopted: January 16, 2018

**PROFESSIONAL STAFF
TERMINATION OF EMPLOYMENT**

A notice of termination shall be a notice of intention not to reemploy for the ensuing school year.

On or before fifteen (15) working days prior to the last day of the school year, the Superintendent shall serve written notice of termination if such notice is determined to be in the best interest of the District.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-22 NMSA (1978)
6.67.3.8 NMAC

CROSS REF.: DKA - Payroll Procedures/Schedules
GCQF – Discipline, Suspension, and Termination of Professional
Staff Members

PROFESSIONAL STAFF REDUCTION IN FORCE

The number and type of certificated staff positions required to implement the District's educational program will be determined annually by the Board after recommendation from the Superintendent. In the event the Board decides to release certificated staff members, the following guidelines will be in effect:

- Normal attrition due to teacher resignations will be relied upon as the first means of reducing the staff.
- If attrition does not accomplish the required reduction in the staff, the Superintendent shall submit to the Board recommendations for the termination of specific staff members. The criteria used in formulating these recommendations shall include, but shall not be limited to:
 - Qualifications and certification of staff members to accomplish the District's educational program.
 - Overall teaching experience, academic training, and ability.
 - Past contributions to the educational program of the District.
 - All other things being equal, length of service in the District.

Criteria for selection of staff members to be released will be applied separately to teachers within specialty categories.

Personnel to be terminated for the ensuing school year shall be notified as soon as practical. All terminations are to be conducted in accord with statutory, regulatory, and policy requirements.

Adopted: January 16, 2018

LEGAL REF.: 22-10A-22 NMSA (1978)
6.67.3.8 NMAC

CROSS REF.: GCQF - Discipline, Suspension, Termination and Discharge of
Professional Staff

RESIGNATION OF PROFESSIONAL STAFF MEMBERS

Professional employees shall give thirty (30) calendar days written notice of intention to resign or request a release from contract. A release from an uncompleted contract may be granted contingent upon the availability of a well-qualified, licensed teacher as a replacement.

Each licensed teaching employee shall deliver an acceptance or rejection of reemployment to the governing authority within fifteen (15) days from the following:

- The date written notice of reemployment is served upon the person; or
- The last day of the school year when no written notice of reemployment or termination is served upon the licensed school employee fifteen (15) working days prior to on or before the last day of the school year.

A teacher who resigns contrary to this policy shall be deemed to have committed an unprofessional act and shall be subject to the penalty as provided under New Mexico statutes and Secretary of Public Education regulations.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-23 NMSA (1978)
6.60.9.9 NMAC
6.66.2.8 NMAC
6.66.3.8 NMAC

CROSS REF.: GCF – Professional Staff Hiring
GCQ – Professional Staff Termination of Employment

DISCIPLINE, SUSPENSION, TERMINATION AND DISCHARGE OF PROFESSIONAL STAFF MEMBERS

Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may:

- direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees;
- determine qualifications for employment and the nature and content of personnel examinations;
- take actions as may be necessary to carry out the mission of the public employer in emergencies; and
- retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

For purposes of this policy:

- "Discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract.
- "Terminate" means, in the case of a licensed school employee, the act of not reemploying an employee for the ensuing school year.
- "Working day" means every school calendar day, excluding Saturday, Sunday or legal holiday.
- "Just cause" means a reason that is rationally related to an employee's competence or turpitude or the proper performance of assigned duties and that is not in violation of the employee's civil or constitutional rights.
- "Administrative leave" means the assignment of an employee to the employee's home to await further instructions pending the outcome of an investigation or inquiry into the actions of the employee in order to avoid interference in the inquiry. The use of "administrative leave" is not a disciplinary action.

Categories of Misconduct

Licensed staff members may be disciplined for infractions that include, but are not limited to, the following categories:

- Engaging in unprofessional conduct.
- Committing fraud in securing appointment.
- Exhibiting incompetency in their work.
- Exhibiting inefficiency in their work.
- Exhibiting improper attitudes.
- Neglecting their duties.
- Engaging in acts of insubordination.
- Engaging in acts of child abuse or child molestation.
- Engaging in acts of dishonesty.
- Being under the influence of alcohol while on duty.
- Engaging in the use, possession, or distribution of narcotics or habit-forming drugs.
- Being absent without leave.
- Engaging in discourteous treatment of the public.
- Engaging in improper political activity.
- Engaging in willful disobedience.
- Being involved in misuse or unauthorized use of school property.
- Being involved in excessive absenteeism.
- Possessing alcohol on school-owned property.
- Carrying or possessing a weapon on school grounds unless they have obtained specific authorization from the appropriate school administrator.

- Engaging in ethical misconduct by inappropriate touching, sexual harassment, discrimination or intended behavior to induce a child into engaging in illegal, immoral or other prohibited behavior.

General Provisions for Discipline

General provisions for discipline are as follows:

- *Informal consultation.* Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with a licensed employee to discuss matters of concern related to the employee's performance, conduct, et cetera.
- *Persons authorized to impose discipline.* Any supervising licensed administrator who is the immediate or primary supervisor of a staff member is authorized to impose a penalty or penalties, short of termination.
- *Administrative discretion.* In adopting these policies/procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.
- *Right not to impose discipline.* The District reserves the right not to discipline a staff member for conduct that violates this policy.
- *Additional reasons for discipline.* A staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.
- *Amendments.* The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.
- *Severability.* If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Minor Discipline

Minor disciplinary action includes, without limitation thereto, removal from grounds, written warning, written reprimand, or suspension. Minor disciplinary action shall be imposed by the staff member's administrative supervisor upon informing the employee

of any violations of state or federal statutes, policies, rules or the New Mexico code of ethics and offering a minimum due process hearing and opportunity to express the employee's side of the issue before implementing the disciplinary action. The disciplinary action shall be confirmed in writing to the employee. The discipline may only be appealed to the next level of administration. The hearing procedure shall be as follows.

Step 1 - Notice:

- Upon the supervising administrator's determination of the existence of cause to impose discipline, the supervising administrator shall notify the staff member of intent to impose discipline. The notice shall be in writing and shall be delivered in person or by first-class mail. The notice shall include the following:
 - The conduct or omission on the part of the staff member that constitutes the reason for discipline.
 - A scheduled meeting time between the supervising administrator and the staff member. Such meeting shall be scheduled not more than ten (10) working days after the date the licensed staff member receives the notice.
 - A statement of the disciplinary action the supervising administrator intends to impose.
 - Copies of any available relevant documentation, at the discretion of the supervising administrator.

