

Wa-Nee Community Schools
Administrative Guidelines
Series 4000
Support Staff

4000 - SUPPORT STAFF

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4111A - CREATING A POSITION

The School Board has reserved the right in its discretion to create new positions and specify the number of employees in each category. In compliance with that policy, the Board has adopted the following guidelines for the creation of a Corporation position:

- A. A job description will be prepared for each new position being considered.
- B. Documentation will be made of the need for the new position or an increase in the number of employees in an existing category of work.
- C. Full time positions will be presented to the Board by the Superintendent with a recommendation for approval.
- D. No person may be employed to fill the position until Board approval is obtained.

4111B - VERIFICATION OF EMPLOYMENT ELIGIBILITY

In order to comply with Federal law the following verification of employment eligibility procedures will apply:

Completion of Form I-9

Form I-9 must be completed within three (3) business days of the date of the hire. If an individual is employed for less than three (3) days, the form must be completed before the end of the employee's first working day.

The following individuals **do not need** to complete Form I-9:

- A. persons hired before November 7, 1986
- B. persons who are employed by a contractor providing contract services
- C. persons who are independent contractors

The payroll clerk is also responsible for reverifying employment eligibility of employees whose employment eligibility documents carry an expiration date.

Retention of Employment Eligibility Verification Form (Form I-9)

The payroll clerk must retain Form I-9 for three (3) years or for one (1) year past the end of the employment of the individual, whichever is longer. Such forms will be retained in a separate file and shall be considered to be confidential and used only for employment eligibility verification purposes.

Preparation of Documents for Inspection

U.S. Immigration and Naturalization Service (INS) or Department of Labor (DOL) Officers are required to give employers three (3) days advance notice before an inspection. The payroll clerk will assemble the I-9 forms in preparation for the inspection. Failure to provide the I-9 forms could result in civil monetary penalties for each employee for whom the form was not completed, retained, or presented.

Retention of Employee Identification and Social Security Number

The Board will retain a photo copy of either the employee's driver's license or passport showing the employee's identity and valid social security number.

P.L. 99-603
Immigration Reform and Control Act of 1986

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4120 - EMPLOYMENT OF SUPPORT STAFF

The following guidelines are established for the interviewing and screening of employee candidates:

- A. Where specific openings exist in positions that could afford present employees an opportunity to be upgraded, such notice shall be posted in the schools of this Corporation.
- B. Applications are to be made in writing to the Superintendent's office.
- C. Checking of credentials may include direct telephone calls to immediate supervisors of the person being considered.
- D. Applicants may be granted an interview if their credentials indicate they meet the criteria for the position.
- E. Terms of employment shall be made known to the candidate at the time of the interview.

In selecting personnel to fill established positions, the Superintendent shall be responsible for selecting the person best qualified to fill each position in accordance with position specifications established by the Board.

Revised 11/6/07

4120C - PRE-EMPLOYMENT INTERVIEW QUESTIONS

Asking an applicant questions prohibited by the Equal Employment Opportunity Act during pre-employment interviews could open the door for a job candidate to take legal action against the District. The following guideline outlines the questions that are appropriate and those that should be avoided.

YOU CANNOT ASK:

- A. any question that would indicate race or color;
- B. any question that would indicate gender, unless job-related;
- C. applicant's religion or religious customs and holidays; recommendations from church officials;
- D. if applicant, spouse, or parents are native-born or naturalized; date of citizenship; or for other proof of citizenship before hiring;

(Proof of citizenship required on I-9 form)

- E. marital status before hiring, the number and age of children, who cares for them, and if applicant plans to have more;
- F. to see military service records, about military service with any country other than U.S.;
- G. nationality, racial, or religious affiliation of school attended;
- H. how foreign language ability was acquired;
- I. inquiries about arrests, (as contrasted with convictions), except pending charges (see below at F.);
- J. listing of all clubs to which the applicant belongs or has belonged;
- K. that a candidate provide a photograph before hiring or that one be taken during an interview;
- L. height and weight or physical/mental characteristics which do not relate directly to the job specifications (see AG 3211);
- M. whether applicant lives with a disabled individual (whether related or not);
- N. whether applicant plans to marry or plans to have a family;
- O. whether applicant has any military obligations.

YOU CAN ASK:

- A. for applicant's current and previous address; phone number;
- B. whether applicant is eighteen (18) years of age or older;
- C. whether the applicant is lawfully authorized to work in the United States;

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- D. if applicant has served in the U.S. armed forces including branch of service and rank attained; job-related experience acquired in the military;
- E. academic, professional, or vocational school attended; language skills such as reading and writing, foreign languages, grades, degrees, majors, etc.;
- F. criminal convictions; any pending felony charges; any misdemeanor charge related to sexual conduct or assault or abuse of a child;
- G. personal and professional and other work references not relating to race, color, religion, gender, national origin, or ancestry;
- H. professional and social organization membership, so long as affiliation does not identify and is not used to discriminate on the basis of gender, race, national origin, or ancestry;
- I. willingness to perform job functions;
- J. willingness to work required work schedule and under prescribed working conditions.

AFTER HIRING, YOU MAY OBTAIN:

- A. marital status and number/age of dependents for insurance and tax purposes;
 - B. proof of age;
 - C. status of citizenship (I-9 Form);
 - D. race, if done pursuant to required or approved affirmative action plan and maintained separately from applicant file;
- E. a copy of military discharge certificate.

4120D - CHECKING REFERENCES OF APPLICANTS

The following procedure is to be used when conducting a check of references submitted by an applicant:

- A. Prior to any investigation, the applicant is to sign a waiver and a release granting the Corporation permission to contact any person listed as a reference as well as any other person who may be familiar with the applicant's previous job performance or suitability for employment.
- B. Review the references with the applicant to ensure that those submitted are people with whom the applicant has worked on a regular basis either in a job setting or an academic setting or both. Make sure the references have worked with the applicant within the last three (3) to five (5) years. Determine from the reference if other people who worked with the applicant are available to provide information concerning suitability for the job.
- C. Make telephone (not mail) contact with at least three (3) references particularly if there is discrepant information from the first two.
- D. Prior to contacting the reference, review AG [4120C](#) regarding questions not to ask.
- E. Confine questions to the applicant's suitability for employment work performance, including interpersonal skills. Ask "would you hire _____ again?" or "would you want to work with _____ again?". Ask the reference to give specific examples of what the applicant did well and/or to rate the applicant on various aspects of the job for which the person is applying.
- F. Take notes of each reference contact, including time and date of the call and the reference's name and position. Maintain a written summary of the comments for later use.

4121 - PERSONAL BACKGROUND CHECK

Background Checks of Candidates for Employment

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 4120, a criminal history record check must be conducted. The Corporation Receptionist will be responsible for ensuring that the candidate completes Form 4121 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 present 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.

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

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- 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
- 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 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).

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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.
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.
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.

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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 a support staff employee 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 support staff employee who was arrested or charged, convicted or the subject of a substantiated report of child abuse or neglect.

Revised 1/05
Revised 5/8/17
Revised 2/12/18

4121A - 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;
- 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;

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- 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
- 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.

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;
- 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.

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Approved 7/9/12
Revised 5/8/17
Revised 2/12/18

4122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

These administrative guidelines are established to assist in the proper implementation of Policy [4122](#) and Policy 4122.02.

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.

Revised 7/05

Revised 11/12/10

Revised 3/25/13

Revised 1/25/16

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4122C - COMPARATIVE ANALYSIS OF EMPLOYMENT RELATED PROVISIONS OF ADA AND SECTION 504

Issue	Section 504	ADA
Coverage	Covers only recipients of Federal funds	Covers all employers with 15 or more employees; adds 2-year exemption for employers with less than 25 employees
Definition of "Qualified Individual with Disability"	A disabled person who, with "reasonable" accommodation, can perform the essential functions of the job	An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position
Reasonable Accommodation	Reasonable Accommodation may include: making facilities used by employees readily accessible and usable by disabled persons job restructuring, part-time or modified work schedules No comparable provision acquisition or modification of equipment or devices	Reasonable Accommodation may include: making facilities readily accessible job restructuring, part-time or modified work schedules reassignment to a vacant position acquisition or modification of equipment or devices
Issue	Section 504	ADA
	No comparable provision	appropriate adjustment or modifications of

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		examinations, training materials or policies
	provision of readers or interpreters	provision of readers or interpreters
Undue Hardship	Factors considered: 1) size of the organization and its budget 2) type of operation 3) nature and cost of accommodation	Factors considered: 1) size of the organization and its budget 2) type of operation 3) nature and cost of accommodation
Drug and Alcohol Use	Current drug use is not considered a disability Current alcohol abuse that prevents individual from performing duties of the job or that constitutes direct threat to property or safety of others is not considered a disability	Current drug use is not considered a disability Current alcohol abuse that prevents individual from performing duties of the job or that constitutes direct threat to property or safety of others is not considered a disability
Communicable Diseases	Term "individual with disabilities" excludes any individual with a communicable disease which would constitute a direct threat to the health or safety of others or which renders the individual unable to perform the job	Permits qualification standard requiring that an individual with a currently-communicable disease or infection not pose a direct threat to the health or safety of others
Relationships or Associations	No comparable provision	Prohibits discrimination based on relationship to or association with another disability

4122.01 - DRUG-FREE WORKPLACE

These administrative guidelines are established to assist in the proper implementation of Board Policy 4122.01.

