



TIFFIN CITY SCHOOL DISTRICT

Draft - Neola Policy Templates for Processing

Classified Staff for Board Approval

46 policies

October 19, 2026

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4111

CREATING A POSITION

4111 - CREATING A POSITION

The Board of Education recognizes the need to establish positions which, when filled by competent, qualified classified staff members, will assist the District in achieving the operational goals set by the Board. The District employs only U.S. citizens and others lawfully authorized to work in the United States.

§ The Superintendent shall verify all new full-time and part-time employees' right to work in the United States according to the Federal Immigration Reform and Control Act of 1986.

The Board reserves the right to:

- A. § create new positions;
- B. § specify the number of persons to be employed within each job category;
- C. § set the initial salary for a new position not currently covered by a valid negotiated, collectively-bargained agreement.

In the exercise of its authority to create new positions, the Board shall give primary consideration to:

- A. § the number of students enrolled, including current enrollment and trending enrollment data;
- B. § the special needs of the community;
- C. § the special needs of the students;
- D. § the operational services of the District; .
- E. § fiscal responsibility. _____.

Legal

R.C. 3313.17, 3313.47, 3319.07, 3319.08

Federal Immigration Reform and Control Act of 1986

8 U.S.C. 1255 a

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4112

BOARD-STAFF COMMUNICATIONS

4112 - BOARD-STAFF COMMUNICATIONS

The Board of Education desires to maintain open channels of communication between itself and the staff. The basic line of communication, will, however, be through the Superintendent.

A. Staff Communications to the Board

Communications from staff members to the Board or its committees shall be submitted through the Superintendent. The Superintendent shall forward such communications received from staff members to the Board. This procedure is not intended to deny any staff member their his/her constitutional right of free speech or the right to appeal to or otherwise address the Board on important matters through established procedures.

B. Board Communications to Staff

All official communications, policies, and directives of the Board of staff interest and concern to the staff will generally be communicated through the Superintendent, who shall also keep staff members fully informed of the Board's concerns, and actions.

C. Social Interaction

Both staff and Board members share an interest in the schools and in education generally, and it is to be expected that when they interact at social affairs and other functions, they will informally discuss such matters as educational trends, issues, and innovations, and general activities of the District. However, since Board members are not authorized to act on behalf of the Board unless in open public session or when specifically vested with such authority, Board members and members of the staff should not discuss individual personalities, personnel grievances, or other complaints. Instead, such matters should be addressed in accordance with the procedures established in Board Policy or the collective bargaining agreement.



CLASSIFIED STAFF FOR BOARD APPROVAL

po4113

CONFLICT OF INTEREST

4113 - **CONFLICT OF INTEREST**

A. The proper performance of school business is dependent upon the maintenance of unquestionably high standards of honesty, integrity, impartiality, and professional conduct by the Board of Education's members, and the District's employees, officers, and agents. Further, such characteristics are essential to the Board's commitment to earn and keep the public's confidence in the School District. For these reasons, the Board adopts the following guidelines to assure that conflicts of interest do not occur. These guidelines apply to all District employees, officers, and agents, including members of the Board. These guidelines are not intended to be all inclusive, nor to substitute for good judgment on the part of all employees, officers, agents, and Board members.

1. No employee, officer, agent, or Board member shall engage in or have a financial or other interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with duties and responsibilities in the school system.
2. Employees, officers, agents, and Board members shall not engage in business, private practice of their profession, the rendering of services, or the sale of goods of any type where advantage is taken of any professional relationship they may have with any student, client, or parents of such students or clients in the course of their employment or professional relationship with the District.

Included, by way of illustration rather than limitation are the following:

- a. the provision of any private lessons or services for a fee
- b. the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the employee's, officer's, agent's, or Board member's employment or professional relationship with the District through the employee's, officer's, agent's, or Board member's access to District records

- c. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
- d. the requirement of students or clients to purchase any private goods or services provided by an employee, officer, agent, or Board member or any business or professional practitioner with whom any employee, officer, agent, or Board member has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations

3. Employees, officers, agents, and Board members shall not make use of materials, equipment, or facilities of the School District in private practice. Examples would be the use of facilities before, during, or after regular business hours for service to private practice clients, or the checking out of items from an instructional materials center for private practice.

B. Exceptions to Part A of this policy shall be approved by the Superintendent **before** entering into any private relationship.

C. No employee, officer, agent, or Board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by the Federal award. A conflict of interest includes when the employee, officer, agent, or Board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a contract.

An employee, officer, agent, and Board member of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors.

~~{ }~~ However, pursuant to Federal rules and in accordance with State law and regulations, the District has set standards for situations where the financial interest is not substantial or the gift is an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$ ~~_____~~ 75 or less. **[END-OF-OPTIONAL LANGUAGE]**

~~[DRAFTING NOTE: Section 200.318 allows for non-Federal entities (Districts) to set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. In such a situation, "nominal value" must be defined. The Ohio Licensure Code of Professional Conduct stipulates that no educator shall accept gifts of \$25 or more. The Ohio Ethics Commission does not list a monetary limit. Rather, it states that no public official shall accept a gift of value that could exert a~~

~~substantial and improper influence upon a public official. The commission determines whether the value is "substantial" or "improper" on a case-by-case basis. The commission requires disclosure of gifts of \$75 or more each year by public officials.]~~

- D. If the District has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the District may not conduct a procurement action involving the parent, affiliate, or subsidiary organization if the District is unable, or appears to be unable, to be impartial in conducting a procurement action involving a related organization.
- E. Employees, officers, agents, and Board members must promptly disclose any potential conflict of interest which may lead to a violation of this policy to the District. Upon discovery of any potential conflict of interest, the District will promptly disclose, in writing, the potential conflict of interest to the appropriate Federal agency or, if applicable, the pass-through entity.