Step 2 - Hearing:

- At the hearing, the supervising administrator shall discuss with the staff member the conduct that warrants disciplinary action and shall provide the staff member with any appropriate evidence and a copy of relevant documentation if not previously provided.
- The supervising administrator shall conduct the hearing in an informal manner, without adherence to the rules of evidence and procedure required in judicial proceedings.
- A record of the hearing shall be made by electronic recordation.

Step 3 - Decision (in writing):

- At the hearing, or within seven (7) working days following the hearing, the supervising administrator shall, in writing, inform the licensed staff member of the decision. If the decision is to impose discipline, written notice of the discipline shall be enclosed.

Appeal of Minor Discipline

A staff member who wishes to object to a minor disciplinary action shall submit a written complaint to the supervisor's superior within five (5) work days of receiving notice of the disciplinary action. Failure to request the hearing in the time frame indicated will be considered acceptance of the discipline imposed. The appeal shall specifically describe the part of the determination with which the staff member disagrees, such as:

- Determination was founded upon error of construction or application of any pertinent regulations or policies.
- Determination was unsupported by any evidence as disclosed by the entire record.
- Determination was materially affected by unlawful procedure.
- Determination was based on violation of any statutory or constitutional right.
- Determination was arbitrary and capricious.
- The penalty was excessive.

The appeal shall be based on the record of the hearing. The supervising administrator, the Superintendent, or, when appropriate, the governing authority may, at the conclusion of the appeal, uphold the discipline, modify the decision, or refer the matter back to the level from which it was appealed for rehearing and additional information. Such decision, along with specific direction as to the effective date of any discipline, shall be communicated to the staff member within a reasonable amount of time following the appeal, not to exceed seven (7) working days. The decision upon appeal is final for all minor disciplinary actions.

Termination Pursuant to 22-10A-24 NMSA (1978)

The following procedures will be used to impose any termination permitted under 22-10A-24 NMSA (1978) except that it does not apply to:

- A licensed school employee employed to fill the position of a licensed school employee entering military service;
- A licensed school administrator who is employed as a licensed school administrator;
- An unlicensed school employee employed to perform primarily District-wide management functions; or

- A person who does not hold a valid license or has not submitted a complete application for licensure within the first three months from beginning employment duties.

Step 1 - Notice:

- Upon the Superintendent's determination of the existence of cause to terminate, and on or before fifteen (15) working days prior to the last day of the school year, the Superintendent shall notify the staff member of intent to terminate. The notice shall be in writing and shall be delivered in person or by first-class mail to the last address provided for personnel records. The notice shall include the following:
 - The statement that the employee has the right to request written reasons for the decision to terminate and such reasons shall be provided within five (5) working days of such request.
- The reasons shall not be publicly disclosed by the administration or ~~Board~~ governing authority. *For licensed employee who has not been offered and accepted a third-year contract for services the decision to terminate is not contestable under the School Personnel Act.*
 - For *licensed* employees who have been offered and accepted a third-year contract for and licensed educational assistants employed for more than one year the following appeal procedure shall apply.

Step 2-4 - Appeal Requirements and Content:

- Termination may be appealed to the governing authority by a professional staff employee who has been employed for more than two consecutive years and licensed educational assistants employed for more than one year by making a request to the Superintendent within five (5) working days of the date of receipt of the notice of termination requesting a meeting with the governing authority.
 - The appeal shall be granted if the employee responds to the Superintendent in writing within ten (10) working days of receiving the reasons for termination with the following information:
 - A statement of contention that the employee believes the decision is without just cause.
 - A brief statement of the reason(s) why the staff member believes the decision is without just cause.

- A statement of the facts that the employee believes support this contention.

Step 5 - Appeal Procedure:

- The governing authority shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after receipt of the statement.
- The hearing shall be conducted informally in accordance with the provisions of the Open Meeting Act.
 - Hearing Procedure:
 - The employee and the Superintendent may each be accompanied by a person of their choice.
 - The Superintendent shall present the factual basis for determination that just cause exists for the termination, limited to the reasons provided to the employee.
 - The employee shall present contentions, limited to the reason(s) why the licensed staff member believes the decision is without just cause.
 - Rebuttal to the employee's presentation may be presented as deemed relevant by the governing authority.
 - Witnesses called may be questioned by the governing authority , the Superintendent or an appointed representative, and the employee or an appointed representative.
 - The governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
 - No record shall be made of the hearing.
- The Board shall take such action as is necessary in accordance with the Open Meeting Act to uphold or deny the recommendation to terminate. The Board shall notify the employee and the Superintendent of its decision in writing within five (5) working days from the conclusion of the meeting.

Termination - Arbitration Appeal Pursuant to 22-10A-25 NMSA (1978)

An employee still aggrieved by a decision of the governing authority may appeal the decision to an arbitrator by doing the following:

- Submitting a written appeal to the Superintendent within five (5) working days from receipt of the governing authority's written decision or refusal to grant a hearing on the issue of termination.
- Accompanying the written appeal shall be a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to subsection E of Section 22-10A-24 NMSA (1978).
- Including in the contentions a statement of facts supporting the contentions.

Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify the employee for any appeal and render the governing authority's decision on termination final.

If the arbitration appeal is timely and complete, the governing authority and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select an independent arbitrator within five (5) working days of the date of the request.

A de novo (new) hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and governing authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The governing authority shall be required to prove by a preponderance of the evidence that just cause to discharge the employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:

- The employee and the governing authority may each be accompanied by counsel.
 - The governing authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the governing authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - A record shall be made of the hearing and each party may order the record at the expense of the party.
- The arbitrator shall notify the employee and the governing authority of the decision in writing within ten (10) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the governing authority.

The parties shall be guided by the statute and arbitrator as to the conduct of the hearing, each party bearing its own costs. The arbiter's fees and other expenses in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

No official record shall be made of the proceeding but the party desiring a record may arrange for a record, paying the expense.

Discharge per 22-10A-27 NMSA (1978)

A licensed school employee may be discharged only for just cause following procedures as indicated below:

Notice:

- Upon the Superintendent's determination of the existence of cause to discharge, the Superintendent shall notify the licensed staff member of intent to recommend

discharge. The notice shall state the cause for the recommendation and shall advise the employee of a right to a discharge hearing before the governing authority.

- The notice shall be in writing and shall be provided in accordance with the law for service of process in civil actions.
- If the licensed school employee does not exercise that right to hearing, the Superintendent shall discharge the licensed school employee.