The Superintendent is directed to publish a statement notifying Corporation employees that:

- A. no employee may manufacture, distribute, dispense, possess, or use unlawfully any controlled substance, including any chemically similar substance, any alcohol, or any drug paraphernalia at any time while on Corporation property or while involved in any Corporation-related activity or event;
- B. any employee who violates the Corporation's Drug-Free Workplace Policy 4122.01 shall be subject to disciplinary action in accordance with Corporation policies and administrative guidelines

It shall not be a violation of Corporation policy for an employee to possess or use a controlled substance if the drug is in its original container and is taken strictly as prescribed by a licensed physician or other medical professional having the power to prescribe medications pursuant to a current prescription written for that employee.

The Superintendent is directed to make a good faith effort to continue to maintain a safe environment in all of the Corporation's schools through the implementation of these administrative guidelines.

The Superintendent is directed to establish a Safe School Committee for the entire Corporation, the composition of which shall be in accordance with the Superintendent's guidelines.

Each committee must consist of not more than fifteen (15) members who represent the following:

- A. school personnel
- B. parents of students and
- C. representatives of the community

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Appointments to the committee must be made in compliance with contractual provisions (if any), discussion procedures, or past practice. Each *School Safety Committee* may include at least one (1) member who is a member of the school or Corporation career and technical education school.

The *School Safety Committee* shall be responsible for developing a plan that addresses the following issues:

- A. Unsafe conditions, crime prevention, school violence, bullying, and other issues that prevent the maintenance of safe schools.
- B. Professional development needs for faculty and staff to implement methods that decrease problems identified above.
- C. Methods to encourage involvement by the community and students, development of relationships between students and school faculty and staff, and use of problem solving teams.
- D. Provide a copy of the floor plans for each building that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the local law enforcement agency and the fire departments that have jurisdiction over the school. The Corporation shall not disclose any record or part of any record if the disclosure of which would have a reasonable likelihood of threatening public safety by compromising the Corporation's security.

In developing the plan, the *School Safety Committee* may seek input from representatives of the following:

- A. local law enforcement agencies;
- B. the local Fire Marshal(s) or his/her designee(s);
- C. emergency medical services;

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- D. a member of the Board;
- E. building administrators;
- F. the local emergency management service agency;
- G. School Resource Officer(s);

The Superintendent shall recommend the approval and adoption of the Corporation's plan.

Each committee shall:

- A. develop a drug-free school plan that:
 - 1. requires each school to collect and report drug related activities in the school, including suspensions, expulsions, exclusions, police actions, or any other type of drug related behavior; and
 - 2. addresses ways to eliminate illegal drugs and drug related behavior in schools;
- B. oversee the implementation of the school plan;
- C. oversee the implementation of the curriculum under I.C. 20-30-5-11.

Approved 2/23/15
Revised 5/8/17

4123A - 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, support staff 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.

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An individual with a disability is anyone who:

- 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

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5. cardiovascular
6. reproductive
7. digestive
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.

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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**):

- 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:

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- 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

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

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- 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.
- 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

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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:

- 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;

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- 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:

- 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

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- 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 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

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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

4123B - 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/Curriculum Director

1300 North Main Street

(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.

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- 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 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.

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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
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 School 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

4130 - ASSIGNMENT AND TRANSFER

Relocation of support staff may become necessary to meet load conditions, building or program requirements, or for other good reasons. However, relocation shall not be made capriciously, vindictively, or arbitrarily. Transfers between buildings require the approval of the Superintendent.

A. **Involuntary Transfers**

A transfer may be made for such reasons as the following:

1. factors in the present location
2. schools being opened or closed
3. for the good of the Corporation

B. **Voluntary Transfers**

The following guidelines shall be followed in requesting a transfer:

1. A written request may be made to the immediate supervisor at any time during the year for transfer to either a specified or an unspecified location.
2. The principal and/or the immediate supervisor of the employee must be made aware of the request for transfer.
3. The principal and/or the immediate supervisor of the receiving school or department must approve the request, unless the Superintendent directs that the transfer be made.
4. The filing of a request for transfer shall be without prejudice to the employee, and shall not jeopardize his/her present assignment. The request may be withdrawn at any time prior to the official confirmation that the transfer has been effected.
5. Voluntary transfers shall be made effective at a time in the best interest of the Corporation.

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4140 - RESIGNATION

The support staff member should recognize the obligation to faithfully fulfill the terms of his/her employment until it is dissolved by mutual consent or by due process of law.

- A. The Superintendent shall release a support staff member from the terms of a contract when an opportunity is offered for significant advancement.
- B. A support staff member intending to resign should submit a written resignation to the immediate supervisor at least two (2) weeks in advance of the effective date of resignation.
- C. The immediate supervisor shall, whenever possible, conduct an interview with the employee to determine the reasons leading up to the resignation.

Revised 1/05

4160A - PHYSICAL EXAMINATION

- A. Each support staff member must maintain good physical and mental health in order that job performance may be at a maximum.
- B. Written evidence of good physical and mental health may be required periodically by the Corporation from a physician of the Corporation's choosing with the Corporation assuming the expense of such an examination.

4162A - ALCOHOL TESTING PROGRAM FOR CDL LICENSE HOLDERS AND EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS

The purpose of the School Corporation's drug-testing program is to institute and maintain a program for achieving the objective of a drug-free work force and to provide a workplace that is free from the illegal and improper manufacture, distribution, dispensing, possession, sale, and use of alcohol and controlled

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substances. This administrative guideline and Board Policy 4162 provide educational materials to explain the requirements of Federal regulations and the Corporation's policies and procedures to meet these requirements.

The program will assist Commercial Driver's License (CDL) holder and employees who perform safety-sensitive functions – including school bus drivers in understanding and avoiding the perils of illegal drug use and controlled substance abuse. The Corporation will provide a comprehensive drug-free awareness program as an ongoing educational effort to prevent and eliminate illegal drug use and controlled substance abuse. The drug-free awareness program will inform CDL holders and employees who perform safety-sensitive functions about:

- A. the dangers of illegal drug use and controlled substance abuse; (such materials may be available through a local health care facility);
- B. the Board's policy on drug-free schools, drug testing, and others related to the use of controlled substances;
- C. the availability of treatment and counseling for employees who voluntarily seek such assistance;
- D. the sanctions the Corporation will impose for violations of its policies related to this program.

Definitions

- A. Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication), containing alcohol.
- B. Controlled substances mean the following substances:
 - 1. marijuana metabolites;
 - 2. cocaine metabolites;
 - 3. amphetamines;
 - 4. opioids;
 - 5. phencyclidine (PCP).
- C. Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent owner-operator contractors.
- D. An individual is considered to be performing a safety-sensitive function during any period in which s/he is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

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- E. Refuse to submit (to an alcohol or controlled substances test) means the individual:
1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Corporation, consistent with applicable Department of Transportation (DOT) agency regulations, after being directed to do so by the Corporation. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a consortium/third party administrator C/TPA (see 49 CFR 40.61(a)).
 2. Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see 49 CFR 40.63(c)) for a pre-employment test is not deemed to have refused to test.
 3. Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because s/he has left the testing site before the testing process commences (see 49 CFR 40.63(c)) for a pre-employment test is not deemed to have refused to test.
 4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the individual's provision of a specimen (see 49 CFR 40.67(1) and 40.69(g)).
 5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see 49 CFR 40.193(d)(2)).
 6. Fails or declines to take a second test the employer or collector has directed the individual to take.
 7. Fails to undergo a medical examination or evaluation, as directed by the medical review officer MRO as part of the verification process, or as directed by the designated employer representative DER under 49 CFR 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
 8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process).
 9. Is reported by the MRO as having a verified adulterated or substituted test result.
- F. Safety-sensitive function means all time from the time an individual begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

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1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the individual has been relieved from duty by the employer.
2. All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76).
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

REQUIRED BACKGROUND CHECK AND RECORDKEEPING

This section applies only to employees seeking to begin performing safety-sensitive (school bus driving) duties for the first time for the Corporation, including both new hires and employees transferring into safety-sensitive duties.

All individuals the Corporation seeks to hire as an employee who will perform safety-sensitive functions, including drivers, shall be asked whether during the past two years s/he has tested positive, or refused to test, on any pre-employment drug or alcohol test administered as a result of the individual's application to perform safety-sensitive transportation work covered by the U.S. Department of Transportation ("DOT"). If the individual admits to testing positive or refusing to test, the individual shall not be permitted to perform safety-sensitive functions unless and until the employee documents successful completion of return-to-duty requirements.

All individuals the Corporation seeks to hire as an employee who will perform safety-sensitive functions, including drivers, must provide written consent to allow the Corporation to request the following information from all DOT-regulated employers who have employed the potential employee for any period of time during the previous two (2) years:

- A. Alcohol tests with a result of 0.04 or higher alcohol concentration;
- B. Verified positive drug tests;
- C. Refusals to be tested (including verified adulterated or substituted drug test results);
- D. Other violations of DOT agency drug and alcohol testing regulations; and

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- E. Documentation of the employee's successful completion of DOT return-to-duty requirements, if the employee had violated a DOT drug and alcohol regulation.

