

Wa-Nee Community Schools
Administrative Guidelines
Series 1000
Administration

1000 - ADMINISTRATION

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1100 - SUPERINTENDENT'S/PRINCIPAL'S ABSENCE FROM THE CORPORATION

Whenever the Superintendent is away from the Corporation and unavailable to make a needed decision and if not otherwise specified in policy or administrative guidelines, the Assistant Superintendent for Instruction shall be responsible for determining whether or not a decision must be made prior to the Superintendent's return. If so, then s/he shall make the decision, take and/or supervise appropriate action and/or inform the Superintendent upon his/her return.

Should the Assistant Superintendent for Instruction also be unavailable, then each administrator shall assume such responsibility in the order in which his/her name appears on the following list:

- A. Business Manager
- B. high school principal
- C. middle school principal
- D. elementary principals shall act jointly.

Whenever a principal is to be absent from his/her building and unavailable to make a decision, s/he is to select one (1) or more appropriate members of the school staff to act on his/her behalf and to provide the names of the selected staff member(s) to the Corporation office.

Revised 1/05

1110 - ASSESSMENT OF CORPORATION GOALS

The Corporation has invested a great deal of time and effort to develop and implement a set of Corporation goals.

In order to better ensure that the goals are being achieved as intended, each goal should be assessed on a periodic basis using the following six-step strategy. The strategy also will help determine what needs to be done as a follow-up to the assessment.

STEP ONE - DEFINE THE INTENDED RESULT OF THE GOAL

- A. Describe the situation that should exist in the Corporation if the goal has been accomplished. List each key factor or condition in the Desired Situation as these will be the focus of the assessment for which data will be needed. Be sure the description is a statement(s) of **results** and not **tasks or actions** involved in achieving the results.
- B. To ensure that no important factors or conditions in the Desired Situation have been omitted from the description, ask, "what should not be true of the situation when this goal has been achieved?" or "what would we not want to find is true when we're done with this task?" For each answer, convert that negative factor or condition into a desired characteristic.

For example, "we wouldn't want to find that the performance assessments of the curriculum goals did not provide standards to determine different levels of achievement. Therefore, one important factor in the assessment of curriculum goals would be that for each goal the assessment has standards that define at least excellent, good, fair, and poor performance."

Repeat the question, as needed, to flush out other factors and/or conditions that may have been overlooked the first time around.
- C. Describe each factor as it would be if the goal is accomplished at the **Desired Level of Quality**. (This is called the DLQ standard.)
- D. Describe each factor as it would be if the goal is accomplished at just a **Minimum Acceptable Level of Quality**. (This is called the MALQ standard.)
- E. When the description is completed, there should be a summary statement of the Desired Situation followed by a listing of the criteria that will be used to judge the extent to which that Situation exists, and a description of the DLQ and MALQ standards.
- F. Determine whether goal assessment will be done periodically during the action stage or only after all actions have been completed. Establish a time-line for assessment activities.
- G. Develop a plan for gathering the data needed to assess each criterion. (See AG 2252 - Planning Strategy)

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STEP TWO - REVIEW THE ACTION PLAN AND ROLES OF THE KEY PARTICIPANTS

- A. Review what the plan describes as the role of the:
 - Board,
 - Superintendent or Treasurer,
 - Central Office Administrators,
 - Building Administrators,
 - Building and/or Department Staff.
- B. Identify what has been done to date to accomplish the goal.
- C. Obtain the schedule for performance evaluations of the key participants. Review the evaluation criteria to determine if they include those related to the tasks involved in accomplishing the goal.

STEP THREE - OBTAIN THE DATA ON THE RESULTS

- A. Implement the plan for gathering the data. (Step One)
- B. Check to make sure the information is complete, accurate, relevant, and clear.
- C. Organize the data in ways that make it easy to compare the results with the standards.

STEP FOUR - COMPARE THE DATA WITH THE STANDARDS

- A. Compare the criteria one at a time.
- B. List whether a factor is at DLQ, between DLQ and MALQ, at MALQ, or not acceptable (below MALQ).
- C. Review all of the comparisons and make a judgement (evaluation) as to whether current progress or the Desired Situation is Excellent, Good, Fair, or Poor.

STEP FIVE - DIAGNOSE THE MAIN CAUSES FOR THE RESULT

- A. List the factors that are satisfactory (+) and place in order of significance in the Desired Situation.

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- B. List the factors that are not satisfactory (-) and place in order of significance in the Desired Situation.
- C. Select the most significant (-) factors, one at a time, and decide what the reasons were that the desired factor was not produced. Refer to performance-evaluations and other data on actions, conditions, influences that could be causes. List in order of importance.
- D. Select the most important (+) factors, one at a time, and decide what the reasons were that the desired factor was produced. Refer to performance-evaluations and other data on actions, conditions, and/or influences that could be causes. List in order of importance.
- E. Determine which of the (+) and (-) actions, conditions, and/or influences the Corporation has the power to deal with and which are beyond its control.

STEP SIX - DEVELOP PLANS TO REMEDIATE AND REINFORCE

- A. For the (-) actions, conditions, and/or influences the Corporation can act upon, ask, *what can be done differently that will be effective in eliminating or reducing the impact of these causes?* Do this in order of importance determined in Step 5C.

Use planning strategy AG 2252 and/or the strategic planning process to prepare a remedial-action plan.

- B. For the (+) actions, conditions, and/or influences the Corporation has control over, ask, *what can be done to make sure these causative factors don't disappear or are forgotten as we work on the (-) causes?* Do this in order of importance determined at Step 5D.

Use planning strategy AG 2252 and/or the strategic planning process to prepare a reinforcement-action plan.

Recycle the strategy as appropriate to achieving the goal (Desired Situation) and maintaining it on a continuous basis.

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1120 - LINE AND STAFF RELATIONS

All staff members shall be responsible to the School Board through the Superintendent. Each shall refer matters requiring administrative action to the person in charge of the department, who shall refer such matters to the next higher authority, when necessary.

Each staff member is to keep the person s/he is immediately responsible to informed of his/her activities by whatever means the supervisor deems appropriate.

All staff members have the right to appeal any decision made by an administrative officer, through approved procedures as defined by contract, agreements, policies, administrative guidelines, or by State law.

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1400 - REVISING JOB DESCRIPTIONS FOR COMPLIANCE WITH ADA/504

The Americans with Disabilities Act (ADA) requires that the Corporation's job descriptions be reviewed and, if necessary, revised to ensure that employment practices do not discriminate against any current staff member or job candidate who has a disability as defined in AG [3122](#).

The following procedure should ensure that each job description adequately and accurately reflects the mental and physical requirements to fulfill properly the expectations of the job.

Because there is more likelihood that physical impairments will interfere with job functioning in classified positions, these job descriptions should be reviewed/revised first.

For each job description:

Step One

List each of the tasks associated with the job and then the activities associated with each task. It may help to think through, step by step, a typical work day from beginning to end and then add in the additional tasks that the job requires from time-to-time. Identify those tasks **that are essential** to completing the responsibility properly, that is, those tasks that are essential to fulfilling the responsibility. (Optional) Identify those tasks that are marginal to the position.

Step Two

For each activity, describe how the activity is performed...what physical motions are involved....what tools/equipment need to be used and how.

Step Three

Determine what knowledge, literacy skills, and technical skills a person has to have in order to complete the job responsibility in a way that meets Corporation expectations. For example, is it necessary for the person to be able to compute well enough to solve problems involving arithmetic or write clearly and legibly, or understand written directions?

(It might be productive to involve one (1) or more of the staff members in the job to identify and possibly describe the tasks, because of the detailed knowledge of the job that s/he possesses.)

The revised job description masters should be kept on file in the central office with copies provided to the staff member and his/her supervisor, in accordance with any applicable negotiated agreement. Job descriptions should be updated whenever there is an addition to or modification in a job.

1411 - WHISTLEBLOWER PROTECTION

The School Board encourages all employees, acting in good faith, to report possible suspected or actual violations of State and Federal laws or Board policies and administrative guidelines. These guidelines shall be used to ensure that the Board's policy on whistleblowers protection (Policy [1411](#)) is implemented properly and in compliance with State laws. The Board will verify that employees are protected from interference with reporting violations and from retaliation for having reported violation or for refusing an illegal order.

To that end, it is the responsibility of an employee who is aware of conduct on the part of any Board member or employee that possibly violates State or Federal law or Board policy or administrative guidelines, to report such conduct to his/her immediate supervisor. Board members and employees are prohibited from retaliating against an individual who has reported a violation and/or refused an illegal order and shall not use or attempt to use their position to prevent an employee from reporting a possible violation or refusing an illegal order.