The District will also promptly disclose whenever, in connection with the Federal award (including any activities or subawards thereunder), it has credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729–3733). The disclosure must be made in writing to the Federal agency, the agency's Office of Inspector General, and pass-through entity. The District is also required to report matters related to recipient integrity and performance in accordance with Appendix XII of 2 C.F.R. Part 200.

- F. Employees, officers, agents, and Board members found to be in violation of this conflict of interest policy will be subject to disciplinary action, up to and including termination, as permitted by applicable Board policy and may also face criminal charges and/or risk loss of State-issued licenses/permits.

~~[DRAFTING NOTE: The School District has discretion over the appropriate disciplinary actions. For example, the School District may suspend or terminate the individual's employment, transfer the individual, end the District's professional relationship with that individual, or temporarily re-assign the individual. All disciplinary actions must be in accordance with applicable Federal, State, and local law, as well as any collectively bargained agreements.]~~

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Legal

R.C. Chapter 102, 2921.42, 2921.43

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4120

EMPLOYMENT OF CLASSIFIED STAFF

4120 - EMPLOYMENT OF CLASSIFIED STAFF

The Board of Education recognizes that it is vital to the successful operation of the District that positions created by the Board be filled with qualified and competent personnel.

The Board shall approve the employment, and also, when not covered by the terms of a negotiated, collectively-bargained agreement, fix the compensation and establish the term of employment for each classified staff member employed by the Board.

~~Individuals employed in the following categories shall be considered members of the classified staff:~~

- A. _____
- B. _____
- C. _____
- D. _____
- E. _____
- F. _____

~~[] Such approval shall be given only to those candidates for employment recommended by the Superintendent.~~

~~[] Such approval shall be given only to those candidates for employment chosen by the Board from a group selected by the Superintendent.~~

~~[] When any recommended candidate has been rejected by the Board, the Superintendent shall make a substitute recommendation.~~

~~[] All applications for employment shall be referred to the _____.~~

Relatives of Board members may be employed by the Board, provided a member of the Board does not participate in any way in the discussion or vote on the employment when a conflict of interest is involved.

Relatives of staff members may be employed by the Board, provided the staff member being employed is not placed in a position in which they are ~~s/he is~~ supervised directly by the relative staff member.

~~[+] The Board will not employ (but may reemploy) the~~

~~(-) –children, siblings, spouse, parents, in-laws, or bona fide dependents (IRS criteria) of a Board member.~~

~~(-) –children, siblings, spouse, parents, in-laws, or bona fide dependents (IRS criteria) of a regular full-time classified staff member.~~

~~[+] Applications for employment will not be accepted from any current Board member. If a Board member wishes to apply for a position, their ~~his/her~~ resignation must be accepted by the Board prior to submitting an application, and the Board member must not use or attempt to use their ~~his/her~~ official authority or influence to secure the employment position.~~

~~[+] Any classified staff member's intentional misstatement of fact material to their ~~his/her~~ qualifications for employment or the determination of salary shall be considered by this Board to constitute grounds for dismissal.~~

~~[+] The employment of classified staff members prior to approval by the Board is authorized when their employment is required to maintain continuity in District operations. Employment shall be recommended to the Board at the next regular meeting.~~

~~[+] -When appropriate, no candidate for employment as a classified staff member shall receive recommendation for such employment without having proffered visual evidence of proper certification/licensure or that application for such certification/licensure is in process.~~

Classified staff members also must pass a background check performed by the Bureau of Criminal Identification and Investigation (see Policy 4121).

The Superintendent shall prepare procedures for the recruitment and selection of all classified staff.

REQUIREMENTS FOR TITLE I PARAPROFESSIONAL

Educational aides/paraprofessionals assigned to provide academic support in a core subject area to any student in any program supported by Title I funds must be properly

certified as required by the Elementary and Secondary Education Act, as amended ("ESEA") and State law. A properly certified paraprofessional is defined as an individual who holds a valid educational aide permit and who meets at least one (1) of the following criteria:

- A. has a designation of "ESEA qualified" on the educational aide permit
- B. has successfully completed at least two (2) years of coursework at an accredited institution of higher education
- C. holds an associate degree or higher from an accredited institution of higher education
- D. meets a rigorous standard of quality as demonstrated by attainment of a qualifying score on an academic assessment specified by the department of education

"Core subject areas" include Reading, English Language Arts, Mathematics, Science, Social Studies, Foreign Language, and Fine Arts.

Exceptions - These requirements do not apply to a paraprofessional:

- A. Who is proficient in English and a second language and serves as a translator primarily to enhance the participation of children in Title I programs; or
- B. Whose duties consist solely of conducting parental involvement activities.

Paraprofessional duties - Paraprofessionals working for a Title I supported program may be assigned to duties not inconsistent with the following:

- A. providing one-on-one tutoring for eligible students during times when the teacher would not otherwise be instructing the student;
- B. assisting with classroom management, such as organizing instructional and other materials;
- C. providing assistance in a computer laboratory;
- D. providing support in a library or media center;
- E. conducting parental involvement activities;
- F. acting as a translator;
- G. provide instructional services to students, if working under the direct supervision of a teacher; a paraprofessional will be considered to be working under the "direct

supervision" of a teacher if the:

1. teacher plans the instructional activities that the paraprofessional carries out;
2. teacher evaluates the achievement of the students with whom the paraprofessional is working;
3. paraprofessional works in close and frequent physical proximity to the teacher;

H. performing limited duties beyond classroom instruction or that do not benefit program participants, so long as those duties are also assigned to non-Title I paraprofessionals. Title I paraprofessionals may not be assigned to more of these duties, proportional to their total work time, than the amount assigned to similar non-Title I paraprofessionals in the same school.