The written consent shall be provided to the employers from whom the Corporation requests information. If the individual does not provide written consent to the Corporation, the individual will not be permitted to perform safety-sensitive functions. If the Corporation receives information that the employee has violated a DOT agency drug and alcohol regulation, the employee shall not be permitted to perform safety-sensitive functions unless the Corporation receives information that the employee has subsequently complied with return-to-duty requirements.

Upon receipt of the requested information, the Corporation shall make efforts to review the information before the employee begins performing safety-sensitive functions. If prior review is not feasible, the Corporation shall review the information as soon as possible. However, if the Corporation has not obtained or documented a good faith effort to obtain the requested information within thirty (30) days of the date on which the individual began performing safety-sensitive functions, the individual shall not be permitted to perform safety-sensitive functions.

Information received pursuant to this section, or the good faith efforts the Corporation made to obtain the information, must be maintained as a written, confidential record for three (3) years from the employee's first performance of safety-sensitive duties.

PROHIBITED ACTIVITIES

All CDL holders and employees who perform safety-sensitive functions are required to abide by Board policies related to drugs and alcohol, including observing the following prohibitions. Any violation will lead to disciplinary action, including termination of employment.

- A. **Alcohol Concentration**

No driver or employee who performs safety-sensitive functions shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. No supervisor, who has actual knowledge or having received a verified positive test result indicating that a driver or employee who performs safety-sensitive functions has an alcohol concentration of 0.02 or greater, shall permit the driver or employee who performs safety-sensitive functions to perform or continue to perform safety-sensitive functions.

- B. **On Duty Use**

No driver or employee who performs safety-sensitive functions shall use alcohol while performing safety-sensitive functions. No supervisor, having actual knowledge or having received a verified positive test result indicating that a driver or employee who performs safety-sensitive functions is using alcohol while performing safety-sensitive functions, shall permit the driver or employee who performs safety-sensitive functions to perform or continue to perform safety-sensitive functions. The supervisor shall not wait to receive a written report or result of a split specimen test before removing the driver or employee who performs safety-sensitive functions from his/her duties.

- C. **Pre-Duty Use**

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No driver or employee who performs safety-sensitive functions shall perform safety-sensitive functions within four (4) hours of using alcohol. No supervisor, having actual knowledge or having received a verified positive test result indicating that a driver or employee who performs safety-sensitive functions has used alcohol within four (4) hours of performing safety-sensitive functions, shall permit the driver or employee who performs safety-sensitive functions to perform or continue to perform safety-sensitive functions. The supervisor shall not wait to receive a written report or result of a split specimen test before removing the driver or employee who performs safety-sensitive functions from his/her duties.

D. Use Following an Accident

No driver or employee who performs safety-sensitive functions required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until the driver or employee who performs safety-sensitive functions undergoes a post-accident alcohol test, whichever occurs first.

E. Refusal to Submit

No driver or employee who performs safety-sensitive functions shall refuse to submit to a pre-employment-controlled substances test, a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substances test. No supervisor shall permit a driver or employee who performs safety-sensitive functions who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

F. Controlled Substances Use

1. No driver or employee who performs safety-sensitive functions shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver or employee who performs safety-sensitive functions uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who is familiar with the driver's medical history or the medical history of the employee who performs safety-sensitive functions and has advised the driver or employee who performs safety-sensitive functions that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle or perform safety-sensitive functions.
2. No supervisor, having actual knowledge or having received a verified positive test result indicating that a driver or employee who performs safety-sensitive functions has used a controlled substance, shall permit the driver or employee who performs safety-sensitive functions to perform or continue to perform a safety-sensitive function. The supervisor shall not wait to receive a written report or result of a split specimen test before removing the driver or employee who performs safety-sensitive functions from his/her duties.
3. A supervisor may require a driver or employee who performs safety-sensitive functions to inform him/her of any therapeutic use drug.

G. Controlled Substance Testing

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No driver or employee who performs safety-sensitive functions shall report for duty, remain on duty or perform a safety-sensitive function, if the driver or employee who performs safety-sensitive functions tests positive or has adulterated or substituted a test specimen for controlled substances. No supervisor having actual knowledge that a driver or employee who performs safety-sensitive functions has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver or employee who performs safety-sensitive functions to perform or continue to perform safety-sensitive functions.

CONSEQUENCES OF PROHIBITED ACTIVITY AND TESTING IRREGULARITIES

A. Removal from Safety-Sensitive Functions

A driver or employee who performs safety-sensitive functions who participates in any of the prohibited activities enumerated above, who tests positive for drugs or alcohol as explained herein, or who refuses to submit to a test shall be removed immediately from his/her safety-sensitive functions and subject to discipline. Disciplinary action, including termination, also will be imposed on any CDL holder or employee who performs safety-sensitive functions who:

1. fails to enroll, when requested by the Corporation, in an alcohol or other drug treatment or counseling program and/or fails to adhere to the requirements of the program;
2. is indicted or convicted under any criminal drug statute or alcohol statute for a violation occurring in the workplace or outside the workplace;
3. fails to notify the Corporation of any indictment or conviction under any criminal drug statute or alcohol statute within five (5) days of the event; or
4. does not comply with regulations promulgated under any testing program.

Nothing in this provision shall preclude the Board from imposing discipline, up to and including termination of a Covered Employee's employment.

The Corporation shall remove a driver or employee who performs safety-sensitive functions from the safety-sensitive functions upon initial receipt of a verified positive test result. The Corporation shall not wait to receive a written report of the results of a test.

If a driver or employee who performs safety-sensitive functions is found to have an alcohol concentration of 0.02 – 0.039, s/he shall be prohibited from performing any and all safety-sensitive functions (including driving) until the start of the Covered Employee's next regularly-scheduled shift, but not less than twenty-four (24) hours following the administration of the test. If a Covered Employee is found to have an alcohol concentration of 0.04 or greater, s/he shall immediately be removed from duty and prohibited from performing any and all safety-sensitive functions (including

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driving) for the period of time specified by a Substance Abuse Professional and unless and until they pass a return-to-duty test.

A driver or employee who performs safety-sensitive functions shall be removed from his/her safety-sensitive functions if the Corporation receives a verified adulterated or substituted test result, or if the driver or employee who performs safety-sensitive functions has otherwise violated the U.S. Department of Transportation's drug and alcohol regulations.

If an MRO informs the Corporation that a positive specimen for a driver or employee who performs safety-sensitive functions is dilute, the Corporation will consider the test as a verified positive test and take appropriate removal action, up to and including termination.

B. Return-to-Duty (Safety-Sensitive Positions)

Employees who are removed from performing safety-sensitive functions as a result of this policy, but who are not discharged, must take and pass a return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

Nothing in these provisions shall preclude the Board from imposing discipline, up to and including termination of a Covered Employee's employment.

The Corporation shall remove a driver or employee who performs safety-sensitive functions from the safety-sensitive functions upon initial receipt of a verified positive test result. The Corporation shall not wait to receive a written report of the results of a test.

If a driver or employee who performs safety-sensitive functions is found to have an alcohol concentration of 0.02 – 0.039, s/he shall be prohibited from performing any and all safety-sensitive functions (including driving) until the start of the Covered Employee's next regularly-scheduled shift, but not less than twenty-four (24) hours following the administration of the test. If a Covered Employee is found to have an alcohol concentration of 0.04 or greater, s/he shall immediately be removed from duty and prohibited from performing any and all safety-sensitive functions (including driving) for the period of time specified by a Substance Abuse Professional and unless and until they pass a return-to-duty test.

A driver or employee who performs safety-sensitive functions shall be removed from his/her safety-sensitive functions if the Corporation receives a verified adulterated or substituted test result, or if the driver or employee who performs safety-sensitive functions has otherwise violated the U.S. Department of Transportation's drug and alcohol regulations.

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If an MRO informs the Corporation that a positive specimen for a driver or employee who performs safety-sensitive functions is dilute, the Corporation will consider the test as a verified positive test and take appropriate removal action, up to and including termination.

C. Recollection and Testing Under Direct Observation

When the Corporation receives a cancelled test result when a negative test result is required (e.g., pre-employment, return-to-duty, or follow-up testing), the employee must provide another specimen immediately.

If the Corporation receives a test result indicating that the urine specimen test of the driver or employee who performs safety-sensitive functions was cancelled because it was invalid and that a second collection must take place under direct observation, the driver or employee who performs safety-sensitive functions must immediately provide a new specimen under direct observation. The employee will not receive advance notice of this requirement. The Corporation will not attach any other consequences to a finding of an invalid test result.

If an MRO informs the Corporation that a negative specimen for a driver or employee who performs safety-sensitive functions is diluted, and the MRO directs the Corporation to conduct a recollection under direct observation, the employee must be ordered to do so immediately. Otherwise, the employee may be instructed to take another test immediately, but not under direct observation. All drivers or employee who performs safety-sensitive functions must receive similar retesting treatment under the latter option. For any retesting of a dilute specimen ordered, 1) the driver or employee who performs safety-sensitive functions must be afforded the minimum possible advance notice, 2) the result of the retest must be treated as the test result of record, 3) the driver or employee who performs safety-sensitive functions must not be ordered to take a subsequent if the result of the retest is also negative and dilute, unless the MRO directs otherwise, and 4) if the driver or employee who performs safety-sensitive functions declines to retest, the Corporation shall consider this a refusal to test.