Reporting Violations by the Corporation

- A. If an employee becomes aware in the course of his/her employment of a possible violation of any State or Federal law or Board policy or administrative guidelines, that the Board has authority to correct and the employee reasonably believes that such violation is a criminal offense that is likely to cause an imminent risk of harm to persons or hazard to public health or safety, a felony, or an improper solicitation for contribution, the employee shall orally notify his/her immediate supervisor. If the employee's immediate supervisor is not responsive, then the employee may report the possible violation to:
 1. the Superintendent;

If the reported conduct relates to the Superintendent, the report may be filed directly with the Board President.
 2. the appropriate law enforcement or governmental agency responsible for enforcing such violations, only after the employee first provides notice to one of the above-referenced Corporation employees or officials.
- B. After providing oral notification of the possible violation, the employee shall subsequently file with that supervisor or other Corporation official, a written report providing sufficient detail to identify and describe the possible violation.
- C. All efforts must be taken to either correct the violation or refer such violation to the appropriate law enforcement or governmental agency within twenty-four (24) hours of either receiving oral notification or a written report of the possible violation.
 1. The supervisor or other Corporation official shall notify the employee in writing of any effort of the Corporation to correct the alleged violation or hazard or the absence of the alleged violation or hazard.

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2. Written notification shall be provided to the employee within twenty-four (24) hours of receiving notification or by close of business on the next regular school day, whichever is later.
- D. If the Corporation does not correct the violation or make a reasonable effort to correct the violation (including, but not limited to referring such violation to the appropriate law enforcement or governmental agency) within twenty-four (24) hours after either receiving oral notification or a written report of the possible violation, whichever is earlier, the employee may file a written report providing sufficient detail to identify and describe the possible violation with:
1. the prosecuting authority of the county or municipal corporation where the violation occurred;
 2. a peace officer;
 3. the Inspector General (if the violation is within the Inspector General's jurisdiction); or
 4. any other appropriate public official or agency having regulatory authority over the Corporation, and the activities in which the Corporation is engaged.
- E. An employee may directly notify, either orally or in writing, any appropriate public official that has regulatory authority of the Corporation, and the activities in which the Corporation is engaged, of any possible violation of the following that is also a criminal offense:
1. Air Pollution Control;
 2. Solid and Hazardous Wastes;
 3. Safe Drinking Water; or
 4. Water Pollution Control.

Reporting Violations by Other Employees

- A. If an employee becomes aware in the course of his/her employment of a possible violation by a fellow employee of any State or Federal law or Board policy or administrative guideline, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of harm to persons or hazard to public health or safety, a felony, or an improper solicitation for contribution, the employee shall orally notify his/her immediate supervisor. If the employee's immediate supervisor is not responsive or is the employee whose behavior is in question, then the employee may report the possible violation to the Superintendent. If the reported conduct relates to the Superintendent, the report may be filed directly with the Board President.

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- B. After providing oral notification of the possible violation, the employee shall subsequently file with that supervisor or other Corporation official, a written report providing sufficient detail to identify and describe the possible violation.

Reporting of Other Violations

- A. If an employee becomes aware in the course of his/her employment of a possible violation of any State or Federal law or Board policy or administrative guideline, that does not involve a criminal offense or improper solicitation and is not likely to cause an imminent risk of harm to persons or hazard to public health or safety, the employee shall orally notify his/her immediate supervisor or other Corporation official (as set forth above). The employee shall subsequently file a written report within two (2) days.
- B. The immediate supervisor or other Corporation official will acknowledge receipt of the written report within five (5) days. Such reports will be investigated within fifteen (15) days, and appropriate action will be taken, if warranted at the conclusion of the investigation.

Duty to Determine Accuracy of Possible Violations

- A. An employee shall make a reasonable and good faith effort to determine the accuracy of any possible violations.
- B. If an employee fails to make a reasonable and good faith effort, s/he may be subject to disciplinary action, including suspension or termination, for reporting information without a reasonable basis to do so.
- C. An employee will also be subject to disciplinary action if s/he purposely, knowingly, or recklessly gives false information or makes a false report of a violation.

Prohibition Against Retaliation

- A. No employee shall be disciplined or retaliated against for reporting a possible violation by the Corporation or a fellow employee or as a result of making any inquiry or taking any other action necessary to ensure the accuracy of any information related to possible violations, as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported.
- B. For purposes of this policy and guideline, improper disciplinary or retaliatory action includes, but is not limited to:
 - 1. terminating or suspending the employee;

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2. withholding from the employee salary increases or employment benefits to which the employee is otherwise entitled;
3. transferring or reassigning the employee;
4. denying the employee a promotion that s/he would have otherwise received; or
5. reducing the employee in pay or position.

Approved 4/28/08
Revised 11/30/08

1422 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

These administrative guidelines are established to assist in the proper implementation of Policy [1422](#) and Policy 1422.02.

Notice of the School Board's policy on nondiscrimination in employment practices and the identity of the Compliance Officers shall be posted throughout the School Corporation and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy and on the Corporation website.

Military Status

For purposes of this policy/administrative guideline, "military status" refers to a person's status in the uniformed services which includes the performance of duty, on a voluntary or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

Approved 3/25/13

Revised 1/25/16

1520 - ADMINISTRATOR CONTRACT

As used in the guideline, "administrator" means a certificated or non-certificated supervisor of one or more certificated and/or non-certificated employees of the School Corporation. An administrator who supervises one (1) or more certificated employees shall not be part of the bargaining unit established for purposes of implementing collective bargaining in compliance with I.C. 20-29. The term "administrator" may include employees in positions titled "Superintendent", "Assistant Superintendent", "Deputy Superintendent", "Associate Superintendent", "Principal", "Assistant Principal", "Director of Special Education", "Business Manager" and "Assistant Business Manager", "Director of Curriculum", and "Director of Transportation".

The following guideline shall govern the employment of administrators: Contracts for non-certificated administrators other than the Superintendent may be issued annually for a one (1) year term. If the Superintendent is not certificated, the initial term of the Superintendent's first contract shall be no less than thirty-six (36) months. A contract term in excess of the minimum may be established by agreement of the parties and may include an initial period of time to align the contract's expiration date with a school year.

All contracts for the employment of administrators shall be approved by a majority of the full Board and after approval by the Board, they shall be signed by the Board President and Secretary or the Board Vice-President if either of these officers is unavailable for any reason.

I.C. 20-18-2-17

I.C. 20-28-1-3

I.C. 20-28-1-9 Revised 1/25/16

1521 - PERSONAL BACKGROUND CHECK

In accordance with Board policy, the personal and employment history will be thoroughly investigated of each candidate who is seriously being considered for employment as a regular or substitute member of the staff.

In addition to the information obtained through the employment procedure described in AG 1520, a criminal history record check must be conducted. The Corporation Receptionist will be responsible for ensuring that the candidate completes Form 1521 F1.

The Candidate shall submit the candidate's name, address, social security number, and date of birth to the contracted service provider for a local, State, and National criminal history check, including an expanded criminal history check as defined by I.C. 20-26-2-1.5.

If the Corporation's investigation and/or criminal history check reveals that a candidate has been involved in some unlawful behavior, such information should be examined in light of:

- A. the nature of the unlawful behavior, e.g. was it a felony or a misdemeanor? Did it involve violence? Was it sex related? Was it child related? etc.;
- B. did the behavior result in a conviction;
- C. how recently the behavior occurred and the behavior of the candidate in the interim;
- D. the relationship of the behavior to the duties the person would be assuming, if hired;
- E. the likelihood that the candidate would represent a potential threat of injury to or loss/damage to property;
- F. the likelihood that the candidate would represent a potential threat of injury to or loss/damage to persons;
- G. the extent that the staff position involves being an exemplar to students and the potential for the presentation of a negative exemplar;
- H. the manner in which the information came to the Corporation's attention, i.e., offered by the candidate or reported through an investigation.

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The final decision concerning the employment (or possible discharge if the information comes to light after employment) will be made by the approval of the Superintendent.

In addition to the criminal history check, the Superintendent/designee will conduct the following or contract with a private service provider to conduct the following:

- A. an expanded child protection index check as defined by I.C. 20-26-2-1.3
- B. a search of the national sex offender registry maintained by the United States Department of Justice
- C. beginning July 1, 2017, a search of the State child abuse registry
- D. telephone inquiry with former employer(s)
- E. explanations of any employment gaps to ensure the candidate has not omitted an employer where an offense occurred
- F. verification of the applicant's eligibility to work using the E-Verify database maintained by the Federal government as required by I.C. 12-32-1
- G. an Indiana Bureau of Motor Vehicles driver history if the position involves driving

An "expanded child protection index check" means:

- A. an inquiry with the department of child services as to whether an individual has been the subject of a substantiated report of child abuse or neglect and is listed in the child protection index established under I.C. 31-33-26-2;
- B. an inquiry with the child welfare agency of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether there are any substantiated reports that the individual has committed child abuse or neglect; and

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- C. for a certificated employee, an inquiry with the department of education or other entity that may issue a license to teach of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether the individual has ever had a teaching license suspended or revoked.