Employee's Request for Hearing:

- An employee who receives notice of intent to recommend discharge may exercise the right to a hearing before the governing authority by giving the Superintendent written notice of that election within ten (10) working days of receipt of the notice of intent to recommend discharge.
- The governing authority shall hold a discharge hearing no less than twenty (20) and no more than forty (40) working days after the receipt of the staff member's election of a hearing.

Preliminary Information

- At least ten (10) days written notice of the date, time and place of the discharge hearing shall be provided to the employee with such notice in the same form as used in civil proceedings. The notice shall indicate the following:
 - Both the Superintendent and the licensed school employee may be accompanied by a person of their choice.
 - Each party is to complete and respond to discovery by deposition and production of documents prior to the hearing date established.
 - The governing authority may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths.
 - The Superintendent shall be required to prove by preponderance of the evidence that just cause to discharge the licensed school employee existed at the time of the notice of intent to discharge.
 - Procedure for the conduct of the hearing shall be as follows:
 - The Superintendent shall present the factual basis for determination that just cause exists for the termination based upon information available at the time the employee was given notice of the intent

to discharge.

- The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Superintendent or an appointed representative, and the employee or an appointed representative.
 - The governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
 - A record shall be made of the hearing and each party may have one (1) copy of the record at the expense of the governing authority.
- The governing authority shall notify the employee and the Superintendent of its decision in writing within twenty (20) days from the conclusion of the hearing. The governing authority shall take such action as is necessary in accordance with the Open Meeting Act.

Discharge –Arbitration Appeal Pursuant to 22-10A-27 NMSA (1978)

An employee aggrieved by a decision of the governing authority to discharge may appeal the decision to an arbitrator by doing the following: Submitting a written appeal to the governing authority within ten (10) working days from receipt of the ~~notice of~~ written decision by the of the governing authority:-

If the arbitration appeal is timely the governing authority and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the public school is located to select an independent arbitrator within five (5) working days of from the date of the request.

The hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and governing authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The governing authority shall be required to prove by preponderance of the evidence that just cause to discharge the certificated employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the governing authority may each be accompanied by counsel.
 - The governing authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the governing authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - A record shall be made of the hearing and each party may order the record at the expense of the party.
- The arbitrator shall notify the employee and the governing authority of the decision in writing within thirty (30) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the governing authority.

Each party shall bear its own costs and expenses.

Additional Provisions and Conditions

During the pendency of any hearing, neither the licensed staff member nor the supervising administrator shall contact the Superintendent or a governing authority member to discuss the merits of the supervising administrator's recommendation except as provided by this policy.

This policy addresses only discipline, termination or discharge and has no application to any of the following:

- Letters or memorandums directed to a licensed staff member containing directives or instructions for future conduct.
- Counseling of a licensed staff member concerning expectations of future conduct.
- Placing an employee on administrative leave with pay and assignment of the employee to home during work hours in order to conclude a review of the employee's actions or activities pending an administrative recommendation.

The governing authority shall file annually a record with the Secretary of Education of all terminations and discharges and all actions arising from terminations and discharges.

Adopted: January 16, 2018

LEGAL REF.: 10-7E-1 to 10-7E-26 NMSA (1978) Public Employee Bargaining Act
10-15-1 NMSA (1978) Open Meeting Act
22-10A-5 NMSA (1978)
22-10A-24 NMSA (1978)
22-10A-25 NMSA (1978)
22-10A-26 NMSA (1978)
22-10A-27 NMSA (1978) Discharge hearing; procedures 22-10A-28
NMSA (1978) Appeals; independent arbitrator; qualifications;
procedure; binding decision
22-10A-29 NMSA (1978) Compensation payments to discharged
personnel
22-10A-30 NMSA (1978) Supervision and correction procedures
22-10A-31 NMSA (1978) Denial, suspension and revocation of
licenses
22-10A-32 NMSA (1978) Licensed school employees; required
training program
6.60.9.9 NMAC Standards of Professional Conduct
6.60.9.12 NMAC Reporting Requirements
6.67.2.8 NMAC Notice of reemployment or termination of licensed
personnel

CROSS REF.: DKA - Payroll Procedures/Schedules
GBEB - Staff Conduct
GCA - Professional Staff Positions

EXHIBIT**EXHIBIT****DISCIPLINE, SUSPENSION, TERMINATION AND DISCHARGE OF
PROFESSIONAL STAFF MEMBERS****Reporting Requirements**

Standards of Professional Conduct - Upon taking final action to discharge or terminate the employment of an employee on the basis of a violation of the standards of professional conduct, if that employee was authorized to be present by license or waiver to provide instructional services, the Superintendent shall provide written notification to the director of the state licensure unit.

Ethical Misconduct - If an employee is resigning, being discharged or terminated or otherwise leaves employment after an allegation of ethical misconduct, an investigation shall be conducted. Regardless of any non-disclosure agreement upon separation, if the result is wrongdoing, a report of the identity of the licensed school employee and attendant circumstances shall be made on a standardized form to the department and the licensed school employee within thirty (30) days following the separation from employment. Copies of that form shall not be maintained in the school or District.

NONSCHOOL EMPLOYMENT BY PROFESSIONAL STAFF MEMBERS

A regular, full-time employee's position in the District shall be given precedence over any type of outside work or self-employment. Employees are free to carry on individual work or self-employment projects as long as no District facilities, equipment, or school(s) are used, except as provided by policy, and the outside work or self-employment does not interfere with the employees' performance of District-assigned duties.

The outside work or self-employment by a staff member is of concern to the Board insofar as it may:

- Prevent the employee from performing assigned responsibilities in an effective manner.
- Be prejudicial to proper effectiveness in the position or compromise the District.
- Raise a question of conflict of interest - for example, where the employee's position in the District permits access to information or other advantage useful to the outside employer.

Therefore, an employee may not perform any duties related to outside work or self-employment during regular District working hours or during the additional time that is needed to fulfill the responsibilities of the District position. Employees who violate this policy are subject to reprimand, suspension, or termination.

Adopted: date of manual adoption

CROSS REF.: EDB - Maintenance and Control of Materials and Equipment
 KF - Community Use of School Facilities

TUTORING FOR PAY

School buildings are not to be used for private tutoring or classes for which students pay a fee to staff members unless a rental contract has been entered into with the District.

Staff members are not permitted to provide tutoring for pay to any students who attend or are registered in any of their own classes except in organized tutorial programs which are publicly funded.