The Superintendent shall report State certification and licensure status for every paraprofessional at least annually in accordance with State and Federal law. At the start of the school year, the Superintendent shall notify parents/guardians of each student enrolled in the District that they may request information about the professional qualifications of each paraprofessional who provides services to the student. Upon request of the parent/guardian, the District will provide information about each assigned paraprofessional in a timely manner. The information will include the qualifications of the paraprofessional(s) assigned to work with the student.

Confirmation of Licensure

No staff member employed in a position for which licensure is required (e.g. paraprofessional) may be paid until evidence of such appropriate licensure for the subject area, grade level, or position, etc. has been received by the Superintendent and transmitted to the Treasurer.

The provisions as set forth above do not apply to paraprofessionals providing non-instructional service such as providing technical support for computers, providing personal care services, or performing clerical duties.

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R.C. 3319.074, 3319.081, 3319.082, 3319.39

A.C. 3301-83-07

ESEA 1112

20 U.S.C. 6319



CLASSIFIED STAFF FOR BOARD APPROVAL

po4120.01

JOB DESCRIPTIONS

4120.01 - JOB DESCRIPTIONS

The Board of Education recognizes that it is essential for District and employee accountability for each staff member to be fully aware of the duties and responsibilities of **their his/her** position. Job descriptions document and describe the essential functions for professional and classified staff positions and thereby promote organizational effectiveness and efficiency. Therefore, the Superintendent shall maintain continuously a comprehensive, coordinated set of job descriptions for professional and classified staff positions.

All other job descriptions, other than the job descriptions for the Superintendent and Treasurer, shall be defined as guidelines of the Superintendent and will be originated and maintained in accordance with the provisions specified in the bylaws of the Board (See Bylaw 0131) and each shall contain the following provision:

"The employee shall remain free of any alcohol or nonprescribed controlled substance abuse in the workplace throughout his/her employment in the District."

++ Employees will be evaluated, at least in part, against their job descriptions.

++ Job descriptions shall be brief, factual, and, wherever possible, generically descriptive of similar jobs.

++ Each job description shall include the requirement that the staff member serve as a role model for students in how to conduct themselves as citizens and as responsible, intelligent human beings. In particular, each job description shall indicate the staff member's legal responsibility to help instill in students the belief in and practice of ethical principles and democratic values.

During the hiring process, the current job description for the position for which the individual(s) interviewing shall be reviewed with the candidate. The emphasis during the review shall be placed upon the essential functions of the position.

Upon employment by the Board, the staff member shall receive a copy of the current job description for the position for which **they have s/he has** been employed. The employee's

immediate supervisor shall review this job description with the staff member as part of the employment orientation process.

From time-to-time, the Board further recognizes that the Superintendent may find it necessary to revise job descriptions.

During the revision of a job description, the Superintendent may seek input from individuals who hold that position; however, their input may or may not be reflected when the revision of said job description is completed.

Following the revision of a job description, staff members who hold the positions for which the essential functions are described in that revised job description shall be provided access to the updated version and the opportunity to discuss the revisions therein with their immediate supervisor.

In addition, the Superintendent shall prepare administrative guidelines necessary for the proper implementation of this policy.

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R.C. 3313.602



CLASSIFIED STAFF FOR BOARD APPROVAL

po4120.04

EMPLOYMENT OF SUBSTITUTES

4120.04 - EMPLOYMENT OF SUBSTITUTES

The Board of Education recognizes its responsibility to procure the services of substitute classified staff in order to prevent the interruption of the operation of the schools.

The names of potential substitute personnel and the positions in which they may substitute shall be maintained by the Central Office _____.

~~[] - The Board will not employ the spouse or child of any Board member.~~

~~[] - The Board will not employ the~~

~~(-) - children, siblings, spouse, parents, in-laws, or bona fide dependents of a Board member.~~

~~(-) - children, siblings, spouse, parents, in-laws, or bona fide dependents of a regular full-time classified staff member.~~

~~[]~~ - Relatives of staff members may be employed by the Board, provided the staff member being employed is not placed in a position in which they are ~~s/he is~~ supervised directly by the relative staff member.

~~[]~~ - Relatives of Board members may be employed by the Board, provided the member of the Board involved does not participate in any way in the discussion or vote.

~~[]~~ - The employment of substitute classified staff prior to approval by the Board is authorized when their employment is required to maintain continuity of services in the District.

~~(-)~~ Retroactive employment shall be recommended to the Board at the next meeting.

In order to retain reliable assistance in the absence of regular classified personnel, the Board will offer competitive compensation to qualified substitutes.

Classified substitutes will be paid on a per diem basis at a rate

~~(-)~~ - set annually by the Board.

~~(-) equivalent to the State minimum hourly wage.~~

~~(-) equal to _____ fractional part of the first step of the appropriate salary schedule.~~

Substitutes may be required to undergo a tuberculosis examination in accordance with law and at the direction of the Ohio Department of Health or the local health department.

Substitutes also must pass a background check performed by the Bureau of Criminal Identification and Investigation and the Federal Bureau of Investigation (see Policy 4121).

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R.C. 2909.34, 3319.291, 3319.39



CLASSIFIED STAFF FOR BOARD APPROVAL

po4120.05

EMPLOYMENT OF SUBSTITUTE EDUCATIONAL AIDES

4120.05 - EMPLOYMENT OF SUBSTITUTE EDUCATIONAL AIDES

The Board of Education recognizes the need to procure the services of substitute educational aides/paraprofessionals in order to continue the operation of the schools as a result of the absence of regular personnel or to fill a temporary position created based on the needs of the District.

The Superintendent shall employ substitute educational aides/paraprofessionals for assignment as services are required to fill in for temporarily absent regular staff members or to fill vacant positions in accordance with this policy. Such assignment of substitutes may be terminated when their services are no longer required.