Background Checks for Corporation Employees

The Board requires that an expanded criminal history check be conducted for each Corporation employee every five (5) years.

The Superintendent shall require the Business Office to maintain a record of all existing employees stating the school year in which the required expanded criminal history check was completed and when the next expanded criminal history check is due.

The Corporation shall pay the costs associated with conducting the expanded criminal history check for all employees, provided the exclusive representatives of the Corporation's employees do not object.

Additionally, the Corporation may obtain an expanded criminal history check or an expanded child protection index check at any time if the Superintendent has reason to believe that an employee or a candidate for employment:

- A. is the subject of a substantiated report of child abuse or neglect or
- B. has been charged with or convicted of one (1) of the following crimes:
 - 1. Murder (I.C. 35-42-1-1).
 - 2. Causing suicide (I.C. 35-42-1-2).
 - 3. Assisting suicide (I.C. 35-42-1-2.5).
 - 4. Voluntary manslaughter (I.C. 35-42-1-3).
 - 5. Reckless homicide (I.C. 35-42-1-5).
 - 6. Battery (I.C. 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

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7. Aggravated battery (I.C. 35-42-2-1.5).
8. Kidnapping (I.C. 35-42-3-2).
9. Criminal confinement (I.C. 35-42-3-3).
10. A sex offense under I.C. 35-42-4.
11. Carjacking (I.C. 35-42-5-2) (before its repeal).
12. Arson (I.C. 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
13. Incest (I.C. 35-46-1-3).
14. Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (I.C. 35-46-1-4(b)(2) and (3)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
15. Child selling (I.C. 35-46-1-4(d)).
16. Contributing to the delinquency of a minor (I.C. 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
17. An offense involving a weapon under I.C. 35-47 or I.C. 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

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18. An offense relating to controlled substances under I.C. 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

19. An offense relating to material or a performance that is harmful to minors or obscene under I.C. 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

20. An offense relating to operating a motor vehicle while intoxicated under I.C. 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

21. Domestic battery (I.C. 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.

22. An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

If an administrator reports to the Superintendent that s/he:

- A. has been arrested or had criminal charges filed against him/her;

- B. has been convicted of a crime; or

- C. is the subject of a substantiated report of child abuse or neglect,

the Superintendent shall require the Business Office to obtain a review of each reported arrest or charge, conviction or substantiated report of abuse or neglect and shall recommend appropriate action to the Board considering the risk to members of the school community presented by the continued employment of the administrator who was arrested or charged, convicted or the subject of a substantiated report of child abuse or neglect.

Revised 5/8/17
Revised 2/12/18

1521A - REPORTS OF CONVICTIONS AND SUBSTANTIATED CHILD ABUSE OR NEGLECT AND ARREST

Employees shall report their arrest or the filing of criminal charges against them, or their conviction for a crime to the Superintendent within forty-eight (48) hours of the arrest or the filing of criminal charges or the conviction. If the employee is held in custody for more than twenty-four (24) hours, the report shall be made within forty-eight (48) hours after the employee is released from custody.

Employees also shall report a substantiated report of child abuse or neglect of which the employee is the subject to the Superintendent within forty-eight (48) hours of the issuance of the report. If the employee does not receive notice of the issuance of the report until a later date, the employee must report the substantiated report of child abuse or neglect of which the employee is the subject to the Superintendent within forty-eight (48) hours of receiving notice of the report.

The arrest or the filing of criminal charges, or conviction need not automatically result in the suspension or termination of the employee. The Superintendent may evaluate the circumstances of the arrest or charge(s) based upon the factors listed below for the evaluation of criminal convictions, plus the presumption of innocence afforded every person charged with a crime prior to conviction.

As used here, "crime" means an action initiated by the State of Indiana, another state, or the United States with a penalty that includes the possibility of a term of imprisonment. The term includes all prosecutions denominated as a felony or misdemeanor. Infractions such as speeding and other minor traffic infractions are not covered unless the job description for an employee's position includes operating a vehicle as an essential function. Any doubt about reporting a charge or arrest should be resolved in favor of reporting the offense.

If available, the evaluation of the charge(s), arrest, or conviction will be expedited if the employee provides the Superintendent a copy of:

- A. the criminal charge(s), i.e., the information or indictment;
- B. any probable cause affidavit filed with the charge;
- C. the cause number and court in which the matter is pending;
- D. any police report or accident report prepared by law enforcement; and
- E. the court's entry of a criminal conviction against the employee.

In evaluating information surrounding the arrest, filing of criminal charges, or conviction, the Superintendent will take into account:

- A. the relevance of the circumstances of the arrest, charge(s), or conviction to the qualification standards and essential functions of the position held by the employee;

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- B. how recently the behavior occurred and the behavior of the employee since that time;
- C. whether the employee admits or denies the facts of the allegation;
- D. the relative reliability of the information and objectivity of the source of the information;
- E. the certainty with which the facts have been or can be determined;
- F. the nature and severity of any potential harm to students and other employees that would result from an error in assessing the facts of the arrest, charge(s), or conviction;
- G. the extent to which the position involves being an exemplar and the potential for the presentation of a negative exemplar to students; and
- H. how the information came to the attention of the Corporation, i.e., was it reported by the employee or discovered through other means.

The Superintendent will give the appropriate weight to each of these factors in determining whether the employee will be permitted to continue to work while the charges are resolved in the trial court, and will recommend that the employee continue to work, be placed on administrative leave or suspension, or be terminated or recommended for termination. With respect to employees who are teachers, the principal shall make the initial recommendation for termination, as required by State law.

A substantiated report of child abuse or neglect of which the employee is the subject need not automatically result in the suspension or termination of the employee. The Superintendent may evaluate the circumstances of the incident underlying the report based on the following factors:

- A. the relevance of the circumstances of the incident underlying the report to the qualification standards and essential functions of the position held by the employee;
- B. how recently the behavior occurred and the behavior of the employee since that time;
- C. whether the employee admits or denies the facts of the report;
- D. the relative reliability of the information and objectivity of the source of the information;
- E. the certainty with which the facts have been or can be determined;

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- F. the nature and severity of any potential harm to students and other employees that would result from an error in assessing the facts of the incident underlying the report;
- G. the extent to which the position involves being an exemplar and the potential for the presentation of a negative exemplar to students;
- H. how the information came to the attention of the Corporation, i.e., was it reported by the employee or discovered through other means.

The Superintendent will give the appropriate weight to each of these factors in determining whether the employee will be permitted to continue to work while the Superintendent completes his/her investigation and will recommend that the employee continue to work or be placed on administrative leave or suspension. A substantiated report of child abuse or neglect of which the employee is the subject may result in the termination of the employee's employment. With respect to employees who are teachers, the principal shall make the initial recommendation for termination, as required by State law.

Approved 7/9/12
Revised 5/8/17

1530 - PROCEDURE FOR EVALUATING THE EFFECTIVENESS OF ADMINISTRATORS

Board Policy [3220](#) requires that the effectiveness of all certificated employees, including certificated administrators, be evaluated in writing each school year. In compliance with this mandate, AG [3220A](#) as well as the following procedures will be used for administrative evaluations:

- A. A written evaluation will be provided each administrator according to a schedule determined by the Superintendent.
- B. The written evaluation shall measure each administrator's effectiveness in meeting the qualification standards and performing the essential functions of the assigned position. The results of these evaluations shall be considered by the Superintendent and the Board when deciding whether to renew, to non-renew or cancel an administrator's contract.

At least thirty (30) calendar days prior to February 1st of the school year in which the administrator's contract will expire, the Superintendent or a designee shall complete a written evaluation of an administrator's effectiveness and provide a copy of the evaluation to the administrator. If the Board will consider non-renewal of the administrator's contract during the calendar year, the notice shall inform the administrator that the Board is considering a decision not to renew the administrator's contract; and the reasons for the consideration of non-renewal.

If the administrator files a request with the Superintendent for a private conference with the Superintendent not later than five (5) days after receiving the preliminary notice containing the Board's reasons for considering non-renewal, the administrator is entitled to a private conference with the Superintendent on the proposed non-renewal.

Following a private conference with the Superintendent, if the administrator files a request with the Superintendent as an agent for the Board for a private conference with the Board within five (5) days after the initial private conference with the Superintendent, the administrator is entitled to a private conference with the Board before being given written notice of refusal to renew the administrator's contract past the end of the school year on June 30. The preliminary notice from the Superintendent required under this section must include the governing body's reasons for considering non-renewal of the administrator's contract.

The evaluation of an administrator's performance may not be based wholly on the ISTEP program test scores of the students in the school(s) or program(s) administered by the administrator. However, the ISTEP program test scores of the students enrolled in the school(s) or program(s) administered by the administrator may be considered as one (1) of the factors in the evaluation of the administrator's overall performance.