TESTING FOR ALCOHOL AND CONTROLLED SUBSTANCES

The Corporation has established a testing program in accordance with approved United States Department of Transportation procedures, for alcohol, illegal drugs, and controlled-substances for all CDL holders and who perform safety-sensitive functions will, in its sole discretion, determine and may at any time change the requirements, extent, and frequency of staff member testing.

General Procedure

- A. The Corporation will afford applicants and, CDL holders, and employees who perform safety-sensitive functions the opportunity, prior to testing, to list all prescription and nonprescription drugs and controlled-substances they have used and to explain the

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circumstances surrounding the use of such drugs and controlled-substances. Failure of any applicant or staff member to establish adequately a legal basis for the use of any drug or controlled-substance with respect to which s/he tests positive shall constitute a violation of these rules.

- B. Applicants, CDL holders, and employees who perform safety-sensitive functions subject to testing must, prior to testing, sign an approved form agreeing to the testing, authorizing the release of test results to the Corporation's Medical Review Officer (MRO), and authorizing the disclosure of the results by the MRO to the Director of Transportation, the Superintendent, and/or the School Board. The MRO will obtain the results of the analyses and communicate or disclose such results to the parties named above in accordance with the Corporation's policies and procedures and appropriate sections of the negotiated agreement.
- C. The Corporation may use such information in connection with Corporation business and for purposes of employment and disciplinary actions and may disclose it when required to Government agencies and to others upon valid legal requests.
- D. The procedures that will be used for the testing for alcohol and drug use shall protect the CDL holder or employee who performs safety-sensitive functions and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct staff member. The procedures of the entity performing alcohol and drug testing for the Corporation are attached to the guideline.
- E. The Corporation, prior to taking any action, will give all CDL holders and employees who perform safety-sensitive functions who test positive the opportunity to explain in writing the test results. Failure of any staff member to establish adequately a legal basis for the use of any drug or controlled-substance with respect to which the staff member tests positive shall constitute a violation of these rules.
- F. The Corporation will establish and maintain any and all additional testing programs and requirements that may be necessary or appropriate to comply with applicable rules and regulations of all Government agencies.

PROCEDURE TO BE USED BY TESTING FACILITY

The procedure used by the Corporation's testing facility are to be provided to CDL holders and employees who perform safety-sensitive functions along with this guideline and related policy.

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Pre-Employment Testing

Prior to employment or upon receipt of a CDL if already employed, each CDL holder and holder and employee who performs safety-sensitive functions shall undergo testing for alcohol and controlled substances.

If the results of a pre-employment-controlled substance test prove negative and diluted, a retest will be given. A second negative and diluted controlled substance test will be the basis for non-employment.

A pre-employment test for controlled substances will not be required if the CDL holder or employee who performs safety-sensitive functions has participated in a drug-testing program that meets Federal requirements within the previous thirty (30) days and while participating in that program, either was tested for controlled substances within the past six (6) months from the date of application to the Corporation or participated in a random controlled substances testing program for the previous twelve (12) months from the date of application. The CDL holder or employee who performs safety-sensitive functions must also verify that s/he has no record of a violation of drug use during the previous six (6) months. The candidate shall sign Form 4162A F3 authorizing the release of the information from the previous testing to the Corporation.

The Director of Transportation shall contact the alcohol and/or controlled substances testing program(s) in which the CDL holder or employee who performs safety-sensitive functions participated and obtain the following information:

- A. name and address of the program
- B. verification that the CDL holder or employee who performs safety-sensitive functions participated in the program
- C. verification that the program conforms to Federal law
- D. verification that the CDL holder or employee who performs safety-sensitive functions is qualified as described above and has not refused to be tested for alcohol or controlled substances
- E. the date the CDL holder or employee who performs safety-sensitive functions was last tested for alcohol and controlled substances
- F. the results of any tests taken within the previous six (6) months and any other use violations

Post-Accident Testing

As soon as practicable following an accident involving a Corporation vehicle, the Corporation shall test for alcohol and controlled substances each surviving CDL holder or employee who performs safety-sensitive functions:

- A. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

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- B. Who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved either:
1. injury of any person requiring medical treatment away from the accident scene; or
 2. a vehicle had to be towed from the accident scene.

This section does not apply to:

- A. an occurrence involving only boarding or alighting from a stationary motor vehicle; or
- B. an occurrence involving only the loading or unloading of cargo; or
- C. an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (49 C.F.R. 571.3) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 C.F.R 177.823.

If an alcohol test is not administered within two (2) hours following the accident, the Corporation shall file a record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the accident, the test shall not be administered, and the record shall indicate the reason why the test was not administered. The record shall be submitted to the Federal Motor Carrier Safety Administration (FMCSA) upon request.

Drug Tests

If a test is not administered within thirty-two (32) hours following the accident, the Corporation shall cease attempts to administer the test and file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

A CDL holder or employee who performs safety-sensitive functions who is subject to a post-accident testing shall remain readily available for such testing. A CDL holder or employee who performs safety-sensitive functions who fails to remain readily available for such testing shall be deemed by the Corporation to have refused to submit to testing. The required testing shall not delay necessary medical attention for injured people following an accident or prohibit a CDL holder or employee who performs safety-sensitive functions from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The Corporation shall provide each CDL holder or employee who performs safety-sensitive functions with necessary post-accident information, procedures and instructions prior to the CDL holder operating a Corporation vehicle or employee who performs safety-sensitive functions.

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Random Testing

Each year, ten percent (10%) of the average number of CDL holders and employees who perform safety-sensitive functions shall be subject to unannounced, random alcohol testing and twenty-five percent (25%) shall be subject to random drug testing. These numbers are subject to change based on the FMCSA Administrator's decision to increase or decrease the annual percentage rate for alcohol and controlled substances, consistent with 49 CFR 238.305.

The selection of CDL holders and employees who perform safety-sensitive functions for random alcohol and controlled substances testing shall be made by a scientifically valid method provided by the Corporation's drug-testing facility. Under the selection process used, each CDL holders and employees who perform safety-sensitive functions shall have an equal chance of being tested each time selections are made.

[If the Corporation conducts random testing for alcohol and/or controlled substances through a consortium, the number of CDL holders and employees who perform safety-sensitive functions to be tested may be calculated for each individual Corporation or may be based on the total number of CDL holders and employees who perform safety-sensitive functions covered by the consortium.]

The Director of Transportation shall ensure that random alcohol and controlled substances tests are unannounced and that the dates for such tests are spread reasonably throughout the calendar year.

Each CDL holder or employee who performs safety-sensitive functions who is notified of selection for random alcohol and/or controlled substances testing shall be relieved of any job responsibilities as soon as safely possible and proceed to a test site immediately.

Reasonable Suspicion

A CDL holder or employee who performs safety-sensitive functions shall be required to submit to an alcohol or controlled substances test when the Corporation has reasonable suspicion to believe that the individual is under the influence of alcohol or a controlled substance. A CDL holder or employee who performs safety-sensitive functions shall be tested for alcohol only while the CDL holder or employee who performs safety-sensitive functions is performing safety-sensitive functions or operating a Corporation vehicle, just before the CDL holder or employee who performs safety-sensitive functions is to perform safety-sensitive functions or operate a Corporation vehicle, or just after the CDL holder or employee who performs safety-sensitive functions has ceased performing safety-sensitive functions or operating a Corporation vehicle. The Corporation's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver or employee who performs safety-sensitive functions. Reasonable suspicion observations may include indications of the chronic and withdrawal effects of controlled substances. The person who determines that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

Only supervisors or other Corporation officials who have received not less than sixty (60) minutes of training on alcohol use and not less than an additional sixty (60) minutes of training on controlled substances use shall be able to make determinations regarding whether reasonable suspicion exists for CDL holders subject to DOT regulations. Reasonable suspicion observations may be made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with these guidelines.

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An alcohol test based on reasonable suspicion shall be conducted within two (2) hours following a finding of reasonable suspicion. If an alcohol test is not performed within two (2) hours the Corporation shall prepare a record stating the reasons why the test was not promptly administered. All attempts to perform a reasonable suspicion alcohol test must cease if not administered within eight (8) hours, and a record must be made if the test is not administered within eight (8) hours.

If the test results indicate that the CDL holder or employee who performs safety-sensitive functions is under the influence of or impaired by alcohol, the Corporation shall not permit the individual to continue to operate a Corporation vehicle or perform safety-sensitive functions until an alcohol test is administered and the individual's alcohol concentration measures less than 0.02 or for twenty-four (24) hours after the test.