Substitute educational aides/paraprofessionals must have a valid educational aide permit issued by the Department of Education.

H - A substitute educational aide/paraprofessional may be hired for up to sixty (60) days while their application for an aide permit is pending if the Superintendent believes the employee is qualified to obtain a permit. An unlicensed educational aide/paraprofessional's service with the District will cease immediately when one of the following occurs:

- A. the individual's application for a permit is denied by the Department of Education;
or
- B. sixty (60) days have passed following the date on which the employee began work as a substitute.

Substitutes also must pass a background check performed by the Bureau of Criminal Identification and Investigation and the Federal Bureau of Investigation (see Policy 4121).

Substitutes may be required to undergo a tuberculosis examination in accordance with law and at the direction of the Ohio Department of Health or the local health department.

In order to retain well-qualified substitutes for service in this District, the Board will offer competitive compensation at a rate set annually by the Board.

Daily substitutes shall not earn sick leave nor be paid for days when students are not required to attend school.

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R.C. 3319.088; 3319.36



CLASSIFIED STAFF FOR BOARD APPROVAL

po4120.08

EMPLOYMENT OF PERSONNEL FOR CO-CURRICULAR/EXTRA-CURRICULAR ACTIVITIES

4120.08 - EMPLOYMENT OF PERSONNEL FOR CO-CURRICULAR/EXTRA-CURRICULAR ACTIVITIES

The Board of Education may find it necessary to employ, on a part-time basis, coaches or activity sponsors who are not members of the professional staff. Such part-time employees ~~()~~ may be members of the District's ~~() -classified-staff- () -support-staff- ()~~ -or individuals from the community or nearby areas. **[END OF OPTIONS]**

The Board authorizes the Superintendent to ~~()~~ -recommend candidates for employment by the Board **and/or** ~~()~~ act for the Board in employing such part-time staff pending Board approval. **[END OF OPTION]**

Each coach or activity sponsor shall hold a valid Pupil Activity Program Permit issued by the State Board of Education under R.C. 3319.303(A), have any other necessary qualifications, have been properly interviewed, and shall sign an employment contract which includes the conditions of employment, compensation arrangements, and contract termination procedures. Such qualifications shall include completion of a sudden cardiac arrest training course approved by the Department of Health, in accordance with R.C. 3319.303. The qualifications shall also include completion of a student mental health training course approved by the Department of Mental Health and Addiction Services. The mental health training course may be combined with or part of another training course. Such training must be completed each time the individual applies for or renews a Pupil Activity Program Permit. An employee must submit a copy of an active Pupil Activity Program Permit to both the Treasurer/CFO and the Superintendent before the Board will pay any compensation.

No staff member employed in a position for which licensure or permit is required may be paid until evidence of such appropriate licensure or permit valid for the effective dates of such services has been received by the Superintendent and transmitted to the Treasurer.

~~()~~ - The Board will not allow any prospective coach or activity sponsor to engage in supervision and/or coaching activities until such time that a valid Pupil Activity Permit for that individual is filed with the District.

Personnel must also pass a background check performed by the Bureau of Criminal Identification and Investigation and the Federal Bureau of Investigation and be enrolled in the State's Rapback System as required by State law (see Policy 4121).

The Board may renew the contract of any nonlicensed individual, currently employed by the Board for one (1) or more years, without first offering the position held by that individual to employees of the District who are licensed individuals or advertising the position as available to any qualified licensed individuals who are not currently employed by the Board unless otherwise prohibited by a collective bargaining agreement.

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A.C. 3301-27-01, Ohio Ethics Commission Advisory Opinion 2008-01

R.C. 3313.53, 3319.291, 3319.303, 3319.36, 3319.39



CLASSIFIED STAFF FOR BOARD APPROVAL

po4121

CRIMINAL HISTORY RECORD CHECK

4121 - **CRIMINAL HISTORY RECORD CHECK**

In accordance with State law, the Board of Education requires a criminal background check including information from the Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI) of each applicant the Superintendent recommends for employment on the District's non-teaching staff as well as for all current non-teaching employees on a periodic basis. These requirements apply to any non-teaching employee, including individuals employed by a private company under contract with the Board to provide essential school services in accordance with Policy 8142, and all substitutes and persons employed on a part-time basis such as coaches or activity supervisors.

Specific rules relating to employees engaged in the operation of a vehicle for student transportation (bus/van drivers) and non-teaching employees who are also licensed by the Ohio Department of Education (e.g. aides with a permit, paraprofessionals with a license, and those individuals who do not hold a valid educator's license but who are employed by the Board under a student activity permit) shall be implemented as prescribed by law and applicable administrative code.

A criminal background check is not required of any currently-employed staff member who is a candidate for another position in the District, unless otherwise required by law and/or this policy.

H The Board authorizes the Educational Service Center to undertake the criminal history check for individuals the Board may employ.

The Superintendent shall establish administrative guidelines that require an appropriate records check that complies with the law.

Any information and records obtained from such inquiries are not public records and shall be kept confidential and not released or disseminated.

Should it be necessary to employ a person to maintain continuity of the District's operations, prior to receipt of the criminal history record, the Superintendent may, except in the case of a bus driver, employ the person on a provisional basis until the report is received.