Notice of the Board's decision to consider non-renewal of the Superintendent's contract or the contract of a Director of Special Education shall be given in writing in person or by registered mail before January 1 of the calendar year in which the contract will expire. If the Superintendent or Director of Special Education requests a hearing before the Board at least ten (10) days before the termination, the Board shall provide the requested hearing at an official meeting of the Board.

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If the Board or its agents fail to give timely written termination notice to the Superintendent or Director of Special Education, the contract of the Superintendent or Director of Special Education shall be extended for twelve (12) months following the expiration date of the contract.

I.C. 20-28-8-1 through 12

Approved 6/5/07

Revised 7/9/12

1621 - FEDERAL GROUP HEALTH CONTINUATION (COBRA)

Qualifying Event

A. A covered employee shall be offered the opportunity to continue the School Corporation's group health coverage if the employee loses coverage under the Plan upon either of the following "qualifying events":

1. voluntary or involuntary termination of employment for reasons other than "gross misconduct"

Gross misconduct may be intentional, wanton, willful, deliberate, reckless, or in deliberate indifference to the Corporation's interests. It is misconduct beyond mere minor breaches of employee standards, but conduct which would be considered gross in nature.

2. reduction in the number of hours of employment

B. The spouse of a covered employee may continue the Corporation's group health coverage if the spouse loses coverage under the Plan because of any of the following "qualifying events":

1. termination of the covered employee's employment for any reason other than "gross misconduct"
2. reduction in the hours worked by the covered employee
3. divorce or legal separation with the covered employee

Also, if the employee reduces or eliminates group health coverage in anticipation of divorce or legal separation, then divorce or legal separation may be considered to be a qualifying event even though the spouse's coverage was reduced or eliminated prior to the divorce or legal separation.

4. death of the covered employee

C. Dependent children may continue the group health coverage if the dependent child loses coverage under the Plan because of any of the following "qualifying events":

1. termination of covered employee's employment for any reason other than "gross misconduct"

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2. reduction in the hours worked by the covered employee
3. loss of "dependent child" status under the Plan rules

Under the Patient Protection and Affordable Care Act, the Plan must offer coverage for an adult child until the child attains age twenty-six (26).

4. divorce or legal separation of the covered employee
5. death of the covered employee

Notification by Qualified Beneficiaries

Qualified beneficiaries are required to notify the Plan Administrator of the following qualifying events in order to be eligible for COBRA continuation coverage: (a) divorce or legal separation of the employee and spouse; and (b) loss of eligibility for coverage of a dependent child. The qualified beneficiary is required to notify the Plan Administrator in writing of these events within sixty (60) days of the later of: (a) the date of the qualifying event; or (b) the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the Plan as a result of the qualifying event. Failure to comply with these rules will result in forfeiture of any COBRA continuation coverage.

COBRA Election

Qualified beneficiaries are required to elect COBRA continuation coverage within the sixty (60) day election period set forth in the Plan's COBRA election notice. Qualified beneficiaries have the right to elect to continue coverage that is identical to the coverage provided under the Plan. If a COBRA beneficiary does not elect COBRA continuation coverage within the sixty (60) day election period, then the COBRA beneficiary will forfeit his/her right to elect COBRA.

Other Options for Qualified Beneficiaries

In lieu of electing COBRA continuation coverage, qualified beneficiaries may wish to pursue coverage through the health insurance marketplace established by the Patient Protection and Affordable Care Act ("ACA"). In some cases, individuals may receive significant subsidies towards the cost of coverage under the health insurance marketplace. These subsidies may make ACA marketplace coverage significantly less expensive than COBRA continuation coverage. Qualified beneficiaries may also wish to explore whether coverage under another employer group health plan or Medicaid is possible.

Termination of COBRA Coverage

COBRA continuation coverage generally lasts for eighteen (18) months. For example, if coverage is lost because of termination of employment or reduction of hours, the employee generally may elect COBRA for a maximum of eighteen (18) months.

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However, there are a few exceptions to this rule. If Plan coverage was lost as a result of death of an employee, divorce or legal separation, or loss of eligibility for coverage as a dependent child, COBRA coverage can continue for a maximum of thirty-six (36) months. If a qualified beneficiary is determined under Title II or Title XVI of the Social Security Act to have been disabled before the sixtieth (60th) day of continuation coverage and the qualified beneficiary properly notifies the Plan Administrator of the disability determination, the eighteen (18) month period is expanded to twenty-nine (29) months. If a second qualifying event occurs while receiving COBRA coverage and the qualified beneficiary properly notifies the Plan Administrator, COBRA coverage may continue for a maximum of thirty-six (36) months.

COBRA coverage under a health flexible spending account can last only until the end of the year in which the qualifying event occurred.

Coverage for qualified beneficiaries may end prior to the end of the maximum coverage period if:

- A. premiums are not paid on a timely basis;
- B. Corporation ceases to maintain the group health plan;
- C. coverage is obtained with another employee group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition (note that the Patient Protection and Affordable Care Act eliminated pre-existing exclusion conditions in most groups health plans);
- D. a qualified beneficiary becomes entitled to Medicare benefits;
- E. during a disability extension period, the disabled qualified beneficiary is determined by the Social Security Administration to be no longer disabled.

A qualified beneficiary is required to notify the Corporation in writing if the qualified beneficiary becomes eligible for Medicare or becomes covered under another group health plan. In addition, if a disabled qualified beneficiary is determined by the Social Security Administration to no longer be disabled, the qualified beneficiary must notify the Corporation of the fact within thirty (30) days after the Social Security Administration's determination.

Approved 5/8/17

1623A - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board prohibits discrimination against any employee or applicant based on his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability against qualified individuals with disabilities in every aspect of employment. Specifically, the Board does not discriminate on the basis of disability against a qualified individual in regard to:

- A. recruitment, advertising, and job application procedures;
- B. hiring, upgrading, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- C. rates of pay or any other form of compensation or benefits;
- D. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- E. leaves of absence, sick leave, or any other leave;
- F. fringe benefits available by virtue of employment, whether or not administered by the Board;
- G. selection and financial support for training, including: apprenticeships, administrative meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- H. activities sponsored by the Board, including social and recreational programs; and
- I. any other term, condition, or privilege of employment.

The Board will provide reasonable accommodation to a qualified applicant and employee who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Board's program and/or activities or create a direct threat. A direct threat is a significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation. A reasonable accommodation is not required for an individual who is regarded as having a disability but does not have a disability.

An individual with a disability is anyone who:

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- A. **has** a physical or mental impairment that substantially limits one or more major life activities ("actual disability") when mitigating measures or reasonable accommodations are not in place;
- B. **has a record of having** a physical or mental impairment that substantially limits one or more major life activities; or
- C. **is regarded as having** a physical or mental impairment that substantially limits one or more major life activities (i.e., has a physical or mental impairment that does not substantially limit major life activities but is treated by the Board as constituting such a limitation, or has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or has none of the physical or mental impairments recognized by Section 504 but is treated as having such an impairment).

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, eating sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Physical or mental impairment means:

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:
 - 1. neurological
 - 2. musculoskeletal
 - 3. special sense organs
 - 4. respiratory, including speech organs
 - 5. cardiovascular
 - 6. reproductive
 - 7. digestive

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8. genitourinary
 9. hemic and lymphatic
 10. skin
 11. immune
 12. circulatory
 13. endocrine
- B. any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities

While the determination of whether an impairment substantially limits a major life activity is an individualized one that is case specific, given the inherent nature of the following impairments, as a factual matter, they will virtually always be found to impose a substantial limitation, at a minimum, on the major life activity indicated: deafness substantially limits hearing; blindness substantially limits seeing; an intellectual disability substantially limits brain function; partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially limits musculoskeletal function; autism substantially limits brain function; cancer substantially limits normal cell growth; cerebral palsy substantially limits brain function; diabetes substantially limits endocrine function; epilepsy substantially limits neurological function; Human Immunodeficiency Virus (HIV) infection substantially limits immune functions; multiple sclerosis substantially limits neurological function; muscular dystrophy substantially limits neurological function; and major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive compulsive disorder, and schizophrenia substantially limits brain function.

Physical or mental impairments that are episodic in nature or in remission may constitute a disability for the purposes of Section 504/ADA if the impairment would substantially limit a major life activity when active, such as asthma, allergies, or cancer.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services", learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

Individual with a disability does not include the following (i.e., Section 504 specifically **excludes**):

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- A. individuals who are currently engaging in the illegal use of drugs, when the Board acts on the basis of current use or impairment on the job rather than past use;
- B. with respect to employment, any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others
- C. with respect to employment, an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job
- D. an individual on the basis of homosexuality or bisexuality
- E. an individual on the basis of:
 - 1. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders
 - 2. compulsive gambling, kleptomania, or pyromania, or
 - 3. psychoactive substance use disorders resulting from current illegal use of drugs

Individual with a disability includes an individual who:

- A. has successfully completed a supervised drug rehabilitation program and is no longer engaging in the use of illegal or unprescribed prescription drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- C. is erroneously regarded as engaging in the illegal use of drugs, but is not engaging in such use.