Adopted: January 16, 2018

PROFESSIONAL RESEARCH AND PUBLISHING

The Board has proprietary rights to publications, instructional materials, and devices prepared by employees unless prepared by such employees on their own time and without use of school facilities and/or equipment.

- The Board authorizes the Superintendent to review material prepared by staff members prior to copyright or patent for subsequent publication or distribution, and to recommend waiving all or part of the Board's proprietary rights in favor of the employees preparing such materials.
- Any staff member who submits professional materials for publication in which the District is mentioned will submit all such material to the Superintendent prior to release for publication, including materials developed on the employee's own time.

Adopted: January 16, 2018

SUPPORT STAFF POSITIONS

Before establishment of any new position, the Superintendent will seek Board support for the actions by presenting a job description for the position that specifies the qualifications, the performance responsibilities, the method by which the performance of such responsibilities will be evaluated and the budget implications for that position.

The Superintendent will maintain a comprehensive and up-to-date set of job descriptions of all positions in the school system.

Adopted: January 16, 2018

LEGAL REF.: 22-5-14 NMSA (1978)

SUPPORT STAFF CONTRACTS AND COMPENSATION

Support staff members are all employees of the District who are not required by state law or by a District policy, regulation, or job description to possess a *license or* certificates from the New Mexico Public Education Department for the purpose of performing their jobs, unless they are expressly designated as professional staff members in notices of employment or contracts executed by the Board.

Compensation

The Superintendent will provide to the Board recommendations on the salaries and benefits of support staff employees in conjunction with the development of the District's annual budget. The Board will determine salaries and benefits of support staff employees annually, differentiated on the basis of duties and responsibilities.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-39 NMSA (1978).

CROSS REF.: GDQB - Resignation of Support Staff Members

SUPPORT STAFF SALARY SCHEDULES

Initial Placement on Salary Schedule

The initial placement on the salary schedule for all new support staff personnel and for all currently employed personnel selected for another position in the District will be determined by the Superintendent based on the budget approved by the Board at the time of employment. The placement will be based on consideration of the candidate's qualifications, relevant job experience, and years of District employment, if applicable.

Salary Advancement

Salary advancements for regular twelve (12) month employees are granted only at the beginning of each fiscal year. Annual step increases may be withheld if it is determined the employee does not perform at the expected level or does not meet standards for the job.

An employee must work one (1) day more than one-half (1/2) of the year to receive a step advancement in salary.

Adopted: January 16, 2018

**SUPPORT STAFF SUPPLEMENTARY
PAY / OVERTIME**

The Superintendent will recommend to the Board an extra-duty pay schedule each year for its review and action.

Whenever applicable, pay for extra duty must be coordinated with regular pay in accord with the requirements of the Fair Labor Standards Act.

Adopted: January 16, 2018

LEGAL REF.: 29 U.S.C. 207, Fair Labor Standards Act

CROSS REF.: GDL - Support Staff Workload

SUPPORT STAFF FRINGE BENEFITS

The Board will review support staff fringe benefits each year during the budget process and may modify the benefits to meet the best interest of the District.

Minimum standards of eligibility for fringe benefits will be determined by the Board annually.

Adopted: January 16, 2018

LEGAL REF.: 22-5-4 NMSA (1978)

SUPPORT STAFF LEAVES AND ABSENCES

Refer to GCC through GCCD, GCCG and GCD; the terms and conditions of these policies apply to support staff personnel unless a written policy stating a contrary intent is included.

SUPPORT STAFF CONFERENCES / VISITATIONS / WORKSHOPS

To attend meetings or conferences, support staff employees must obtain approval from the administration at least twenty (20) days prior to the meeting or conference dates (whenever such prior request is possible).

The following guides will be used in granting released time and/or travel expense:

- Value of the meeting or conference.
- Funds available in the appropriate budgets.
- Availability of a substitute, if one is necessary.

A per diem subsistence allowance, and/or mileage, for private automobiles may be paid as provided in state law or Board policies. The necessary forms and instructions for filing travel claims are available at the administration office.

Adopted: January 16, 2018

SUPPORT STAFF HIRING

It shall be the policy of the District to employ and retain the best qualified personnel. This will be accomplished by giving careful consideration to qualifications and by providing competitive salaries within the financial capabilities of the District, adequate facilities, and good working conditions. Volunteers are to have background checks in accord with this policy.

Recruitment of support staff personnel is the responsibility of the Superintendent. Other members of the administration and supervisory staff will assist as responsibilities are delegated by the Superintendent.

The Board adopts the following general criteria and procedures, which shall be utilized in the selection process for initial employment:

- There will be no discrimination in the hiring process due to race, color, religion, sex, sexual orientation, age, national origin, or disability of an otherwise qualified individual.
- Candidates for all positions shall be able to perform the duties of their position job descriptions.
- Each applicant shall be required to provide fingerprint cards or electronic fingerprints upon being offered employment for purposes of obtaining a criminal history background record before finalization of employment.
- Each candidate shall be requested to complete a consent-and-release form regarding conduct of a background investigation.
- A "background investigation" - consisting of communication with the applicant's (or employee's) former employer that concerns education, training, experience, qualifications, and job performance for the purpose of evaluation for employment - shall be conducted on each individual to be considered for a recommendation of employment. Forms developed for this purpose are to be used.

In addition to the requirements in the policy and those of the fingerprint policy which follow, the district shall follow 6.41.4.9 NMAC M through 5 for the purposes indicated below. That part of the New Mexico Administrative Code shall be incorporated in this policy by reference.

- Commercial Driver's License (CDL) pre-employment screening.
- Returning CDL pre-employment screening

- School owned activity driver pre-employment screening.
- School bus assistant and substitute school bus assistant pre-employment screening.
- Continuing standards for drivers.
- Pre-employment documentation maintenance (records maintenance).

Any employee's misstatement of fact that is material to qualifications for employment or the determination of salary shall be considered by the Board to constitute grounds for termination.

All offers of employment are contingent upon the satisfactory completion of background investigations.

Adopted: August 20, 2019

LEGAL REF.: 22-10A-5 NMSA (1978)
28-1-2 NMSA *et seq.*
6.41.4.9 NMAC

REGULATION**REGULATION****SUPPORT STAFF HIRING****Definition**

A *background investigation* is defined as any communication with an applicant's (or employee's) former employer that concerns the education, training, experience, qualifications, and job performance of the individual and that is used for the purpose of evaluation for employment. Background investigation does not include the results of any state or federal criminal history records check.