Enrollment in the State Rapback System

The Board will ensure that all employees and contractors whose work duties involve routine interaction with a child or who are regularly responsible for the care, custody, or control of a child are enrolled in the State Rapback System. Licensed employees are enrolled in Rapback by the State Board of Education's Office of Professional Conduct upon approval of their license. School bus and van drivers, and all other unlicensed employees and contractors who do not have a license or permit issued by the State Board of Education, are expected to complete the necessary steps to enroll in Rapback through the State Board as required by law. Employees and contractors may need to complete a new BCI background check (→) - at their expense - ~~[END OF OPTION]~~ upon initial enrollment in Rapback. Enrollment in Rapback is considered a mandatory condition of employment and is not optional. ~~[DRAFTING NOTE: House Bill 33 (effective July 4, 2023) mandated that all nonlicensed employees and contractors, including bus and van drivers, were required to be enrolled in Rapback. Senate Bill 168 (effective October 24, 2024) modified this requirement to only those unlicensed employees and contractors who the District determines will have routine interaction with a child or be responsible for the care, custody, or control of a child.]~~

Effect of Guilty Plea and/or Conviction of Enumerated Crimes - All Non-Teaching Employees

Non-teaching employees who are also licensed by the Ohio Department of Education (e.g., aides with a permit, paraprofessionals with a license, and those individuals who do not hold a valid educator's license but who are employed by the Board under a student activity permit) who engage in conduct unbecoming the teaching profession and/or who it is determined to have pled guilty to or have been convicted of any offense enumerated under R.C. 3319.39(B)(1), including a judicial finding for intervention in lieu of conviction and/or participation in a pre-trial diversion program relating to any of the offenses listed therein, are subject to the mandatory reporting requirements set forth in Policy 8141, in addition to an action by the Board to terminate their employment. In addition, consistent with State law and Policy 4138, the Superintendent shall immediately suspend such licensed non-teaching employees from all duties that require the care, custody, or control of a child during any pending criminal action for which that licensed, non-teaching staff member has been arrested, summoned and/or indicted for any crimes set forth in R.C. 3319.31(C).

~~[→]~~ A comprehensive list of crimes which must result in a suspension is set forth in AG 4121.

All other non-teaching employees who are the subject of a criminal records check including applicants hired provisionally in advance of a completed criminal records check, as well as student transportation employees (bus/van drivers, preschool and special needs bus aides), and/or individuals employed by a private company under contract with the Board to provide essential school services in accordance with Policy 8142, who it is determined

to have pled guilty to or been convicted of any offense enumerated under R.C. 3319.39(B) (1), including a judicial finding for intervention in lieu of conviction and/or participation in a pre-trial diversion program relating to any of the offenses listed therein, shall not be hired or shall be released from employment, as applicable, unless such individual meets the rehabilitation standards adopted by the Ohio Department of Education under division (E) of that section at the time of the hiring and/or upon discovery of such plea or conviction by the Board.

In the case of employees hired by the Board to operate a vehicle used for student transportation (i.e., bus/van drivers), a guilty plea or conviction of a crime to any offense listed in R.C. 3319.31(C) or A.C. 3301-83-23(A)(6)(c) will serve as a bar to further employment with the Board and the rehabilitation standards will not apply.

Suspension From Duties Involving Care, Custody or Control of a Child for Arrest, Summons, and/or Indictment for Certain Crimes

In accordance with State law and Policy 4138, the Superintendent (or Treasurer in the case of an employee whose duties are assigned by the Treasurer) shall immediately suspend any non-licensed, non-teaching employee from all duties that require the care, custody, or control of a child during any pending criminal action for which that staff member has been arrested, summoned and/or indicted for any crimes listed under R.C. 3319.39(B)(1).

 A comprehensive list of the crimes which must result in a suspension of such non-licensed employees is set forth in AG 4121.

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Legal

R.C. 109.57, 109.572, 2950, 2953.32, 3319.39, 3301.541, 3319.291, 3319.31

R.C. 3319.311, 3319.391, 3319.392, 3319.40, 3327.10

A.C. 3301-83-06 (B)(10), 3301-83-06 (F)(2), 3301-83-06 (F)(5)

A.C. 3301-83-10 (F), 3301-20-01, 3301-83-23, 4501-1-05



CLASSIFIED STAFF FOR BOARD APPROVAL

po4122

NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT

4122 - NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT

NONDISCRIMINATION

The Board of Education (hereinafter referred to as "the Board" or "the District") does not discriminate based on a person's Protected Class(es) in its education programs or activities and does not tolerate unlawful harassment. Protected Classes (which may also be referred to as Protected Categories) include race, color, national origin, sex (including pregnancy, childbirth, and related conditions), disability, age, religion, military status, ancestry, genetic information, or any other legally protected characteristics. The Board is an equal opportunity employer.

~~[DRAFTING NOTE: Given this policy pertains to discrimination/harassment in an employment context, there is a legal basis to include the optional language in the above parenthetical – i.e., “sexual orientation; and gender identity”; namely, the U.S. Supreme Court held in Bostock v. Clayton Cnty., 590 U.S. 644 (2020), that Title VII’s prohibition of discrimination on the basis of sex necessarily includes a prohibition of discrimination on the basis of sexual orientation and gender identity. On May 15, 2025, however, a Federal District Court in Texas declared unlawful and vacated portions of the EEOC’s 2024 Enforcement Guidance on Harassment in the Workplace that had interpreted the Bostock ruling to control employment actions beyond simply prohibiting termination of an employee based on the person’s sexual orientation or gender identity, which was the interpretation recognized by a majority of the U.S. Circuit Courts. The Texas District Court, however, found that all language in the Guidance document defining “sex” under Title VII to include “sexual orientation” and/or “gender identity” was contrary to Title VII and therefore vacated. Neola recommends you discuss this issue with your local legal counsel before deciding whether to include the language. Regardless of whether you elect to include the language, it is critical that you consult with your local legal counsel if a situation arises involving a workplace dispute in which an employee could conceivably allege discrimination or harassment based upon the employee’s sexual orientation or gender identity.]~~

The Board is committed to providing a work environment that is free from Prohibited Conduct, responding promptly and effectively when it has knowledge of conduct that reasonably may constitute Prohibited Conduct, and addressing Prohibited Conduct in its education programs or activities. This commitment applies to all District operations, and this policy applies to Prohibited Conduct occurring within or as a part of the District's education programs and activities, whether on school property or at another location during an activity sponsored by the Board.