Public Notice

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Recruitment materials, job announcements and all other materials/publications published by the Board must contain the following statement that the Board does not discriminate against disabled persons in employment or the provision of services. This requirement may be met by including an insert in existing publications or revising and reprinting publications.

Equal Employment Opportunity Statement

The Wa-Nee Community School Board does not discriminate on the basis of race, color, national origin or ancestry, sex, religion, age, disability, or genetic information in employment or the provision of services.

The Board will also include a notice of reasonable accommodation requirements on Board employment application forms and post notices that employee reasonable accommodation Request Forms may be obtained from the Board's Section 504 Compliance Officer (who also serves as its ADA Coordinator).

Decision-Making Process for Determining/Identify Reasonable Accommodations and Undue Hardship

In determining the appropriate accommodation in the employment situation, the Board will take into account two (2) factors:

- A. the specific abilities and functional limitations of the particular applicant or employee with a disability; and
- B. the qualification standards and essential functions of the particular job.

If an applicant or employee is not able to perform marginal or non-essential functions of a position, those functions shall be eliminated or modified and shall not serve as a barrier or impediment to employment, continued employment, or promotion. Many times a reasonable accommodation will be obvious and made without difficulty and at little or no cost. The Board Section 504 Compliance Officer/ADA Coordinator and other supervisory employees will engage the individual with the disability in an interactive dialogue as to any possible suggestions s/he may have for changes or adjustments that will serve as an effective reasonable accommodation. The Board recognizes that employees with disabilities can be useful sources of the information on what type of accommodation they need, where to obtain information on appropriate accommodations, and where to purchase accommodations.

If, however, the identification of a reasonable accommodation proves difficult, the Board will utilize an informal, interactive process whereby it and the individual will work together to identify the appropriate accommodation. The interactive process may include any of the following steps, as may be appropriate:

- A. Examination of the particular job involved and determination of its purpose and essential functions. The Board will conduct an individual assessment of the particular job at issue in order to analyze the actual job duties ("essential functions") and determine the true purpose or object of the job.

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- B. The Board will then consult with the individual with a disability to find out his/her specific physical or mental abilities and limitations as they relate to the essential job functions. This will help the parties to identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
- C. In consultation with the individual, the Board will identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- D. If the parties are still not able to identify an appropriate accommodation, the Board will seek technical assistance.
- E. If there are several effective accommodations, the Board will select the accommodation that best serves the needs of the individual and the Board. While the Board will give the individual with a disability's preference first consideration, the Board may choose among effective accommodations and select the accommodation that is less expensive or easier to provide. The Board may consider the cost, efficiency and availability of the alternative accommodations in selecting an effective accommodation. The Board does not have the obligation to provide the "best" accommodation possible, so long as it provides an accommodation that is sufficient to meet the job-related needs of the individual being accommodated.

The Board will not implement an accommodation without first checking with the employee since the employee may not need or want an accommodation, or the unrequested accommodation may not meet the employee's functional limitation. The Board will respect an individual with a disability's right not to accept an accommodation if s/he has not requested it and does not feel one is necessary. However, if this results in the individual failing to perform essential functions of his/her position, s/he may be considered unqualified to perform the essential functions of the position and may either be refused employment or discharged.

The Board may decline to provide desired accommodations if it determines such accommodations will result in an undue hardship or a direct threat. An undue hardship entails a significant difficulty or expense in, or resulting from, the provision of the accommodation. Such hardship is not limited to financial difficulty but rather encompasses any accommodation that would be unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the program. If the cost of an accommodation would impose an undue hardship, the Board will give the individual with the disability the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation. Further, the Board will not consider employee morale or the attitudes of others when determining undue hardship.

Decisions not to provide a requested accommodation will be in writing and accompanied by an explanation of the decision not to act.

Reasonable accommodations may include:

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- A. Making facilities used by employees readily accessible to and usable by individuals with disabilities.
- B. Job restructuring, part-time or modified work schedule, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

Factors to be considered when determining whether an accommodation would impose an undue hardship on the operation of the Board's program or activity include:

- A. the overall size of the Board's program or activity with respect to number of employees, number and type of facilities, and size of budget;
- B. the type of the Board's operation, including the composition and structure of the Board's workforce; and
- C. the nature and cost of the accommodation needed.

Employment Criteria

The Board will not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the Board, is job-related for the position in question and consistent with business necessity.

The Board will select and administer tests concerning employment so that when administered to an applicant or employee who has a disability that impairs sensory, manual or communications skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test measures, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills except where those skills are the factors that the test measures.

Pre-employment Inquiries

Except as authorized by law, the Board will not conduct a pre-employment medical examination or make pre-employment inquiry of an applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability. The Board will, however, make pre-employment inquiry into an applicant's ability to perform the position's essential functions - this includes requesting the applicant to describe or demonstrate how s/he would perform the essential functions.

The Board may give a physical agility test at any point in the application or employment process if the test(s) measure ability to perform one or more essential functions of the position with reasonable accommodation. When the Board decides to give such a test it must give the test to all similarly situated applicants or employees regardless of disability.

Some examples of alternative test formats and reasonable accommodations are:

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- A. allowing people with certain learning or dexterity disabilities to take extra time on a test;
- B. assuring the test site is accessible to a person with a mobility impairment;
- C. allowing a person with a mental disability who cannot perform well with distractions to take a test in a separate room, if a group test setting is not relevant to the performance of an essential function of the position; and
- D. providing Braille, large print, a reader or a computer for people with vision impairments.

If the Board conditions an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, the Board will:

- A. subject all entering employees to such an examination regardless of disability, and
- B. the results of the examination will be used only as authorized by law.

The successful candidate who is required to submit to a medical examination, as well as the medical provider that is designated by the Board to conduct the examination, will be directed not to collect or provide any genetic information, including the candidate's medical history, in the report of the medical examination.

Information obtained as to the medical condition of the applicant, including any inadvertently provided genetic information, will be collected and maintained on separate forms that shall be filed separately from other personnel file information and accorded confidentiality as medical records, except that:

- A. supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities and regarding necessary accommodations;
- B. first aid and safety personnel may be informed where appropriate, if the condition might require emergency treatment; and
- C. government officials investigating compliance with the ADA as amended, Section 504, the Genetic Information Nondiscrimination Act ("GINA"), or similar Indiana laws or local ordinances shall be provided relevant information upon request.

Interviews

All of the topics labeled off-limits with respect to job applications are likewise prohibited as subjects of inquiry during job interviews. The Board's agents, however, may ask questions that relate to an applicant's

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ability to perform job-related functions so long as it does not phrase the questions in terms of disability. The interviewer may ask about an applicant's ability to perform both essential and marginal job functions. In addition, the interviewer may describe or demonstrate job function(s) and inquire whether or not the applicant can perform that function(s) with or without reasonable accommodation. Along the same lines, the interviewer may ask the applicant to describe or demonstrate how, with or without reasonable accommodation, s/he will perform the job-related functions. Any questions concerning the need for reasonable accommodation should always be linked with performance on a specific job function. The interviewer should never ask an open-ended question such as "Will you need a reasonable accommodation?"

Interviews are to focus their inquiry on **how** applicants will perform the essential functions, rather than on eliciting information about the applicant's physical or mental condition.

According to the Federal Equal Employment Opportunity Commission ("EEOC"), the following are examples of questions that **cannot** be asked on a job application or during an interview:

- A. Have you ever had or been treated for any of the following conditions or diseases?
- B. Please list any conditions or diseases for which you have been treated in the past three (3) years.
- C. Have you ever been hospitalized? If so, for what condition?
- D. Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?
- E. Have you ever been treated for any mental condition?
- F. Is there any health-related reason you may not be able to perform the job for which you are applying?
- G. Have you had a major illness in the last five (5) years?
- H. How many days were you absent from work because of illness last year (unless consistent reliable attendance on scheduled work days is a qualification standard for the position)?
- I. Do you have any physical defects that preclude you from performing certain kinds of work? If yes, describe such defects and specific work limitations?
- J. Do you have any disabilities or impairments that may affect your performance in the position for which you are applying?

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- K. Are you taking prescribed drugs?
- L. Have you ever been treated for drug addiction or alcoholism?
- M. Have you ever filed for workers' compensation insurance?