Background Investigation Requirements

Only persons designated by the Superintendent shall perform background investigations. Prior to contacting former employers or other persons, the background investigator shall:

- Ascertain that the standard employment application for the type of position has been completed in full.
- Obtain from the individual a consent to background investigation and release as determined by the District.
- Make certain that the individual has identified at least two (2) persons from each past employer who can verify basic job information and discuss the individual's work performance and reason for leaving.
- Examine the application for a complete work history, accounting for any gaps in employment.

Two (2) persons should be contacted at each past employer if possible (any exceptions should be documented). Upon making contact, the contacts or the former employer or employer's agent should be provided the following information:

- The name and identifying information of the District.
- The name of the District representative making the inquiry and how the representative can be contacted.
- The name of the former employee and period of employment as indicated by the individual whose background is being investigated.

- The position for which the individual has applied, with descriptive information as to the duties, if requested or necessary to understanding of the inquiry.

The background investigator shall:

- Ask the questions, and complete the background check form(s) as provided by the District.
- Make impression notes as necessary based upon the questions and responses, and determine if there may be cause to contact others or make further inquiries based upon the responses.
- Provide the information to the Superintendent.

Central Consolidated School District – Human Resources

CONFIDENTIAL REFERENCE CHECK

Applicant: _____ Position: _____ Date: _____

☐ Professional Reference (Complete Section A) ☐ Personal Reference (Complete Section B)

PERSON CONTACTED: _____ Telephone: _____

METHOD OF CONTACT: ☐ Telephone ☐ Letter ☐ Other: (specify) _____

Address City: State: Zip Code:

Position Held by Applicant: _____ Dates of Employment: _____

SECTION A – PROFESSIONAL REFERENCE

1. Did you evaluate the applicant's performance? ☐ Yes ☐ No

If "Yes", describe his/her strengths (*i.e., quality of work performance*) and weaknesses (*i.e., needing improvement*)?

Strengths:

Weaknesses:

2. Did he/she get along well with management and co-workers? ☐ Yes ☐ No

If "No", please explain.

3. Did he/she supervise other employees? ☐ Yes ☐ No

If "Yes", how effective was he/she as a supervisor?

6. FOR TEACHERS: Describe his/her classroom management style.

7. Any concern with abuse of leave policies or concerns about being late to work? ☐ Yes ☐ No

If "Yes", please explain.

8. Describe his/her ability to establish communication and rapport with students, parents, colleagues and supervisors.

Students:

Parents:

Colleagues/Peers:

Supervisors/Administration:

9. Describe this person's experience working as a member of a team or committee.

10. Was any adverse action ever taken on him/her regarding job performance? ☐ Yes ☐ No
If "Yes", describe.

11. Have you observed him/her conduct as inappropriate and or illegal behavior ☐ Yes ☐ No
i.e., abusive language, dishonesty, insubordination, failure to follow directions,
substance abuse, etc.?
If "Yes", describe.

12. Describe the biggest accomplishment he/she had while working for you.

13. Is he/she eligible for rehire with your organization? ☐ Yes ☐ No
If "No", please explain.

14. Can you identify anyone else who could provide relevant information regarding the ☐ Yes ☐ No
applicant's fitness for employment?

Name

Contact Information

15 Do you have any reservations about this individual or know other relevant information ☐ Yes ☐ No
that we may need to know before considering him/her for employment
If "Yes", please elaborate.

SECTION B – PERSONAL REFERENCE

1. How long have you known the applicant?

2. What is the nature of your relationship?

3. The position we are hiring for is [*describe the job*], describe how good a fit you think he/she would be
for the position?

4. Describe how he/she handles conflict, pressure and stress.

5. Do you know of any reasons that could prevent the applicant from fulfilling the functions ☐ Yes ☐ No
of the position?
If "Yes", please explain.

6. Do you have any reservations about this individual or know other relevant information ☐ Yes ☐ No
that we may need to know before considering him/her for employment
If "Yes", please elaborate.

**** PRINT PAGE, SIGN & DATE DOCUMENT****

**** ATTACH REFERENCE CHECK TO EMPLOYMENT
RECOMMENDATION ****

Background check on: _____ Completed by: _____
Applicant *Name* *Job Title* *Date Completed*

Comments: _____

SUPPORT STAFF CERTIFICATION AND CREDENTIALING REQUIREMENTS

(Fingerprinting Requirements)

An applicant offered employment and a contractor or contractor's employee, or a volunteer who will have unsupervised access to students on school premises shall be required to provide fingerprint cards or electronic fingerprints to obtain a federal bureau of investigation criminal history record. The public school shall pay the cost of applicants offered employment. A school volunteer, contractor or contractor's employee may be required to pay the cost of obtaining criminal history records.

The candidate's fingerprints shall be submitted, along with the form required immediately upon being selected as a finalist for possible employment. The form shall be considered a part of the application for employment. Convictions of felonies or misdemeanor involving moral turpitude if directly related to employment which are contained in the criminal history investigation record shall be used to deny, suspend or revoke employment in accordance with the Criminal Offender Employment Act. However, if the conviction does not directly relate to employment, completion of probation or parole supervision or expiration of a period of three years after final discharge or release from imprisonment without subsequent conviction shall create a presumption of sufficient rehabilitation. Other information contained in the investigation record, if supported by independent evidence, may also form the basis for the employment decisions for good and just cause. A candidate's conviction of trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse regardless of rehabilitation shall warrant denial, suspension or revocation of employment. Records of arrest not followed by conviction or misdemeanors NOT involving moral turpitude may not be used, distributed or disseminated regarding public employment.

A person who makes a false statement, representation, or certification in any application for employment with the School District may be denied employment or terminated.

Reasons for a decision not to employ an individual based upon conviction of any indicated crime or misdemeanor involving moral turpitude shall be provided to the candidate. An appeal of denial, suspension or revocation of employment based upon the Criminal Offender Employment Act may be requested in accord with the grievance procedure provided in policy.

The administration may also conduct a background investigation of current employees if it becomes aware of facts, circumstances, or conduct that indicate(s) an individualized reasonable suspicion that undisclosed aspects of the employee's background might disqualify him or her to continue in employment with the District.

A person not directly involved in the employment decision affecting the specific applicant shall not be permitted unauthorized access to criminal history record information or background information. All fingerprint or criminal history records are to be confidential records and are to be maintained as personnel records in accord with the "Rights to inspect public records, exceptions".