Persons who commit Prohibited Conduct are subject to the full range of disciplinary sanctions set forth in this policy.

The Board will provide persons who have experienced Prohibited Conduct ongoing remedies as reasonably necessary to restore or preserve access to the District's education programs or activities.

All school employees share responsibility for avoiding, discouraging, and reporting any form of Prohibited Conduct.

The Board will take immediate action to address the following prohibited acts:

1. Retaliating against a person who has made a report or filed a complaint alleging Prohibited Conduct, or has participated in the below-described grievance procedures.
2. Filing a malicious or knowingly false report or complaint of Prohibited Conduct.
3. Disregarding, failing to appropriately address, or delaying action to appropriately address allegations of Prohibited Conduct when responsibility for reporting and/or investigating such charges comprises part of one's administrative/supervisory duties.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Bullying means: any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult, that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive work environment; or unreasonably interfere with the individual's work performance or participation. It may involve: (a) threats; (b) intimidation; (c) stalking; (d) cyberstalking; (e) cyberbullying; (f) physical violence; (g) theft; (h) sexual, religious, or racial harassment; (i) public humiliation; or (j) destruction of property. Bullying rises to the level of unlawful harassment when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more employees and that bullying is based

upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal and/or State civil rights laws. Ordinary teasing, horseplay, argument, and peer conflict do not constitute bullying for purposes of this policy.

Complainant means:

1. an employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or
2. a person other than an employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in the District's education programs or activities at the time of the alleged Prohibited Conduct.

Complaint means: an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged Prohibited Conduct.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., days that the Board office is open for normal operating hours, Monday–Friday, excluding State-recognized holidays).

Disciplinary sanctions means: consequences imposed on a respondent following a determination that the respondent engaged in Prohibited Conduct.

Education programs or activities refers to: all the District's operations including, but not limited to, in-person and online/remote educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all programs and activities operated by the Board on school grounds or on other property owned or occupied by the Board. It also includes events and circumstances that take place off school property/grounds but over which the District asserts disciplinary authority (e.g., at off-campus activities sponsored by the Board).

Exculpatory evidence means: evidence that is favorable to a respondent because it helps excuse, justify, or absolve a respondent of alleged wrongdoing and tends to establish that a respondent did not engage in Prohibited Conduct.

Genetic information means: information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (i.e., family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an

embryo legally held by an individual or family member using assistive reproductive technology.

Harassment means: any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against an employee that (a) places the employee in reasonable fear of harm to their person or damage to their property; (b) has the effect of substantially interfering with the employee's work performance; or (c) has the effect of substantially disrupting the orderly operation of a school. Each of the following types of harassment involves unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's protected characteristic(s) and has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

1. **Age Harassment** means: harassment based on negative perceptions about older workers. It also includes harassment based on stereotypes about older workers, even if they are not motivated by animus, such as pressuring an older employee to transfer to a job that is less technology-focused because of the perception that older workers are not well-suited to such work or encouraging an older employee to retire.
2. **Disability Harassment** means: harassment based upon a person's disability, and includes harassment based upon stereotypes about individuals with disabilities in general or about an individual's particular disability. It also includes harassment based on traits or characteristics linked to an individual's disability, such as how the person speaks, looks, or moves. For example, negative comments about an individual's speech patterns, movement, physical impairments, or defects/appearances, or the like. Disability-based harassment includes: (a) harassment because an individual requests or receives reasonable accommodation; (b) harassment because an individual is regarded as having an impairment, even if the individual does not have an actual disability or a record of disability; (c) harassment because an individual has a record of a disability, even if the individual currently does not have a disability; and (d) harassment based on the disability of an individual with whom the employee is associated. Finally, disability-based harassment may occur where conduct is directed at or pertains to a person's genetic information.
3. **National Origin/Ancestry Harassment** means: harassment due to a person's (or their ancestor's) place of origin. Such harassing conduct can include ethnic slurs or epithets, derogatory comments about individuals of a particular nationality, and use of stereotypes about a person's national origin. Additionally, it can include harassment regarding traits or characteristics linked to an individual's national origin, such as physical characteristics, ethnic or cultural characteristics or customs (e.g., surnames, attire, or diet), or linguistic characteristics (e.g., a person's manner of speaking, non-English language accent, or a lack of fluency in English).

4. **Race/Color Harassment** means: unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's race or color and has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.
5. **Religious (Creed) Harassment** means: harassment based on a person's surname, religion (including atheism or lack of religious belief), religious traditions and practices, or religious dress/clothing, and includes making offensive comments about the same. It also includes religious slurs or epithets, harassing conduct based on religious stereotypes, and harassment associated with a person's request for and/or receipt of religious accommodation. Religious harassment also involves explicitly or implicitly coercing an employee to engage in religious practices at work.
6. **Sexual Harassment** means (for purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; (b) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (c) such conduct has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.
1. Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.
 2. Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:
 1. Conduct of a sexualized nature, such as unwanted conduct expressing sexual attraction or involving sexual activity (e.g., unwelcome sexual propositions, invitations, solicitations, and flirtations; unwanted physical and/or sexual contact, including unwelcome and inappropriate touching, patting, or pinching (→) and obscene gestures **[END OF OPTION]**.
 2. Sexual attention or sexual coercion, such as demands or pressure for sexual favors (e.g., threats or insinuations that a person's

employment, wages, or other conditions of employment may be adversely affected by not submitting to sexual advances; giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin).