Interviewers should not ask an applicant's employment or personal reference questions about an applicant that they could not ask the applicant himself/herself (i.e. previous employers cannot be asked about a former employee's disabilities, illness or workers' compensation history/claims).

The following are pre-employment questions that **can** be asked:

- A. Can you meet the requirements of our attendance policy which requires _____?
- B. The essential functions of the position of _____ (job title) are _____ (list). Can you perform these essential functions of this position with or without an accommodation?
- C. Describe or demonstrate how you would perform this function, with or without an accommodation? (Such a question can be asked of applicants who have an observable impairment (e.g. confined to a wheelchair) that might prevent them from performing a job function. If the disability would not interfere with a job function, however, the person could only be asked to demonstrate job performance if all other candidates must do so.)

If an applicant indicates s/he has performed a particular function with an accommodation, the interviewer may follow-up to inquire about it.

In circumstances in which a committee of other employees, parents, students, or community members participate in interviewing an applicant for employment, transfer, or promotion, the Board's senior administrator participating in the interview shall advise the member of the committee of the nature of impermissible and permitted questions that can be asked of an applicant.

Approved 7/9/12

1623B - SECTION 504/ADA - COMPLAINT PROCEDURES RELATED TO DISABILITY DISCRIMINATION IN EMPLOYMENT

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

The following person(s) is/are designated as the Corporation's Section 504/ADA Compliance Officer(s) ("Corporation's Compliance Officer(s)"):

Assistant Superintendent/Director of Curriculum

1300 North Main Street (address)

(574) 773-3131 (phone number)

(574) 773-5593 (facsimile number)

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a Corporation Compliance Officer within the time limits specified below. The Corporation's Compliance Officer is available to assist individuals in filing a complaint.

Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the Corporation Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the Corporation Compliance Officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail

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to inform the Corporation Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the Corporation Compliance Officer for good cause.

- C. The Corporation Compliance Officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The Corporation Compliance Officer will provide the complainant with a written disposition of the complaint within ten (10) workdays. If no decision is rendered within ten (10) workdays, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The Corporation Compliance Officer shall maintain the Corporation's files and records relating to the complaint.

- D. The Superintendent will, within ten (10) workdays of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) workdays of the hearing.

- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case in the appropriate Federal District Court. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

OCR Complaint

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the Americans with Disabilities Act, as amended ("ADA"), the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Citigroup Center, 500 W. Madison Street, Suite 1475

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Chicago, IL 60661

312-730-1560

Fax: 312-730-1576

TDD: 877-521-2172

E-mail: OCR.Chicago@ed.gov

Web: <http://www.ed.gov/ocr>

Prohibition Against Retaliation

The Board will not discriminate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADA, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADA.

Approved 7/9/12

1630.01 - FMLA LEAVE

Definitions Applicable to FMLA Leave

The term "child" (i.e., son or daughter) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and "incapable of self-care" because of a mental or physical disability (as defined by the Americans with Disabilities Act (ADA), as amended) at the time the FMLA leave is to commence.

The term "incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three (3) or more of the "activities of daily living" (ADLs) (e.g., caring appropriately for one's grooming and hygiene, bathing, dressing, eating) or "instrumental activities of daily living" (IADLs) (e.g., cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.).

An employee is "unable to perform the functions of his/her position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position. Additionally, an employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

Leave for Adoption or Foster Care

Eligible employees may take FMLA leave before the actual placement or adoption of a child if an absence from work is required for the placement or foster care to proceed. Permissible absences include, but are not limited to, the employee attending a required counseling session, appearing in court, consulting with his/her attorney or the doctor(s) representing the birth parent, submitting to physical examinations, or traveling to another country to complete an adoption.

Military Family Leave Entitlements

A. Military Caregiver Leave

Eligible employees may take up to twenty-six (26) weeks of unpaid FMLA leave, in a "single twelve (12) month period," to care for a covered service member with a serious injury or illness. The "single twelve (12) month period" begins on the first day the eligible employee takes Military Caregiver Leave and ends twelve (12) months after that date. If the employee does not use his/her entire twenty-six (26) work weeks leave entitlement during the "single twelve (12) month period" of leave, the remaining work weeks of leave are forfeited.

For purposes of Military Caregiver Leave, the covered service member may be a (1) current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment,

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recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, or (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) and was discharged or released under conditions other than dishonorable at any time during the period of five (5) years prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. For an individual who was a member of the Armed Forces and who was discharged or released under conditions other than dishonorable prior to March 8, 2013, the period between October 28, 2009, and March 8, 2013, shall not count towards the determination of the five-year period for covered veteran status.

Serious injury or illness for purposes of Military Caregiver Leave is defined as an injury or illness incurred by a covered service member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the covered service member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of his/her office, grade, rank, or rating.

In the case of a veteran, a serious injury or illness means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran and is (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of fifty percent (50%) or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

The term "son or daughter of a covered service member" means a covered service member's biological, adopted, or foster child, stepchild, legal ward, or child for whom the service member stood in loco parentis, and who is of any

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age. Similarly, the term "parent of a covered service member" means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. (The term does not include parents "in-law.")

The term "next of kin" means the service member's nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins; unless the covered service member has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of Military Caregiver Leave under the FMLA, in which case the designated individual shall be deemed to be the covered service member's next of kin. All family members sharing the closest level of familial relationship to the covered service member are considered the covered service member's next of kin, unless the covered service member has specifically designated an individual as his/her next of kin for Military Caregiver Leave purposes. While an eligible employee may care for more than one (1) seriously injured or ill covered service member at the same time, the employee may not take more than twenty-six (26) work weeks of leave during each "single twelve (12) month period."

Military Caregiver Leave is a "per-service member, per-injury" entitlement. Therefore, an eligible employee may take twenty-six (26) work weeks of leave to care for one (1) covered service member in a "single twelve (12) month period," and then take another twenty-six (26) work weeks of leave in a different "single twelve (12) month period" to care for another covered service member or to care for the same service member with a subsequent serious injury or illness (e.g., if the service member is returned to active duty and suffers another injury). Additionally, an eligible employee could take FMLA leave, after the end of the "single twelve (12) month period" for Military Caregiver Leave, to care for a covered service member if the member is a qualifying family member under non-military FMLA and s/he has a serious health condition.

B. Qualifying Exigency Leave

Eligible employees may take up to twelve (12) weeks of unpaid FMLA leave for any of the following qualifying exigencies that are related to the fact that the employee's spouse, son, daughter or parent is on covered active duty or call to covered active duty status, or has been notified of an impending call or order to covered active duty in the Armed Forces:

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1. Issues arising from a qualifying family member's short-notice deployment (i.e., deployment on seven (7) or less calendar days of notice) for a period of seven (7) days from the date of notification.
2. Military events and related activities, such as official ceremonies, programs, or events sponsored by the military, or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross related to a qualifying family member's covered active duty or call to covered active duty status.
3. Certain childcare and related activities arising from a qualifying family member's covered active duty or call to covered active duty status, such as arranging for alternative childcare, providing childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis), enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member (this does not include providing child care on a routine, regular or everyday basis).
4. Making or updating financial and legal arrangements to address a qualifying family member's absence (e.g., preparing and executing financial and healthcare power of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System, obtaining military identification cards, or preparing or updating a will or living trust) and acting as the military member's representative before a Federal, State, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status, and for a period of ninety (90) days following the termination of the military member's covered active duty status.
5. Attending counseling provided by someone other than a healthcare provider for oneself, the qualifying family member, or the child of the qualifying family member, the need for which arises from the qualifying family member's covered active duty or call to covered active duty status. The child must be the military member's biological, adopted, or foster child, stepchild, legal ward or child for whom the military members stands in loco parentis, who is either under eighteen (18) years of age or eighteen (18) years of age or

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older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

6. Taking up to fifteen (15) days of leave to spend time with a qualifying family member who is on short-term, temporary, rest and recuperation leave during the deployment.
7. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) days following the termination of the qualifying family member's covered active duty status, and addressing issues arising from the death of a qualifying family member.
8. Providing parental care for a parent of a military member who is incapable of self-care and is the military member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member when the member was under eighteen (18) years of age. "Incapable of self-care" means the parent requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living (includes adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating) or instrumental activities of daily living (includes cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.). Parental care includes (1) arranging for alternate care when the parent is incapable of self-care and the covered active duty or call to covered active duty status necessitates a change in the existing care arrangement for the parent; (2) providing care on an urgent, immediate need basis (but not on a routine, regular or everyday basis) when the parent is incapable of self-care and the need to provide such care arises from covered active duty or call to covered active duty status; (3) admitting or transferring to a care facility a parent when admittance or transfer is necessitated by the covered active duty or call to covered active duty status; and (4) attending meetings with staff at a care facility, such as meetings with hospice or social service providers for a parent when such meetings are necessary due to circumstances arising from the covered active duty or call to covered active duty status but not for regular or routine meetings.
9. Any other event that the employee and the Board agree is a qualifying exigency.