Adopted: August 20, 2019

LEGAL REF.: 14-2-1 NMSA
22-10A-5 NMSA (1978)
28-2-1 *et seq.* NMSA
6.60.8.7 NMAC
6.60.8.8 NMAC
6.60.8.9 NMAC

CROSS REF.: GBK - Staff Grievances
GDG - Part-Time and Substitute Support Staff Employment
IJOC - School Volunteers

EXHIBIT**EXHIBIT**

SUPPORT STAFF CERTIFICATION AND CREDENTIALING REQUIREMENTS

Name _____ Position _____

I, _____, being duly sworn, do hereby certify that I have never been convicted of or admitted in open court or pursuant to a plea agreement committing, and am not now awaiting trial for committing, any of the following criminal offenses in the state of New Mexico or similar offenses in any other jurisdiction:

Sexual abuse of a minor Incest First- or second-degree murder Kidnapping Arson Sexual assault Sexual exploitation of a minor Felony offenses involving contributing to the delinquency of a minor Commercial sexual exploitation of a minor Felony offenses involving sale, distribution, or transportation of, offer to sell, transport, or distribute, or conspiracy to sell, transport, or distribute marijuana or dangerous or narcotic drugs	Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs Misdemeanor offenses involving the possession or use of marijuana or dangerous drugs Burglary in the first degree Burglary in the second or third degree Aggravated or armed robbery Robbery Child abuse Sexual conduct with a minor Molestation of a child Manslaughter Assault or Aggravated assault Exploitation of minors involving drug offenses
--	--

Employee signature _____ Date Signed _____

Subscribed, sworn to, and acknowledged before me by _____

_____, this _____ day of _____, 20 _____,

in _____ County, New Mexico.

My Commission Expires

Notary Public

**PART - TIME AND SUBSTITUTE
SUPPORT STAFF EMPLOYMENT**

The Superintendent may employ, when conditions warrant, temporary or part-time personnel on a per diem or time card basis. This authority is subject to the following conditions:

- Continued employment of any such person shall be subject to confirmation of budgeted funds available; however, employment shall not be offered prior to satisfactory completion of any pending fingerprint check.
- The employee shall be hired on a per diem basis and shall be compensated in accordance with the requirements and limitations of existing contracts that cover similar positions or employees.

Adopted: January 16, 2018

LEGAL REF.: 22-5-4 NMSA (1978)

SUPPORT STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees and volunteers. Those new staff members not present at the orientation/training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in the underlined training annually per statute. The orientation and training may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- General disciplinary rules and procedures.
- Bullying prevention and reporting.
- Salary and fringe benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.
- Ethics Training

Adopted: December 17, 2019

LEGAL REF: 22-35-1 et seq. NMSA

6.11.2.10 NMAC

29 U.S.C.653

42 U.S.C.11301, McKinney-Vento Homeless Assistance Act of 2001, as amended by the Every Student Succeeds Act (ESSA) of 2015

CROSS RE: GBEBB – Staff Conduct with Students
GBGC – Employee Assistance
JICD – Harassment / Bullying / Cyberbullying Prevention
JK – Student Discipline
JLF – Child Abuse / Child Protection
JLI – Student Safety

SUPPORT STAFF ASSIGNMENTS AND TRANSFERS

Assignments

The Superintendent will determine all support staff assignments. Such assignments shall be based on the needs of the District.

Transfers

The transfer of support staff members will be based on the needs of the District. Assignments may be changed to serve the best interests of the District.

The Superintendent will be responsible to ensure that personnel be assigned on the basis of their qualifications, the needs of the District, and their expressed desires. When it is not possible to meet all three (3) conditions, personnel shall be assigned first in accordance with the needs of the District, second where the Superintendent determines the employee is most qualified to serve, and third as to expressed preference of the employees.

The Superintendent shall have the responsibility for the assignment of all personnel throughout the District.

The resolution of any conflicts over the need for a transfer shall be based on what is best for the instructional program, the needs of the students, and the overall needs of the District as defined by the Superintendent.

Adopted: January 16, 2018

**SUPPORT STAFF
SCHEDULES AND CALENDARS**

All support staff employees shall report to their duty stations on time each workday and shall, as scheduled, be available there until the designated time(s) they are scheduled to leave.

Adopted: January 16, 2018

SUPPORT STAFF WORKLOAD

The normal workweek for support staff personnel will not exceed forty (40) hours per week. Typically the week will be based on eight (8) hours per day, five (5) days per week; however, the Superintendent may designate other workweek structures to meet varying conditions and needs of the District. Employees will be notified at least one (1) week in advance of any modification to the workweek plan.

Individual employee work schedules will be based on the position held by the respective employees and on District needs as identified during the employment process.

For the purpose of calculating regular and overtime hours in accordance with wage and hour requirements, the District's designated workweek shall begin at 12:01 a.m. on Sunday and conclude at 12:00 midnight the following Saturday.

An employee may work overtime, provided that advance authorization is obtained from the supervisor in charge or, in the case of an emergency, authorization is obtained immediately upon completion of the work or as soon thereafter as practicable.

Adopted: January 16, 2018

LEGAL REF.: 29 U.S.C. 207, Fair Labor Standards Act
29 C.F.R. 516 *et seq.*, Fair Labor Standards Act

CROSS REF.: GDBC - Support Staff Supplementary Pay/Overtime

REGULATION**REGULATION****SUPPORT STAFF WORKLOAD****(Fair Labor Standards Act:
Overtime Compensation)**

Nonexempt employees, those non-certificated employees subject to the minimum wages and overtime provisions of the Fair Labor and Standard Acts, may be required to complete an individual time card showing the daily hours worked.

Time cards (reports) shall cover one (1) workweek and shall be completed at the close of each work day.

Employees shall record their starting time, time out for lunch, time in from lunch, quitting time, and total hours worked for each work day.

Employees are not permitted to sign in or commence work more than fifteen (15) minutes before their normal starting or to sign out or stop work later than fifteen (15) minutes after their normal quitting time without the prior approval of the school administrator/supervisor.

All employees are required to take a lunch or meal break. Exceptions may be made for lunch periods per a voluntarily signed and written agreement between the employee and administrator.

All employee time records shall be verified and signed by the school administrator/supervisor.

Reporting another employee's time or falsifying one's own time is prohibited and may be grounds for disciplinary action including termination.