3. Rape, sexual assault, or other acts of sexual violence.
4. Discussing or displaying visual depictions of sex acts or sexual remarks (e.g., unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, texts, etc.; sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings, or literature placed in the work environment; asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities; speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history).
5. A consensual sexual relationship where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
6. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
7. Non-sexual conduct based on sex, such as sex-based epithets; sexist comments (such as remarks that women do not belong in management or that men do not belong in the nursing profession); or facially sex-neutral offensive conduct motivated by sex (such as bullying directed toward employees of one sex).
8. Harassment based on pregnancy, childbirth, or related medical condition, which may include issues pertaining to lactation, using or not using contraception, or deciding whether to have, or not to have, an abortion.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be objectively offensive (a reasonable person would find it hostile or abusive), subjectively offensive (the complainant actually perceived it as abusive), and either sufficiently severe (a single extremely serious incident) or pervasive (a

pattern of behavior), such that it adversely affects, limits, or denies an individual's employment or creates a hostile or abusive employment environment.

Inculpatory evidence means: evidence that links a respondent to alleged wrongdoing and tends to establish that a respondent engaged in Prohibited Conduct (i.e., has culpability).

Military status means: a person's past, current, or future membership, service, or obligation in a uniformed service (e.g., Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, Public Health Service Commissioned Corps, and National Oceanic and Atmospheric Administration Commissioned Officer Corps). Service in the uniformed services also means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of the Ohio organized militia. It further 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.

Party means: a complainant or respondent.

Pregnancy, childbirth, or related medical conditions means:

1. "Pregnancy" and "childbirth" refer to the pregnancy or childbirth of a specific employee and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment, and the use of contraception); labor; and childbirth (including vaginal and cesarean delivery).
2. "Related medical conditions" are medical conditions relating to the pregnancy or childbirth of a specific employee, and may include termination of pregnancy, including via miscarriage, stillbirth, or abortion; ectopic pregnancy; preterm labor; pelvic prolapse; nerve injuries; cesarean or perineal wound infection; maternal cardiometabolic disease; gestational diabetes; preeclampsia; HELLP (hemolysis, elevated liver enzymes and low platelets) syndrome; hyperemesis gravidarum; anemia; endometriosis; sciatica; lumbar lordosis; carpal tunnel syndrome; chronic migraines; dehydration; hemorrhoids; nausea or vomiting; edema of the legs, ankles, feet, or fingers; high blood pressure; infection; antenatal (during pregnancy) anxiety, depression, or psychosis; postpartum depression, anxiety, or psychosis; frequent urination; incontinence; loss of balance; vision changes; varicose veins; changes in hormone levels; vaginal bleeding; menstruation; and lactation and conditions related to lactation, such as low milk supply, engorgement, plugged ducts, mastitis, or fungal infections. The preceding list of related medical conditions is not exhaustive.

Prohibited Conduct means: unlawful discrimination or harassment based on a person's Protected Class(es) or retaliation. Such misconduct involves a violation of Federal and/or State civil rights laws.

Relevant means: related to the allegations of Prohibited Conduct under investigation as part of the Board's grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged Prohibited Conduct occurred.

Remedies means: measures provided, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the District's education programs or activities limited or denied by Prohibited Conduct. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that Prohibited Conduct occurred.

Respondent means: a person who is alleged to have engaged in Prohibited Conduct.

Retaliation means: intimidation, threats, coercion, or discrimination against any person by the District, a student, a Board employee, or any other person authorized by the Board to provide aid, benefit, or service under the District's education programs or activities, for the purpose of interfering with any right or privilege secured by Federal or State law, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under applicable Federal or State laws or regulations.

School District community means: students and Board employees (i.e., administrators and professional/classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Supportive measures means: non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge to the complainant or the respondent before or after making a report or filing a complaint. Such measures are designed to restore or preserve that party's access to the District's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or deter Prohibited Conduct. Supportive measures may include modifications of work schedules, mutual restrictions of contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain work settings, training related to Prohibited Conduct, ↕ referral to Employee Assistance Program, [END-OF-OPTION] and other similar measures.

Third Parties means: guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members

of the School District community at school-related events/activities (whether on or off District property).

Pregnancy, Childbirth, and Related Medical Conditions

The Board will not discriminate against an employee based on the person's current pregnancy, potential or intent to become pregnant, past pregnancy, or medical condition related to pregnancy or childbirth, or because the person uses birth control, or has had or not had an abortion.

Additionally, the Board will provide a reasonable accommodation to an employee's known limitation related to pregnancy, childbirth, or a related medical condition, unless the accommodation will cause the District undue hardship.

The Board will treat pregnancy, childbirth, and related medical conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; accrual of seniority and any other benefit or service; reinstatement; and under any fringe benefit offered to employees by virtue of employment.

The Board will provide reasonable break time for an employee to express breast milk while at work for the first year after the employee's child's birth. The Board will provide the employee with a space, other than a bathroom, that is clean, shielded from view, free from intrusion from coworkers and the public, and which the employee can use as needed to express breast milk. See Board Policy 6700 – Fair Labor Standards Act.

Nondiscrimination Based on Employee's Genetic Information

The Board prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The Board also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Harassment of a person because of the individual's genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

In accordance with the Genetic Information Nondiscrimination Act ("GINA"), the Board shall not request, require, or purchase genetic information of employees, their family members, or applicants for employment. Further, in compliance with GINA, employees are directed not to provide any genetic information, including the individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be acquired as part of the certification process for FMLA leave, when an employee is asking for leave to care for an immediate family member with a serious health condition. Applicants for employment are directed not to provide any genetic

information, including the individual's family medical history, in response to requests for medical information as part of the District's application process.