The Corporation shall file a written record of the observations leading to a controlled-substance, reasonable-suspicion test, signed by the supervisor or Corporation official who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Return-to-duty Testing

The Corporation shall ensure that, before a CDL holder or employee who performs safety-sensitive functions returns to duty after engaging in prohibited alcohol and/or controlled substance conduct, or after the employee refuses to submit to a test, s/he submits to an evaluation by a Substance Abuse Professional (SAP), undergoes an education/treatment process, and completes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and a verified negative result for illegal drug use. The return-to-duty alcohol test may not be administered until after the SAP has determined that the driver or employee who performs safety-sensitive functions has successfully completed the SAP's recommendations.

Drivers and employees performing safety-sensitive functions must comply with return-to-duty testing procedures if they have a verified positive drug test result, an alcohol test with a concentration of 0.04 or greater, refuse to test, or otherwise violate DOT drug and alcohol regulations.

Follow-Up Testing

If the CDL holder or employee who performs safety-sensitive functions is receiving assistance in resolving problems associated with alcohol misuse and/or use of controlled substances from a qualified, substance-abuse professional, s/he shall be subject to unannounced follow-up alcohol and/or controlled substances testing as determined by the substance-abuse professional and consisting of at least six (6) tests within the first twelve (12) months of his/her return to duty and at the Corporation's discretion, less frequently during the next four (4) years. All such tests shall be conducted in accordance with Federal rules.

49 C.F.R. 382.101 et seq.
49 C.F.R. Part 40

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Revised 6/25/18

4162B - HANDLING OF TEST RESULTS, RECORD RETENTION, AND CONFIDENTIALITY

MAINTENANCE OF RECORDS

The Director of Transportation shall maintain the following specific records for the time period indicated in the schedule that follows the listing.

A. Records related to the collection process:

1. Collection logbooks, if used;
2. Documents relating to the random selection process;
3. Calibration documentation for evidential breath testing devices;
4. Documentation of breath alcohol technician training;
5. Documents generated in connection with decision to administer reasonable suspicion alcohol or controlled substances test;
6. Documents generated in connection with decisions on post-accident tests;
7. Documents verifying existence of a medical explanation of the inability of a Commercial Driver's License ("CDL") holder or employee who performs safety-sensitive functions to provide adequate breath or to provide a urine specimen for testing; and
8. Consolidated annual calendar year summaries submitted to the Federal Motor Carrier Safety Administration ("FMCSA").
9. Documents relating to the random selection process.
10. Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substance tests and on post-accident tests.
11. Documents verifying the existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing.
12. Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing.

B. Records related to test results:

1. The Corporation's copy of the alcohol test including the results of the test;
2. The Corporation's copy of the controlled substances test chain of custody and control form;

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3. Documents sent by the Medical Review Officer (MRO) to the Corporation;
4. Documents related to the refusal of any CDL holder or employee who performs safety-sensitive functions to submit to an alcohol or controlled substances test required Board Policy or the Superintendent's Administrative Guidelines; and
5. Documents presented by a CDL holder or employee who performs safety-sensitive functions to dispute the result of an alcohol or controlled substances test administered under this part.

C. Records related to alcohol and controlled substances violations.

D. Records related to evaluations:

1. Records pertaining to a determination by a substance abuse professional concerning a CDL holder's need for assistance or the need for assistance of an employee who performs safety-sensitive functions; and
2. Records concerning a CDL holder's compliance or the compliance of an employee who performs safety-sensitive functions with recommendations of the substance abuse professional.

E. Records related to education and training:

1. Materials on alcohol misuse and controlled substance use awareness, including a copy of the Corporation's policy on alcohol misuse and controlled substance use;
2. Documentation of compliance with the requirements of employee notification, including the signed receipt of education materials by the CDL holder or employee who performs safety-sensitive functions;
3. Documentation of training provided to the supervisor for the purpose of qualifying the supervisor to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
4. Certification that any training conducted complies with Federal requirements;
5. Documentation of appropriate MRO training;
6. Training for persons who directly supervise drivers and employees who perform safety-sensitive functions; and
7. Written notice to every driver and employee who performs safety-sensitive functions associated organization as to the availability of the above materials.

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F. Records related to drug testing:

1. Agreements with collection site facilities, laboratories, medical review officers, and consortia;
2. Names and positions of officials and their role in the Corporation's alcohol and controlled substances testing program(s);
3. Monthly laboratory statistical summaries of urinalysis;
4. The Corporation's drug testing policy and procedures.

G. Records related to alcohol testing:

1. Records of the inspection and maintenance of each Evidential Breath Tester ("EBT") used in the testing of CDL holders and employees who perform safety-sensitive functions (two (2) years);
2. Documentation of the compliance with the QAP for each EBT used for alcohol testing; (two (2) years);
3. Records of the training and proficiency testing of each Breath Alcohol Technician ("BAT") used in the testing of CDL holders and employees who perform safety-sensitive functions (two (2) years);
4. Records pertaining to the calibration of each EBT used in alcohol testing, including records of the results of external calibration checks. (five (5) years).

Retention of Records

The Director of Transportation shall maintain records of all alcohol misuse and controlled-substances use prevention programs. The records shall be maintained in a secure location with controlled access and in accordance with the following schedule:

A. Five (5) Years

1. Records of alcohol test results of CDL holders and employees who perform safety-sensitive functions indicating an alcohol concentration of 0.02 or greater;
2. Records of verified positive controlled substances test results of CDL holders and employees who perform safety-sensitive functions;
3. Documentation of refusals to take required alcohol and/or controlled substances tests;
4. Calibration documentation;
5. Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations;

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6. Evaluation and referrals of CDL holders and employees who perform safety-sensitive functions;
7. A copy of each annual calendar year summary submitted to the FMCSA by March 15th;
8. Documents presented by a driver to dispute the result of an alcohol or controlled substances test.

B. Two (2) Years

Records related to the alcohol and controlled substances collection process (except calibration of breath testing devices) and training.

C. One (1) Year

Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02.

D. Indefinite Period

Records related to the training and education of:

1. Breath alcohol technicians;
2. Screening test technicians;
3. Supervisors; and
4. Drivers.

While the individual performs the functions, which require the training and for two (2) years after ceasing to perform those functions.

LOCATION OF RECORDS

All records pertaining to employees shall be maintained as confidential records in accordance with Federal law and Corporation guidelines. All other records shall be maintained by the Director of Transportation and shall be made available for inspection at the central office within two (2) business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM

The Director of Transportation shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs. This summary must be completed by March 15th of each year.

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If the Corporation is notified, during the month of January, of a request by the FMCSA to furnish the FMCSA Report, the Director of Transportation shall prepare and submit the report to the FMCSA by March 15th of that year. The Director of Transportation shall ensure that the annual summary report is accurate and received by March 15th at the location that the FMCSA specifies in its request. The report shall be in the form and manner prescribed by the FMCSA in its request. When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the Director of Transportation.

- A. If an annual calendar year summary contains information on a verified positive controlled substances test result, an alcohol screening test result of 0.02 or greater, or any other violation of alcohol misuse, the following information must be included:
1. Number of CDL holders and employees who perform safety-sensitive functions;
 2. Number of urine specimens collected by type of test (e.g., pre-employment, random, reasonable suspicion, post-accident);
 3. Number of verified results by a MRO by type of test and type of controlled substance;
 4. Number of negative controlled substance tests verified by a MRO by type of test;
 5. Number of persons denied a position as a CDL holder or employees who perform safety-sensitive functions following a pre-employment verified positive controlled substances test and/or a pre-employment alcohol test that indicates an alcohol concentration of 0.04 or greater;
 6. Number of CDL holders and employees who perform safety-sensitive functions with tests verified positive by the MRO for multiple controlled substances;
 7. Number of CDL holders and employees who perform safety-sensitive functions who refused to submit to an alcohol or controlled substances test required under this subpart;
 8. Number of supervisors who have received required alcohol and controlled-substances training during the reporting period;
 9. Number of screening alcohol tests by type of test and number of confirmation alcohol tests by type of test;
 10. Number of confirmation alcohol tests indicating an alcohol concentration of 0.02 or greater but less than 0.04, by type of test;
 11. Number of confirmation alcohol tests indicating an alcohol concentration of 0.04 or greater, by type of test;
 12. Number of CDL holders and employees who perform safety-sensitive functions who were returned to duty, having complied with the recommendations of a

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substance abuse professional, previously had a verified positive controlled substance test result, or engaged in prohibited alcohol use;

13. Number of CDL holders and employees who perform safety-sensitive functions who were administered alcohol and drug tests at the same time, with both a verified positive drug test result and an alcohol test result indicating an alcohol concentration of 0.04 or greater;
 14. Number of CDL holders and employees who perform safety-sensitive functions who were found to have violated any non-testing prohibitions and any action taken in response to the violation.
- B. If the Corporation's annual calendar year summary contains only negative controlled substance test results, alcohol screening test results of less than 0.02, and does not contain any other violations described in these guidelines, the Director of Transportation may prepare and submit either all the information described above or an EZ report containing the following:
1. Number of CDL holders and employees who perform safety-sensitive functions;
 2. Number of urine specimens collected by type of test (e.g., pre-employment, random, reasonable suspicion, post-accident);
 3. Number of negatives verified by a Medical Review Officer by type of test;
 4. Number of CDL holders and employees who perform safety-sensitive functions who refused to submit to an alcohol or controlled substances test required under this subpart;
 5. Number of supervisors who have received required alcohol and controlled substances training during the reporting period;
 6. Number of screen alcohol tests by type of test;
 7. Number of CDL holders and employees who perform safety-sensitive functions who were returned to duty, having complied with the recommendations of a substance abuse professional in this reporting period, previously had a verified positive controlled substance test result, or engaged in prohibited alcohol use under the provisions of this part.