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The term "qualifying family member" for purposes of Qualified Exigency Leave means a staff member's spouse, son, daughter or parent.

The term "covered active duty" or "call to covered active duty status" for purposes of Qualified Exigency Leave means duty for a member of the Regular Armed Forces during deployment of the member with the Armed Forces to a foreign country, and, in the case of a member of the Reserve components of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to Sections 688, 12301(a), 12302, 12304, 12305, 12406, or Chapter 15 of Title 10 of the United States Code or any other provision of law during a war or during a national emergency declared by the President or Congress as long as it is in support of a contingency operation.

The term "son or daughter" means the employee's biological, adopted, or foster child, stepchild, legal ward, or child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age. Similarly, the term "parent" means a biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. (The term does not include "parents in-law.")

Employee Request for FMLA Leave

While eligible employees are not required to expressly request unpaid FMLA leave, it is requested that eligible employees who seek an unpaid FMLA leave for any of the approved reasons complete and submit to the Superintendent a written request for FMLA leave.

Employee Certifications

Eligible employees who apply for FMLA leave to care for an immediate family member must submit DOL Form (WH-380-F; "Certification of Health Care Provider for Family Member's Serious Health Condition").

Eligible employees who apply for FMLA leave for the employee's own serious health condition must submit DOL Form (WH-380-E; "Certification of Health Care Provider for Employee's Serious Health Condition").

Eligible employees who apply for Military Caregiver Leave must submit DOL Form (WH-385; "Certification for Serious Injury or Illness of Covered Service Member – for Military Family Leave" or WH-385-V, "Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave). The form may be completed by a Department of Defense (DOD) health care provider, Veterans Affairs health care provider, a DOD TRICARE network authorized private health care provider, a DOD non-network TRICARE authorized private health care provider, or any health care provider as defined by 29 C.F.R. 825.125.

Additionally, with respect to Military Caregiver Leave, the Corporation will accept the submission of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA), in lieu of the DOL Form, for the

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time period specified in the ITO or ITA. The ITO or ITA submitted by the employee need not list the employee as the named recipient of the ITO/ITA, provided the employee is the spouse, parent, son, daughter or next of kin of the covered service member. If the covered service member's need for care extends beyond the expiration date specified in the ITO or ITA, the employee is responsible for submitting the DOL Form for the remainder of the employee's leave period. The Corporation will also accept, with respect to Military Caregiver Leave, documentation indicating the service member's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, regardless of whether the employee is the named caregiver in the documentation. Employees are advised that the Superintendent may seek authentication and clarification of such documentation, and may require an employee to provide confirmation of covered family relationship to the seriously injured or ill service member and documentation showing that the discharge was other than dishonorable and the date of the veteran's discharge.

It is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to the Board to support the employee's FMLA request.

In all instances in which certification is requested, it is the employee's responsibility to provide the Board with complete and sufficient certification, and failure to do so may result in denial of FMLA leave.

Eligible employees who apply for any of the three (3) preceding types of FMLA leave must also execute and provide to his/her health care provider a HIPAA-compliant release form.

If the Superintendent deems a medical certification to be incomplete or insufficient, the Superintendent shall notify the employee, in writing, what information is lacking, and the employee will have seven (7) calendar days to cure the deficiency. The Superintendent (i.e., the Board's health care provider, human resource professional, leave administrator, or other management official, but not the employee's direct supervisor) may contact the certifying health care provider for clarification concerning or to authenticate the content of a medical certification. The representative, however, shall not ask the health care provider for additional information beyond that required by the certification form.

Eligible employees who apply for FMLA leave for Qualifying Exigency Leave must submit DOL Form WH-384; "Certification of Qualifying Exigency for Military Family Leave". Specifically, the first time the employee requests Qualifying Exigency Leave, the employee must provide a copy of the qualifying family member's covered active duty orders or other documentation issued by the military that indicates that the qualifying family member is on covered active duty or call to covered active duty status, and the dates of the qualifying family member's covered active duty service. Additionally, each time that the employee requests leave for one of the above-listed qualifying exigencies, the employee must certify the exigency necessitating leave. Such certification supporting leave for a qualifying exigency includes:

- appropriate facts supporting the need for leave, including any available written documentation supporting the request and the type of qualifying exigency;

- the appropriate date on which the qualifying exigency commenced or will commence, and, if requested for a single, continuous period of time, the beginning and end dates for such absence;

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- where leave will be needed on an intermittent basis, an estimate of the frequency and duration of the qualifying exigency;

- appropriate contact information if the exigency involves meeting with a third party and a brief description of the purpose of the meeting; and if the qualifying exigency involves Rest and Recuperation leave, a copy of the military member's Rest and Recuperation orders or other documentation issued by the military that indicates the military member has been granted Rest and Recuperation leave and the dates of such leave.

Employees are advised that if the qualifying exigency involves a meeting with a third party, the Superintendent may verify the schedule and purpose of the meeting with the third party. Also, the Superintendent may contact the appropriate unit of the Department of Defense to confirm that the qualifying family member is on covered active duty or call to covered active duty status.

All of the certifications identified above must be submitted by the employee within fifteen (15) calendar days after the Corporation provides the employee with the applicable DOL Form unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. An employee may not be held liable for administrative delays in the issuance of military documents, despite the employee's diligent, good faith efforts to obtain such documents.

Light Duty

Time spent performing "light duty" work does not count against an employee's FMLA leave entitlement.

Corporation Notices to Employee (Forms are available on the U.S. Department of Labor Website: www.dol.gov)

If the information included in the Employees Rights and Responsibilities Notice changes, the Superintendent will inform the employee of such changes within five (5) business days of receipt of the employee's first notice of the need for FMLA leave subsequent to any change. The Business Manager is charged with responsibly answering questions from employees concerning their rights and responsibilities.

If it is not possible to provide the number of hours, days or weeks that will be counted as FMLA leave (e.g., where the leave will be unscheduled), the Superintendent will provide this information upon request by the employee, but no more often than every thirty (30) days and only if leave was taken during the period. The notice of the amount of leave counted against the employee's FMLA entitlement may be oral or in writing. If such notice is oral, it shall be confirmed in writing, no later than the following payday that is at least one (1) week after the oral notice. Such notice may be in any form, including a notation on the employee's pay stub.

FMLA Leave and Mandatory Overtime

Employees with proper medical certification may use FMLA leave in lieu of working required overtime hours. Thus, hours that an employee would have been required to work but for the taking of FMLA leave will be counted against the employee's FMLA entitlement.

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Calculating the Amount of FMLA Leave Used by an Employee

For purposes of determining the amount of FMLA leave used by an employee, the fact that a holiday may occur within the work week taken as FMLA has no effect; the week is counted as a week of FMLA leave. If, however, the employee is using FMLA leave in increments of less than one (1) week, the holiday will not count against the employee's FMLA leave entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Similarly, when an employee is not scheduled to work during winter, spring or summer vacation (i.e., during a period when some or all employees are not expected to work for one (1) or more weeks), the days the employee is not scheduled to work shall not count against the employee's FMLA leave entitlement.

When an employee takes FMLA leave on an intermittent or reduced schedule leave basis, the leave shall be accounted for by using an increment no greater than the shortest period of time that the Corporation uses to account for use of other forms of leave provided that it is not greater than one (1) hour and provided that the employee's FMLA leave entitlement is not reduced by more than the amount of leave actually taken.

Maintenance of Employee Benefits

The same group health plan benefits provided to an employee prior to taking FMLA leave shall be maintained during the FMLA leave (e.g., if family member coverage is provided to an employee, family member coverage shall be maintained during the FMLA leave). Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., shall be maintained during leave if provided in the Corporation's group health plan, including a supplement to a group plan.

If an employee chooses not to retain group health plan coverage during FMLA leave, the employee will be reinstated, upon return from leave, on the same terms as prior to taking the leave, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc.

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1630.01B - FMLA RECORDKEEPING REQUIREMENTS

The Business Manager is responsible for making, keeping, and preserving all relevant records pertaining to the School Board's obligations under the FMLA in accordance with the recordkeeping requirements of Section 11(c) of the Fair Labor Standards Act (FLSA) and in accordance with the final regulations applicable to the FMLA. Specifically, the Business Manager is charged with keeping/preserving the records identified below in accordance with the Corporation's Records Retention Schedule (see AG [8310A](#)), and under no circumstances shall said records be kept for less than three (3) years. The records shall be available for inspection, copying, and transcription by representatives of the Department of Labor upon request.