Nonexempt employees who work more than forty (40) hours per week shall be awarded "compensatory time" at the rate of one and one-half (1 1/2) hours for each hour of overtime work. In cases of emergency, when the employee cannot be immediately released for this time and one-half compensation, the Superintendent will make the decision as to paying the employee at the rate of time and one-half or having the employee take the time off at a future date. The hours must be approved by the immediate supervisor before an employee works overtime or, in the case of an emergency, immediately upon completion of the work or as soon thereafter as possible.

Compensatory time off shall be taken during the following pay period or workweek in

which it was earned unless the use of compensatory time off would unduly disrupt the operations of the District. In the event the supervisor determines compensatory time off during the week following the week it is earned would be unduly disruptive to the operations of the District, such compensatory time off may be taken as soon as is reasonably possible thereafter.

This overtime compensation plan does not apply to exempt employees or to volunteers.

SUPPORT STAFF MEETINGS

The Superintendent will arrange for and hold staff meetings as the need may arise. This authority may be delegated to the school principals or supervisor(s), who may hold such meetings on a regularly scheduled basis or as the need arises.

All appropriate staff members are required to attend any such meeting(s) unless officially excused.

Adopted: January 16, 2018

SUPERVISION OF SUPPORT STAFF MEMBERS

The supervisor(s) of the various departments or divisions shall be responsible for the supervision of personnel assigned to these areas and shall provide the necessary orientation to new employees and in-service training for all employees under their supervision.

All other support staff employees shall be under the supervision of the administrative heads of the units to which the employees are assigned. The administrative head shall be responsible for the necessary orientation of new employees and shall provide in-service training as needed.

Supervision shall include evaluation of the employee.

Adopted: January 16, 2018

EVALUATION OF SUPPORT STAFF MEMBERS

All support personnel shall be evaluated by the appropriate supervisor or administrator. A written evaluation of effectiveness of each support staff member shall be completed during the first year of employment and not later than ninety (90) days after the first day of work. A second first-year evaluation will be not later than the anniversary date of employment. At least once each year thereafter, an evaluation will be conducted. The evaluation will be used to increase job proficiency and for recommending continued employment.

Adopted: January 16, 2018

**DRUG AND ALCOHOL TESTING
OF TRANSPORTATION EMPLOYEES**

Refer to Policy EEAEAA.

**SUPPORT STAFF TERMINATION
OF EMPLOYMENT**

Refer to Policy DKA.

SUPPORT STAFF REDUCTION IN FORCE

The number and type of support staff positions required to implement the District's educational program will be determined annually by the Board after recommendation from the Superintendent. In the event the Board decides to release support staff members, the following guidelines will be in effect:

- Normal attrition due to terminations will be relied upon as the first means of reducing the staff.
- If attrition does not accomplish the required reduction in the staff, the Superintendent shall submit to the Board recommendations for the termination of specific staff members. The criteria used in formulating these recommendations shall include, but shall not be limited to:
 - Qualifications of staff members to accomplish the District's program.
 - Overall experience, training, and ability.
 - Past contributions to the program of the District.
 - All other factors being equal, length of service in the District.

Criteria for selection of staff members to be released will be applied separately to employees within specialty categories.

Personnel to be laid off for the ensuing school year shall be notified of such layoff as soon as practical.

Adopted: January 16, 2018

RESIGNATION OF SUPPORT STAFF MEMBERS

Employees voluntarily terminating their service with the District are expected to give advance notice of not less than ten (10) working days. This notice should be submitted to the supervisor in writing and should specify both the last day of work and the reason for terminating. (Authorized accrued vacation credit will be paid to employees with the last paycheck.)

Adopted: January 16, 2018

CROSS REF.: GDL - Support Staff Workload

DISCIPLINE, SUSPENSION, TERMINATION AND DISCHARGE OF SUPPORT STAFF MEMBERS

Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may:

- direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees;
- determine qualifications for employment and the nature and content of personnel examinations;
- take actions as may be necessary to carry out the mission of the public employer in emergencies; and
- retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

For purposes of this policy:

- "Terminate" means, in the case of a non-certificated school employee, the act of severing the employment relationship with the employee.
- "Working day" means every calendar day, excluding Saturday, Sunday or legal holiday.
- "Administrative leave" means the assignment of an employee to the employee's home to await further instructions pending the outcome of an investigation or inquiry into the actions of the employee in order to avoid interference in the inquiry. The use of "administrative leave" is not a disciplinary action.

Categories of Misconduct

Staff members may be disciplined for infractions that include, but are not limited to, the following categories:

- | | |
|--|--|
| • Absence without leave | • Insubordination |
| • Abuse of leave | • Neglect of duty |
| • Alcohol or drug impairment | • Unauthorized possession of a
weapon on school grounds |
| • Child abuse or molestation | • Unauthorized use of school property |
| • Discourteous treatment of the public | • Unlawful conduct |
| • Dishonesty | • Use of illegal drugs |
| • Excessive absenteeism | |

- Fraud in securing employment
- Improper attitude
- Incompetence or inefficiency
- Violation of a directive of a
- Violation of a District policy or regulation

General Provisions for Discipline are as follows:

- *Informal consultation.* Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with an employee to discuss matters of concern related to the employee's performance, conduct, etc.
- *Persons authorized to impose discipline.* Any supervising licensed administrator who is the immediate or primary supervisor of a staff member is authorized to impose a penalty or penalties, short of termination.
- *Administrative discretion.* In adopting these policies/procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.
- *Right not to impose discipline.* The District reserves the right not to discipline a staff member for conduct that violates this policy.
- *Additional reasons for discipline.* A staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.
- *Amendments.* The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.
- *Severability.* If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Minor Discipline

Minor disciplinary action includes, without limitation thereto, removal from the grounds, written warning, written reprimand, or suspension. Minor disciplinary action shall be imposed by the staff member's administrative supervisor upon informing the employee of any violations of state or federal statutes, policies, rules or the New Mexico code of ethics and offering a hearing and opportunity to express the employee's side of the issue before

implementing the disciplinary action. The disciplinary action shall be confirmed in writing to the employee. The discipline may only be appealed to the next level of administration. The hearing procedure shall be as follows.

Step 1 - Notice and Hearing:

- Upon the supervising administrator's determination of the existence of cause to impose discipline, the supervising administrator shall notify the staff member of intent to impose discipline, the conduct or omission on the part of the staff member that constitutes the reason for discipline, and provide the employee an opportunity to explain the employee's side of the issue. A reasonable effort to determine the circumstances of the incident will be made. The discipline may be imposed immediately or following any further investigation.