Note

If the Corporation is involved in a consortium, the consortium may prepare the annual calendar year summaries and reports on behalf of individual Corporations. However, the Director of Transportation must sign and submit such a report and shall remain responsible for ensuring the accuracy and timeliness of each report prepared on behalf of the Corporation by the consortium.

Approved 6/25/18

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4170A - SUBSTANCE ABUSE

Any support staff member whose physical characteristics, appearance, behavior, or breath odor suggest to a supervisor that s/he may be under the influence of alcohol shall be requested to take a breathalyzer test at the local police station. The support staff member shall be taken to the station by a supervisor.

Should the support staff member refuse to take such a test or should the results of the test be positive, s/he shall be disciplined for conduct unbecoming a support staff member by the Superintendent who shall recommend to the Board the imposition, if any, of further penalties.

Should a supervisor determine from the physical aspects, appearance, or behavior of a support staff member that s/he might be under the influence of other drugs, said support staff member shall be immediately taken to a local health facility for further diagnosis. Should the support staff member refuse or be found to be under the influence of drugs, s/he shall be disciplined by the Superintendent for conduct unbecoming a support staff member, and his/her case immediately referred to the Board for disposition.

4211 - 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.

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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.
 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

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- 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.
- 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;
 - 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.

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4220 - EVALUATION

Evaluations of the support staff members shall comply with all provisions of Corporation policies and goals.

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Evaluations are conducted annually.

Job objectives are clearly stated, are complete and accurate in content, are agreed upon by the evaluator and evaluatee, and are divided into the following categories:

- A. expected/desired results (what is to be accomplished)
- B. expected/desired actions (how something is to be done)
- C. expected/desired attitudes (willingness to act in a particular manner)

STRATEGY FOR EVALUATION

The following guidelines should be followed when designing an evaluation plan. (See AG 2605 for steps of the strategy and additional guidelines.)

A. Relevant Terms

- 1. measurement - determination of the current result and/or performance
- 2. assessment - comparison of the current result/performance with a desired and/or minimally acceptable level of quality
- 3. observation - measurement and/or assessment while one or more aspects of the expected result is being produced or created (performance)
- 4. evaluation - value judgement about the result/performance based on the assessment

B. Intended Outcome of the Evaluation Plan

The procedure should produce conclusions that:

- 1. include those characteristics of a result and/or performance that meet or exceed described standards;
- 2. include those characteristics that fall below such standards;
- 3. are **complete** (no missing elements), **accurate** (no factual errors or unsupported inferences), and **clear** (understandable by all relevant parties);
- 4. indicate priorities for closing important gaps between current results/performance and expected results/performance;

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5. provide a judgement about the value or worth of the result and/or performance.

4231 - OUTSIDE ACTIVITIES

So that staff members may avoid situations in which their personal interests, activities, and associations may conflict with the interests of the Corporation, the following guidelines are provided:

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- A. Refrain from making public utterances about private associations if such remarks are likely to violate community standards of propriety.
- B. Avoid conduct and associations outside the school, which, if known, could have an adverse or harmful effect upon the school community.
- C. Do not give job time to outside activities when there is no valid reason to be excused from assigned duties.
- D. Do not use school property or school time to solicit or accept customers for private enterprises, without written administrative permission.
- E. Refrain from expressions that would disrupt harmony among co-workers or interfere with the maintenance of discipline by school officials.
- F. Do not engage in political activities during assigned hours of employment.
- G. Do not conduct unapproved solicitations on school property.
- H. Do not reveal confidential information to which you were privy at school.

4235 - JURY DUTY/COURT APPEARANCE

Staff members shall report to the Superintendent when they are called for jury duty or a court appearance.

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Staff members who choose to serve on a jury will not be penalized for doing so. They will receive full pay, if they endorse the check received from the court or pay the amount shown on their record slip less travel allowance within fifteen (15) days of return from jury duty.

While on jury duty, staff members are required to report daily their schedule for the following day, and must report to work when excused for a day or more or suffer loss of pay.

The time spent on jury duty will not be charged against personal leave and will count as time on-the-job.

Staff members must submit to the Superintendent a record from the courts of the number of days served.

4251 - EXTRA DUTY

- A. Support staff shall not work hours beyond their regular schedule until the procedure outlined below has been met.

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- B. When additional work time is necessary, the immediate principal of the staff member shall secure approval from the appropriate Director/Administrator.
- C. Extra duty pay, at time and one-half the regular pay rate, shall be paid only after the completion of forty (40) hours per week of work.

4281 - PERSONAL PROPERTY OF STAFF MEMBERS

From time-to-time, staff members may wish to bring personal property to school either for reasons associated with their support responsibilities or for use during off-duty time. This practice is authorized provided it is understood that the Corporation will not be responsible for any loss, damage, or misuse of such property.

The Corporation discourages staff members from using personal electronic pagers, cellular telephones, or other forms of personal (noncorporation-assigned) communication devices during the workday. Such use will disrupt the educational process. In the case of an emergency, the caller should contact the school office which will immediately notify the staff member. Exemptions may be made by the principal in cases where the health and/or safety of the staff member would be jeopardized.

If the staff member needs to make personal calls during his/her off-duty time, s/he may use a Corporation telephone in accordance with AG [7530](#) - Personal Use of Corporation Equipment and Facilities.

Revised 1/05

4362 - ANTI-HARASSMENT

These administrative guidelines are established to assist in the proper implementation of Policy [4362](#).

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:**

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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 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.

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- C. Examples of inappropriate boundary invasions include, but are not limited to the following:
1. hugging, kissing, or other physical contact with a student
 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

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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
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)

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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 Procedure (See [Form 4362 F1](#))

In determining whether alleged conduct constitutes a violation of Policy [4362](#), the following factors will be considered:

- A. the nature of the behavior;
- 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);

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- 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.

Whether a particular action or incident constitutes a violation of Policy [4362](#) requires a determination based on all the facts and surrounding circumstances.

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Revised 5/06

Revised 5/13/10

Revised 2/23/15

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4362A - 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 would 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 would imply or explicitly state 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, 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.

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

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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 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.

Revised 3/02

4419 - COBRA CONTINUATION OPTIONS

MODEL STATEMENT CONTINUATION COVERAGE

****VERY IMPORTANT NOTICE****

On April 7, 1986, a new Federal law was enacted [Public Law 99-272, Title X] requiring that most employers sponsoring group health plans offer employees and their families the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the Plan would otherwise end. This notice is intended to inform you, in a summary fashion, of your rights and obligations under the continuation coverage provisions of the new law. [Both you and your Spouse should take the time to read this notice carefully.]

If you are an Employee covered by this Plan, you have a right to choose this continuation coverage if you lose your group health coverage because of a reduction in your hours of employment or the termination of your employment (for reasons other than gross misconduct on your part), or if you are a Retired Employee, because your Employer has filed for reorganization under Chapter 11 of the Bankruptcy Code.

If you are the Spouse of an Employee (or a Retired Employee for reason E below) covered by this Plan, you have the right to choose continuation coverage for yourself if you lose group health coverage under this Plan for any of the following five (5) reasons:

- A. the death of your Spouse;
- B. a termination of your Spouse's employment (for reasons other than gross misconduct) or reduction in your Spouse's hours of employment with the Employer;
- C. divorce or legal separation from your Spouse;
- D. your Spouse becomes entitled to (that is covered by) Medicare; or
- E. your Spouse's Employer files for Chapter 11 reorganization.

In the case of a Dependent child of an Employee (or of a Retired employee for reason F below) covered by this Plan, s/he has the right to continuation coverage if group health coverage under this Plan is lost for any of the following six (6) reasons:

- A. the death of a parent;
- B. the terminations of a parent's employment (for reasons other than gross misconduct) or reduction in parent's hours of employment with the Employer;

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- C. parents' divorce or legal separation;
- D. a parent becomes entitled to (that is covered by) Medicare;
- E. the Dependent ceases to be a "Dependent child" under this Plan; or
- F. the parent's Employer files for Chapter 11 reorganization.

Under the law, the Employee or a family member has the responsibility to inform [the Plan Administrator] within sixty (60) days of a divorce, legal separation, the Social Security determination that a family member that was covered by this Plan at the time of the Employee's termination or reduction in hours was determined to have been disabled at any time during the first sixty (60) days of continuation coverage, or a child's losing Dependent status under this Plan. The Employer has the responsibility to notify the Plan Administrator of the Employee's death, termination of employment, reduction in hours, or Medicare entitlement.

When the Plan Administrator is notified that one (1) of these events has happened, the Plan Administrator will in turn notify you that you have the right to choose continuation coverage. Under the law, you have at least sixty (60) days from the date of the notice of your COBRA continuation coverage rights to inform the Plan Administrator that you want continuation coverage.

Note: If you do not choose continuation coverage, your group health coverage will end.