The Business Manager shall maintain records that disclose the following:

- A. Basic payroll and identifying employee data, including name, address, and occupation; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; and total compensation paid.
- B. Dates FMLA leave is taken by FMLA eligible employees (e.g., available from time records, requests for leave, etc., if so designated). Leave must be designated in records as FMLA leave; leave so designated may not include leave required under State law or a Board plan which is not also covered by FMLA.
- C. If FMLA leave is taken by eligible employees in increments of less than one (1) full day, the hours of the leave.
- D. Copies of employee notices of leave furnished to the Corporation under FMLA, if in writing, and copies of all written notices given to employees as required under the FMLA and its implementing regulations (see 29 C.F.R. Section 825.300(b) through (c)). Copies may be maintained in employee personnel files.
- E. Any documents (including written and electronic records) describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves.
- F. Premium payments of employee benefits.
- G. Records of any dispute between the Corporation and an eligible employee regarding designation of leave as FMLA leave, including any written

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statement from the Superintendent or employee of the reasons for the designation and for the disagreement.

Records and documents relating to certifications, recertifications or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Genetic Information Nondiscrimination Act of 2008 (GINA) is applicable, records and documents created for purposes of FMLA leave containing family medical history or genetic information as defined by GINA shall be maintained in accordance with the confidentiality requirements of Title II of GINA (29 C.F.R. 1635.9), which allow for disclosure consistent with FMLA requirements. If the ADA, as amended, is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements (see 29 C.F.R. 1630.14(c)(1)), except that:

- A. supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;
- B. first aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and
- C. government officials investigating compliance with FMLA (or other pertinent laws) shall be provided relevant information upon request.

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1662 - ANTI-HARASSMENT

These administrative guidelines are established to assist in the proper implementation of Policy [1662](#).

Notice of the School Board's anti-harassment policy and the identity of the Compliance Officers shall be posted throughout the School Corporation and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy and on the Corporation website.

Prohibited Behavior

- A. Conduct constituting sexual harassment may take different forms, including, but not limited to, the following:

1. **Verbal:**

The making of offensive written or oral sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats, or propositions toward or by a fellow staff member, student, or other person associated with the Corporation, or third parties.

2. **Nonverbal:**

Causing the placement of offensive sexually suggestive objects, pictures, or graphic commentaries in the school environment or the making of offensive sexually suggestive or insulting gestures, sounds, leering, whistling, and the like to or by a fellow staff member, student, or other person associated with the Corporation, or third parties.

3. **Physical Contact:**

Threatening or causing unwanted touching, contact, or attempts at same, including patting, pinching, brushing the body, or coerced sexual activity with or by a fellow staff member, student, or other person associated with the Corporation, or third parties. With respect to students, the question of whether or not physical contact is unwanted or consensual is irrelevant where such contact is

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engaged in by Corporation employees or other adult members of the Corporation community.

- B. Conduct constituting harassment on the basis of race, color, national origin, religion, disability, or genetic information may take different forms, including, but not limited to, the following:

1. **Verbal:**

The making of offensive written or oral innuendoes, comments, jokes, insults, threats, or disparaging remarks concerning a person's race, color, national origin, religious beliefs, disability, or genetic information.

2. **Nonverbal:**

Placing offensive objects, pictures, or graphic commentaries in the school environment or making insulting or threatening gestures based upon a person's race, color, national origin, religious beliefs, disability, or genetic information.

3. **Physical:**

Any intimidating or disparaging action such as hitting, pushing, shoving, hissing, or spitting on or by a fellow staff member, student, or other person associated with the Corporation, or third parties, based upon the person's race, color, national origin, religious beliefs, disability, or genetic information.

- C. Examples of inappropriate boundary invasions include, but are not limited to the following:

1. hugging, kissing, or other physical contact with a student

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2. telling sexual jokes to students
3. engaging in talk containing sexual innuendo or banter with students
4. talking about sexual topics that are not related to curriculum
5. showing pornography to a student
6. taking an undue interest in a student (i.e. having a "special friend" or a "special relationship")
7. initiating or extending contact with students beyond the school day for personal purposes
8. using e-mail, text-messaging, websites, or other social media services to discuss personal topics or interests with students
9. giving students rides in the staff member's personal vehicle or taking students on personal outings without administrative approval
10. invading a student's privacy (e.g. walking in on the student in the bathroom, locker-room, asking about bra sizes or previous sexual experiences)
11. going to a student's home for non-educational purposes
12. inviting students to the staff member's home without proper chaperones (i.e. another staff member or parent of student)
13. giving gifts or money to a student for no legitimate educational purpose

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14. accepting gifts or money from a student for no legitimate educational purpose
15. being overly "touchy" with students
16. favoring certain students by inviting them to come to the classroom at non-class times
17. getting a student out of class to visit with the staff member
18. providing advice to or counseling a student regarding a personal problem (i.e. problems related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc.), unless properly licensed and authorized to do so
19. talking to a student about problems that would normally be discussed with adults (i.e. marital issues)
20. being alone with a student behind closed doors without a legitimate educational purpose
21. telling a student "secrets" and having "secrets" with a student
22. other similar activities or behavior.

Investigation and Complaint Procedures (See [Form 1662 F1](#))

In determining whether alleged conduct constitutes a violation of Policy [1662](#), the following factors will be considered:

- A. the nature of the behavior;

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- B. how often the conduct occurred;
- C. whether there were past incidents or past continuing patterns of behavior;
- D. the relationship between the parties involved;
- E. the race, color, national origin, sex, religion, age and/or disability of the victim, and in case of genetic information harassment, the genetic information of the employee victim;
- F. the identity of the perpetrator, including whether the perpetrator was in a position of power over the person allegedly subjected to harassment;
- G. the number of alleged harasser(s);
- H. the age of the alleged harasser(s);
- I. where the harassment occurred;
- J. whether there have been other incidents in the school involving the same or other individuals;
- K. whether the conduct adversely affected the person's work or education performance or environment;
- L. the context in which the alleged incidents occurred; and
- M. whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment to the United States Constitution.

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Whether a particular action or incident constitutes a violation of Policy [1662](#) requires a determination based on all the facts and surrounding circumstances.

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1662A - REPORTING THREATENING AND/OR INTIMIDATING BEHAVIORS

Threatening or intimidating behavior may take different forms, including but not limited to the following:

- A. face-to-face encounters in which words are used that indicate to the staff member that his/her safety and well-being are in jeopardy
- B. written communications that include comments toward the staff member or his/her family which are disparaging or imply or state explicitly that the staff member and/or his/her family may be subject to some form of physical or psychological abuse or violence
- C. written or spoken comments to a staff member which could subject him/her to blackmail or extortion
- D. written or spoken communication that implies or explicitly states that some form of damage may be done to the staff member's property or that of his/her family
- E. written or spoken communication that causes a dwelling, a building, another structure, or a vehicle to be evacuated

Any staff member who believes that s/he is the victim of any of the above actions or has observed such actions taken by a student, parent, fellow staff member, supervisor, co-worker, or other person associated with the Corporation such as a vendor, contractor, volunteer, or school official should promptly take the following steps:

- A. If the alleged threatener is the staff member's principal or a member of the central office staff, the affected employee should, as soon as possible after the incident, contact the Superintendent.
- B. If the alleged threatener is not the staff member's principal or a member of the central office staff, the affected staff member should, as soon as possible after the incident, contact his/her principal.
- C. The principal or Superintendent who has received the report of alleged threat or intimidation shall immediately make an oral report to the local law enforcement agency.

The staff member reporting the incident to the principal or the Superintendent should provide the name of the person(s) whom s/he believes to be responsible for the harassment and the nature of the harassing incident(s). A written summary of each such report is to be prepared promptly by the principal or Superintendent receiving the report, and the principal shall forward it to the Office of the Superintendent.

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Each report received by the principal or the Superintendent, shall be investigated in a timely and confidential manner. While a charge is under investigation, no information is to be released to anyone who is not involved with the investigation, except as may be required by law or in the context of a legal or administrative proceeding. No one involved is to discuss the subject outside of the investigation.

The purpose of this provision is to:

- A. protect the confidentiality of the staff member who files a complaint;
- B. encourage the reporting of any incidents of threats or intimidation;
- C. protect the reputation of any party wrongfully charged with threatening or intimidating conduct.

Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. All staff members and others involved are to be protected from coercion, intimidation, retaliation, or discrimination for filing a complaint or assisting in an investigation.

If the investigation reveals that the complaint is valid, then prompt, appropriate, remedial and/or disciplinary action will be taken to prevent the continuance of the threat or its recurrence.

The Corporation recognizes that determining whether a particular action or incident is a threat must be based on all of the facts in the matter. Given the nature of this type of intimidation, the Corporation recognizes that false accusations of a threat can have serious effects on innocent individuals. Accordingly, all staff members are expected to act responsibly, honestly, and with the utmost candor whenever they present threat allegations or charges against fellow staff members, students, or others associated with the Corporation.

Approved 2/23/15