Step 2- Decision (in writing):

- At the hearing, or within seven (7) working days following the hearing, the supervising administrator shall inform the employee in writing of the disciplinary action, if imposed and summarize the discussion at the hearing.

Appeal of Minor Discipline

A staff member who wishes to object to a minor disciplinary action shall submit a written appeal request to the supervisor's superior within five (5) work days of receiving notice of the disciplinary action. Failure to request the appeal in the time frame indicated will be considered acceptance of the discipline imposed. The discipline shall be suspended if the appeal is timely made. The appeal shall specifically describe the part of the determination with which the staff member disagrees, such as:

- Determination was founded upon error of construction or application of any pertinent regulations or policies.
- Determination was unsupported by any evidence as disclosed by the entire record.
- Determination was materially affected by unlawful procedure.
- Determination was based on violation of any statutory or constitutional right.
- Determination was arbitrary and capricious.
- The penalty was excessive.

The appeal shall be based on the staff member's submission as listed above and the summary of the hearing made by the supervisor. The supervising administrator, the Superintendent, or, when appropriate, the Board may, at the conclusion of the appeal,

uphold the discipline, modify the decision, or refer the matter back to the level from which it was appealed for rehearing and additional information. Such decision, along with specific direction as to the effective date of any discipline, shall be communicated to the staff member within a reasonable amount of time following the appeal, not to exceed seven (7) working days. The decision upon appeal is final for all minor disciplinary actions.

Termination Pursuant to 22-10A-24 NMSA (1978)

The following procedures will be used to impose any termination permitted under 22-10A-24 NMSA (1978) except that it does not apply to:

- A noncertificated school employee employed to perform primarily District-wide management. (22-10A-26 NMSA)

Step 1 - Notice:

- Upon the Superintendent's determination of the existence of cause to terminate, the Superintendent shall notify the staff member of intent to terminate. The notice shall be in writing and shall be delivered in person or by first-class mail. The notice shall include the following:
 - The statement that the employee has the right to request written reasons for the decision to terminate and such reasons shall be provided within ~~ten~~ five (5) working days of such request.
- The reasons shall not be publicly disclosed by the administration or Board. *A local Board may terminate a non-licensed school employee with less than one (1) year for any reason it deems sufficient.*
 - For a non-licensed school employee who has been employed for more than one year the following appeal procedure shall apply.

Step 2-3 - Appeal Requirements and Content:

- Termination may be appealed to the Board by a non-licensed school employee who has been employed for more than one year by making a request to the Superintendent within five (5) working days of the date of receipt of the notice of termination requesting reasons for the termination decision and a meeting with the Board.
 - The appeal shall be granted if the employee responds to the Superintendent in writing within ten (10) working days of receiving the reasons for termination with the following information: A statement of contention that the employee believes the decision is without just cause.

- A brief statement of the reason(s) why the staff member believes the decision is without just cause.
- A statement of the facts that the employee believes support this contention.

Step 4 - Appeal Procedure:

- The governing authority shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after receipt of the statement.
- The hearing shall be conducted informally in accordance with the provisions of the Open Meeting Act.
 - Hearing Procedure:
 - The employee and the Superintendent may each be accompanied by a person of their choice.
 - The Superintendent shall present the factual basis for determination that just cause exists for the termination, limited to the reasons provided to the employee.
 - The employee shall present contentions, limited to the reason(s) why the staff member believes the decision is without just cause.
 - Rebuttal to the employee's presentation may be presented as deemed relevant by the Board.
 - Witnesses called may be questioned by the governing authority, the Superintendent or an appointed representative, and the employee or an appointed representative.
 - The governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
 - No record shall be made of the hearing.
 - The governing authority shall take such action as is necessary in accordance with the Open Meeting Act to uphold or deny the recommendation to terminate. The governing authority shall notify the employee and the Superintendent of its decision in writing within five (5) working days from the conclusion of the meeting.

Termination - Arbitration Appeal Pursuant to 22-10A-25 NMSA (1978)

An employee still aggrieved by a decision of the governing authority may appeal the decision to an arbitrator by doing the following:

- Submitting a written appeal to the Superintendent within five (5) working days from receipt of the governing authority's written decision or refusal to grant a hearing on the issue of termination.
- Accompanying the written appeal shall be a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to subsection E of Section 22-10A-24 NMSA (1978).
- Including in the contentions a statement of facts supporting the contentions.

Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify the employee for any appeal and render the governing authority decision on termination final.

If the arbitration appeal request is timely and complete, the governing authority and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select an independent arbitrator within five (5) working days of the date of the request.

A de novo (new) hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and governing authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.

- The governing authority shall be required to prove by a preponderance of the evidence that just cause to discharge the employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the governing authority may each be accompanied by counsel.
 - The governing authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by, the governing authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - A record shall be made of the hearing and each party may order the record at the expense of the party.
- The arbitrator shall notify the employee and the governing authority of the decision in writing within ten (10) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the governing authority.

The parties shall be guided by the statute and arbitrator as to the conduct of the hearing, each bearing their own costs. The arbitrator's fees and other expenses in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

Adopted: date of manual adoption

LEGAL REF.: 22-10A-24 NMSA (1978)
 22-10A-25 NMSA (1978)
 22-10A-26 NMSA (1978)

CROSS REF.: DKA - Payroll Procedures/Schedules

CENTRAL CONSOLIDATED SCHOOL DISTRICT
JANUARY 16, 2018

NONSCHOOL EMPLOYMENT BY SUPPORT STAFF MEMBERS

A regular, full-time employee's position in the District shall be given precedence over any type of outside work or self-employment. Employees are free to carry on outside work or self-employment projects as long as no District facilities, equipment, or school(s) are used, except as provided by policy, and the outside work or self-employment does not interfere with the employees' performance of District-assigned duties.

The outside work or self-employment by a staff member is of concern insofar as it may:

- Prevent the employee from performing assigned responsibilities in an effective manner.
- Be prejudicial to proper effectiveness in the position or compromise the District.
- Raise a question of conflict of interest - for example, where the employee's position in the District permits access to information or other advantage useful to the outside employer.

Therefore, an employee may not perform any duties related to outside work or self-employment during regular District working hours or during the additional time that is needed to fulfill the responsibilities of the District position. Employees who violate this policy are subject to reprimand, suspension, or termination.

Adopted: January 16, 2018

CROSS REF.: EDB - Maintenance and Control of Materials and Equipment
KF - Community Use of School Facilities