If you choose continuation coverage, the employer is required to give you coverage, which, as of the time coverage is being provided, is identical to the coverage provided under the Plan to similarly situated Employees or family members. The law requires that you be afforded the opportunity to maintain continuation coverage for three (3) years unless you lost group health coverage because of a termination of employment or reduction of hours. In that case, the required continuation coverage period is eighteen (18) months. The eighteen (18) month period may be extended to twenty-nine (29) months when the Social Security Administration determines that you, or another family member covered by this Plan at the time of termination of employment or reduction of hours, were/was disabled at any time during the first sixty (60) days of continuation coverage and you inform the Plan Administrator before the end of the eighteen (18) month period and within sixty (60) days of the determination. If, during an eighteen (18) month continuation coverage period, another event takes place that might otherwise result in your health coverage ending, coverage may be extended. In no case, other than for a covered Retired Employee and the Retired Employee's covered family members during the Employer's bankruptcy proceedings, may the total amount of continued coverage be more than thirty-six (36) months.

The law also provides that your continuation coverage may be cut short for any of the following reasons:

- A. the employer no longer provides group health coverage to any of its Employees;

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- B. the premium for your continuation coverage is not paid in a timely fashion;
- C. you become covered under another group health plan that does not include a Pre-Existing condition clause that applies to you or to a covered Dependent; or
[Effective for group health plans with Plan Years beginning on or after July 1, 1997: you become covered under another group health plan, and any Pre-Existing Condition limitation or limitation of that plan do not apply or are satisfied by you. This provision applies individually to each individual with COBRA coverage.
A plan's Pre-Existing Conditions exclusion period will be reduced by each month that you and your family had continuous health coverage (including COBRA continuation coverage) with no break in coverage greater than sixty-three (63) days.
When your COBRA coverage ends, you will receive certification of the duration of your coverage.]
- D. you become entitled to (that is, covered by) Medicare.

Notification Requirements

- A. The Board shall:
1. notify all covered employees and spouses of their coverage continuation rights on the date the COBRA requirements took effect;
Thereafter, each employee shall be notified of this policy at the time they begin coverage under the Board's Group Health Coverages and each spouse shall be notified of this policy at the time family or spouse coverage begins under the Board's Group Health Coverages.
Notification to the employee's spouse shall be deemed to serve as notice on dependent children.
 2. include information on the continuation rights in the Summary Plan Description;
 3. notify the plan administrator within thirty (30) days of the following qualifying events:
 - a. death of the covered employee
 - b. termination of employment or reduction in hours of the covered employee
 - c. eligibility of covered employee for Medicare

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d. bankruptcy of covered employee

B. The Plan Administrator shall:

1. notify the employee of their COBRA provisions when the employee begins under the group health coverages;
2. notify the eligible beneficiaries **within fourteen (14) days** of receiving the specified notification of the qualifying event of his/her right to continuation of coverage. Notifying a spouse or former spouse of an employee is considered sufficient notice to all other eligible beneficiaries living with that person.

The employee, retiree, or family member should notify the plan administrator within sixty (60) days of events consisting of divorce or legal separation or a child's ceasing to be covered as a dependent under plan rules.

P.L. 99-272
Consolidated Omnibus Budget Reconciliation Act of 1984

Approved 1/05

4419.01 - PRIVACY PROTECTIONS OF SELF-FUNDED GROUP HEALTH PLANS

The following administrative guidelines apply to the self-funded group health plans maintained by the Board:

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- A. **Training:** The Health Insurance Privacy and Portability Act (HIPAA) Privacy Rule requires the group health plan to train all members of the plan's workforce on the policies and procedures with respect to Protected Health Information. The Privacy Official shall ensure that the members of the plan's workforce receive adequate and appropriate training regarding the Privacy Rule.
- B. **Business Associate Agreements:** The Privacy Rule requires a group health plan to enter into business associate agreements with its third party vendors. The Privacy Official shall retain counsel to draft and negotiate these business associate agreements. The Privacy Official will oversee the review of existing business associate agreements to ensure compliance with current laws. The Privacy Official shall ensure that business associate agreements are entered into with new vendors.
- C. **Notice of Privacy Practices:** The Privacy Rule requires the group health plan to distribute a Notice of Privacy Practices to participants in the plan. The Privacy Official shall retain counsel to draft the Notice of Privacy Practices. The Privacy Official shall subsequently distribute these notices to existing group health plan participants. If there is a material change to the Notice, then the Notice shall be distributed as follows:
1. If the group health plan posts its Notice on its website, then the plan may post the revised Notice on its website by the effective date of the material change, and then provide a hard copy of the Notice (or information about the material change and how to obtain the revised Notice) in its next annual mailing; or
 2. If the group health plan does not have a website, then the plan may provide the revised Notice (or information about the material change and how to obtain the revised Notice) to individuals covered by the plan within sixty (60) days of the material revision to the Notice.

The Privacy Official shall notify all participants in the Plan of the availability of the Notice and how to obtain the Notice no less frequently than once every three (3) years.

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- D. **Safeguards:** The Privacy Rule requires the group health plan to implement appropriate administrative, technical and physical safeguards to protect the privacy of Protected Health Information. The Privacy Official shall implement these safeguards in a reasonable and appropriate manner.

The Security Official shall seek the services of a third party to perform an information technology risk analysis to identify and protect against reasonably anticipated threats to the security or integrity of electronic Protected Health Information, if applicable.

- E. **Amendment of Plan Documents:** The Privacy Rule provides that plan documents be made to permit information sharing between the plan and the plan sponsor. The Privacy Official shall assist other school personnel in determining whether and how plan documents should be amended.
- F. **Participant Rights:** The Privacy Rule grants health plan participants extensive rights with respect to their Protected Health Information. The Privacy Official shall timely respond to participant requests to exercise rights afforded by the Privacy Rule.
- G. **Participant Rights:** The Privacy Official shall develop a breach notification policy. A breach occurs when there has been an acquisition, access, use or disclosure of Protected Health Information in a manner not permitted under the Privacy Rule, which compromises the security or privacy of the Protected Health Information. The Privacy Official shall train workforce members on the breach notification policy.

C.F.R. 160.502(e)(2), 164.308(a)(1), 164.308(b), 164.402, 164.414(a)
C.F.R. 164.520 et seq., 164.520(c)(1), 164.520(c)(1)(v)
C.F.R. 164.530(b), 164.530(c)

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4421 - 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":

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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

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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"
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

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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.

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

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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.

Revised 2/23/15
Revised 11/28/16
Revised 5/8/17

4421A - IMPORTANT NOTICE OF EMPLOYEES RIGHT TO DOCUMENTATION OF HEALTH COVERAGE

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) limits the circumstances under which coverage may be excluded for medical conditions present before the employee enrolls.

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Under the law, a pre-existing condition exclusion generally may not be imposed for more than twelve (12) months (eighteen (18) months for a late enrollee after the enrollment date). The twelve (12) month (or eighteen (18) month) exclusion period may be reduced by a new employee's prior health coverage. A new employee is entitled to a certificate from his/her former health insurance provider that will show evidence of the person's prior health coverage.

To obtain a certificate, the employee should complete the attached form and return it to:

Wa-Nee Community Schools

1300 N. Main

Nappanee, IN 46550

For additional information contact 574-773-3131

The certificate must be provided promptly. The employee should keep a copy of this completed form. S/He may also request certificates for any dependents (including a spouse) who were enrolled under the employee's health coverage.

The Business Department will be responsible for providing a Certificate of Health Insurance Coverage to an employee when:

- A. S/He no longer is covered by the Corporation's plan.
- B. S/He is no longer covered under COBRA.
- C. S/He requests a certificate no later than twenty-four (24) months after cessation of coverage.

Revised 1/05

Revised 2/23/15

4430 - LEAVES

Leaves differ from absences primarily in terms of the length of time the support staff member is away from his/her assigned responsibilities. When not otherwise specified in a negotiated,

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collectively-bargained agreement, the following leaves shall be granted in accordance with the conditions established for each type of leave.

SICK LEAVE

In order to properly implement Board policy, these guidelines should be followed when utilizing Sick Leave.

Sick leave may be used for:

- A. absence of the support staff member due to personal illness, injury, pregnancy, or exposure to a communicable disease which could be communicated to other support staff members or to students;
- B. absence of the support staff member due to illness or injury of someone in the support staff member's immediate family. In this section, the support staff member's immediate family is defined as:
 - 1. a member of the immediate family of the support staff member residing in the home of said support staff member and the support staff member, spouse, parents, brother, sister, son or daughter, and in-laws if not residing with the support staff member;
 - 2. The maximum number of days granted under this section shall be five (5);
 - 3. The exact number of days granted under this section shall be determined by the circumstances.

FUNERAL LEAVE

Absence due to death in the immediate family of a support staff member. In this section, the immediate family of a support staff member is defined as the father, mother, brother, sister, son, daughter, husband, wife, grandmother, grandfather, father-in-law, mother-in-law, brother-in-law, sister-in-law, or any other relative of the support staff member as approved by the Superintendent.

The maximum number of days granted under this section shall be five (5).

A support staff member requesting use of sick leave shall furnish a written signed statement to justify the use of sick leave. (See [Form 4430 F1](#)) when such leave is in excess of allowable days.

A sick leave of absence shall commence when the support staff member or agent, if the support staff member is sufficiently disabled, reports the absence.

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The filing, by a support staff member, of any willfully false statement concerning the cause or duration of an absence shall be considered by the Board as grounds for suspension or dismissal.

A sick leave day, once commenced, may be reinstated as a working day only with the approval of the Superintendent or designee.

Whatever the claims of disability, no day of absence shall be considered to be a sick leave day on which the support staff member has engaged in or prepared for other gainful employment, has participated in a concerted work stoppage, or has engaged in any activity which would raise doubts regarding the validity of the sick leave request.

Records of Sick Leave

The personnel records of this Corporation shall show the attendance of each support staff member and such days as that support staff member may be absent shall be recorded with the reason for such absence noted. A record shall be made of the unused sick leave days accumulated by each support staff member.

Cash Payments

Upon retirement, a support staff member may be compensated a portion of his/her unused sick leave. The Board shall not expend public funds for the payment of unused sick leave at the end of a school year.

FAMILY CARE LEAVE

Any staff member of this Corporation may request a leave of absence for maternity or adoption. The length of the leave shall be governed by considerations for his/her health, the need for continuity in services, and the maintenance of qualified Corporation staff.

The Corporation reserves the right, on the advice of the support staff member's physician, to specify the point at which such leave shall commence, the length of time for which leave shall continue after the disabling event, and the conditions of pay during such leave. It shall require disclosure of anticipated disability or arrival of a child and/or the continuing certification of a support staff member's fitness to perform duties thereafter.

Use of Family Care

A. Maternity

A staff member must notify the immediate supervisor as soon as pregnancy is confirmed and shall present a written statement, from a licensed physician, setting forth the estimated date of delivery as well as the ability of the staff member to continue working and the advisability of doing so.

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A staff member of the Corporation shall begin family care leave, without pay, when no longer able to continue working.

B. Adoption Leave

An adoption leave of absence, without pay, may be granted full-time staff members under the following conditions:

A written request for leave must be submitted as much in advance of the beginning of such leave as possible.

C. Return from Leave

1. A full-time staff member who is on leave under the terms of this administrative guideline shall be reinstated at the start of a semester, in that SUPPORT employee's former position, or in a substantially equivalent position, at the conclusion of such leave, provided that the support staff member has submitted written notice of an intent to return.
2. A staff member who does not return at the end of the leave period shall be considered to have voluntarily resigned.
3. If complications arise and an extension of leave of absence is requested through a doctor's statement, it will be reviewed by the Board.

MILITARY FAMILY LEAVE

The Board shall grant an unpaid leave of absence to a support staff member who has been employed for at least twelve (12) months and is the spouse, parent, grandparent, or sibling of a person who is ordered to active duty during one (1) or more of the following periods:

- A. during the thirty (30) days before active duty orders are in effect
- B. during a period in which the person ordered to active duty is on leave while active duty orders are in effect
- C. during the thirty (30) days after the active duty orders are terminated

The staff member may request to substitute any of his/her earned vacation, personal leave, or other paid leave except for paid medical or sick leave available for leave for any part of the ten (10) day period.

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The staff member who chooses to take this type of leave of absence shall provide notice including a copy of the active duty orders if available, to the Board of the date the leave is to begin. This notice is to be given to the Board at least thirty (30) days before the date on which the staff member intends to begin the leave, unless the active duty orders are issued less than thirty (30) days before the date the requested leave is to begin.

The Board may require verification of the staff member's eligibility for the leave. If the staff member fails to provide verification, the Board may consider the staff member's absence as being unexcused.

The staff member must have worked at least 1,500 hours during the twelve (12) month period immediately preceding the day the leave begins.

The leave of absence allowed each year may not exceed a total of ten (10) working days.

After a staff member takes a leave of absence, the staff member shall be restored to:

- A. the position the staff member held before the leave; or
- B. a position equivalent to the position that the staff member held before the leave with equivalent benefits and terms of the negotiated agreement.

The Board is not required to restore a staff member to a position described above if the Board proves that the reason the staff member was not restored to the position is unrelated to the staff member's exercise of his/her rights to request this leave.

The Board shall permit the staff member to continue his/her health care benefits during the leave at the staff member's expense.

Revised 1/05

Revised 11/6/07

4430.01 - 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.

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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, 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

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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

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loco parentis, and who is of any 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

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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:

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 that are 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

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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 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

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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.

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.")

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

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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.

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 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

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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 classified, 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.

Employees who take leave for the employee's own serious health condition, prior to returning to work, must submit to the Superintendent a "Fitness-for-Duty Certification". Again, the employee will need to have executed and provided to his/her Health Care Provider a HIPAA-compliant 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; and

- 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 responsively 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.

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.

4430.01B - 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

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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 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:

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- 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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4438 - VACATION

Support staff shall receive paid vacation as outlined in the classified manual

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4439 – HOLIDAYS

Support staff shall receive paid holidays as outlined in the classified manual.

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4440A – JOB-RELATED EXPENSES

Expenses which are incurred by support staff members as a result of authorized travel in and outside of the Corporation will be reimbursed to the extent provided for in these guidelines. Reimbursement is intended to provide for transportation, lodging, and food of reasonable and adequate quality. When traveling on school business, a support staff member is expected to use the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

Authorization

- A. Travel within or outside the Corporation is to be authorized by the Superintendent.

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- B. Travel to conventions or conferences away from the Corporation which involve overnight stay will be authorized by the Superintendent.

Procedure

- A. Each request for travel or conference funds should detail the reasons for the expenditures and should not be labeled in broad general terms.
- B. Under normal conditions, officers and support staff members traveling on official business shall provide themselves with sufficient funds of their own for ordinary expenses.
- C. Travel should be by the most direct and economical route.
- D. All persons authorized to travel on official business should keep a memorandum and receipts of expenditures properly chargeable to the Board. Support staff members might find it advantageous to charge as many expenditures as possible on credit cards. The itemized statement may serve as a receipt, with reimbursement available to pay the charges.
- E. For official travel other than by automobile, tickets may be purchased by the Corporation in advance, upon request of the individual involved.
- F. In all instances of travel reimbursement, full itemization of expenditures is required.
- G. Those doing such traveling should be expected to exercise the same care in incurring expenses that they would in travel on personal business of their own. Excessive and unnecessary travel will not be approved or reimbursed.

Reimbursement

- A. Reimbursement will be at the current rates approved by the Board. Requests for reimbursement will be submitted on Form 4243 F2 provided for that purpose.
- B. Travel outside the School Corporation will be reimbursed at the regular fare rate charged the general public by common carrier, unless travel by private conveyance is more economical, in which case mileage will be reimbursed at the IRS rate.
- C. Lodging and meals will be reimbursed at a reasonable per diem rate. All claims must be supported by original receipted bills.
- D. Reimbursement for reasonable charges for tolls, lodging, parking, taxis, official telephone calls, and tips will be made upon presentation of supporting receipts.
- E. Registration fees are reimbursable.
- F. Sales tax on hotel bills is reimbursable.

Claim Forms

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All claims for reimbursement will be submitted on travel voucher forms or on standardized voucher forms available in the principal's office. Wherever possible, expenditures must be substantiated by receipted bills.

Revised 1/05

4440B - USE OF PRIVATE CAR FOR SCHOOL BUSINESS

The Corporation has established the following means for providing reimbursement for the use of privately-owned vehicles used in the performance of assigned duties.

- A. All support staff will be assigned to a school or office which becomes the home station. It will be the responsibility of each individual to provide his/her own transportation from his/her residence to his/her assigned station and to any other assigned spot to attend meetings for administrative or training purposes.

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- B. Regularly scheduled travel will be authorized when requisitioned in compliance with a printed schedule; e.g.: special support staff members are required to go from school to school on a regular schedule.
- C. Sporadic or emergency travel will be authorized when made in connection with an assignment.
- D. Payments for authorized travel will be made provided itemized daily records are submitted on the proper forms. Persons who travel are advised to keep a daily log of their required business trips.

4440C - USE OF SCHOOL VEHICLE FOR SCHOOL BUSINESS

The Corporation has established the following guidelines for the use of school-owned vehicles in the performance of assigned duties.

- A. Regularly scheduled use will be authorized by the Superintendent.

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- B. School personnel who are required to be on-call in case of after hour emergencies may be assigned a Corporation vehicle for daily use. Such use will be authorized by the Superintendent.
1. Only school personnel will be authorized to operate the vehicle.
 2. The vehicle is to be used primarily for school business.
- C. **Requirement for Continuation of School Vehicle Use:**
1. No unauthorized personnel are allowed in these vehicles at any time without the approval of the Director of Transportation.
 2. No repair work will be performed on the vehicle without approval from the Director of Transportation.
 3. All accidents will be reported immediately (no matter how minor) to the Director of Transportation.
 4. All accidents must be reported to the law enforcement agency where the accident takes place at the time of the accident.
 5. The designated operator is responsible for cleanliness of the vehicle both inside and outside.
 6. Before any out-of-corporation trips are made with the vehicle, the authorized driver shall check the vehicle for any maintenance problems.

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