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~~[+] The District recognizes that genetic information may be acquired through commercially and publicly available documents like newspapers, books, magazines, periodicals, television shows, or the Internet. The District prohibits, however, its employees from searching such sources with the intent of finding or obtaining genetic information or accessing sources from which they are likely to acquire genetic information. [END OF OPTION]~~

If the District either legally and/or inadvertently receives genetic information about an employee or applicant for employment from the employee, applicant for employment, or a medical provider, it shall be treated as a confidential medical record in accordance with law.

The District Compliance Officer (see below) shall be responsible for overseeing the District's compliance with applicable Federal regulations and promptly dealing with any inquiries or complaints. The District Compliance Office or designee shall also verify that proper notice of nondiscrimination for Title II of the Genetic Information Nondiscrimination Act of 2008 is provided to staff members, and that all District requests for health-related information (e.g., to support an employee's request for reasonable accommodation under the Americans with Disabilities Act ("ADA") or a request for sick leave) is accompanied by a written warning that directs the employee or health care provider not to collect or provide genetic information. The warning shall read as follows:

The Genetic Information Nondiscrimination Act of 2008 ("GINA") prohibits employers and other entities covered by GINA Title II, including the Board of Education, from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by law. To comply with this law, do not provide any genetic information when responding to this request for medical information (unless the request pertains to a request for FMLA leave for purposes of caring for an immediate family member with a serious health condition). "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or an individual's family member sought or received genetic services or participated in clinical research that includes genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

~~[+] The District offers health services (+), including a wellness program [END OF OPTION]. Participation in the services/program is voluntary. Genetic information (such as family medical history) may be obtained as part of an individual's participation in the service/program. If that occurs, individual genetic information may be provided to the individual receiving the services and to the person's health services providers, but only genetic information in aggregate form will be provided to the Board [END OF OPTION].~~

District Compliance Officer(s)

[DRAFTING NOTES:

1. Neola suggests the Board appoint both a male and a female to serve as the District Compliance Officers. By appointing two (2) District Compliance Officers, there should always be a District Compliance Officer available to address a claim that pertains to the other District Compliance Officer. If, however, the Board appoints more than one (1) District Compliance Officer, Neola recommends that it designate one (1) of the District Compliance Officers to retain ultimate oversight over the assigned responsibilities and ensure the Board's consistent compliance with its responsibilities under applicable Federal and State laws that prohibit unlawful discrimination/harassment based on protected classes and retaliation. Alternatively, the Board could appoint a District Compliance Officer and one (1) or more persons to assist the District Compliance Officer with the performance of the responsibilities identified in this policy and its accompanying administrative guidelines. Often, the person(s) designated to assist a District Compliance Officer is/are called Deputy or Assistant Compliance Officer(s). If the Board elects this alternative approach, it would designate a District Compliance Officer for purposes of this policy, and then designate the other position(s) through its AG. The person(s) in the alternative support role(s) will need to be trained in the same manner as the District Compliance Officer (see AG 4122).
2. The Board must list in this policy either the Name(s) or Title(s) of the District Compliance Officer(s); while the Board may list both the Name(s) and Title(s), Neola suggests that the Board only list the Title(s) in this policy (so the Board does not need to revise/amend the policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name(s) and Title(s) in the requisite notices/postings (e.g., website) and publications (e.g., handbooks). The District will also need to decide whether to list the Name(s) and Title(s), or just the Title(s), in Administrative Guideline 4122 if the District elects to identify the District Compliance Officer in the AG (see DRAFTING NOTE in the AG; again, if the District lists the Name(s) and Title(s), it will need to remember to update the AG whenever there is a change in the actual person(s) holding the designated position(s). No matter what, the Board will need to amend its policy and update its AG, requisite notices/postings, and publications whenever it changes the Title of the position(s) designated to serve as the District Compliance Officer(s).
3. Reminder: Whenever a new person begins to serve as the District Compliance Officer (or in a support role to the District Compliance Officer), the District needs to make sure the new person is appropriately trained, in a timely manner, to fulfill the responsibilities of the position to which the person is assigned.]

The Board designates and authorizes the following individual(s) to coordinate its efforts to comply with the Board’s responsibilities under Federal and State laws that prohibit discrimination, including harassment, based on Protected Classes and retaliation (also known as “Civil Rights Coordinator(s)” or “Anti-Harassment Compliance Officer(s)” (hereinafter referred to as the “District Compliance Officer(s)” or “CO(s)”):

Director of Community Engagement

244 South Monroe Street

Tiffin, OH 44883

419-447-2515

Director of Student Services

124 Ohio Ave nue :

Tiffin, OH 44883

419-455-9107

(Name and/or School District Title)

(Office Address)

(Email Address)

(Telephone Number)

-

~~[DRAFTING NOTE: The District may want to create a static (i.e., fixed) District Compliance Officer-specific email address and phone number that will not change when the person(s) and/or position(s) designated to be the CO(s) change(s) – e.g., CO4CivilRights@(insert District’s domain) – which the Technology Director/Department can program to be forwarded to the actual individual(s) serving as the District Compliance Officer(s) at any given time. Likewise, the District may want to establish a static Telephone Number for the position of District Compliance Officer that can be forwarded to, and accessed by, the actual person(s) serving in the CO position(s) at any given time. These two (2) steps will help reduce the information that needs to be updated in policy, AG, and/or the requisite notices/postings and publications when changes occur to the specific person(s)/position(s) designated to serve as the CO(s).]~~

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~~[DRAFTING NOTE: Complete the following information if the Board appoints more than one (1) District Compliance Officer.]~~

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~~[] [DESIGNATION OF A SECOND DISTRICT COMPLIANCE OFFICER]~~

-

(Name and/or School District Title)

(Office Address)

(Email Address)

(Telephone Number)

-

[END-OF-OPTION]

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[DRAFTING NOTE: As discussed above, if the Board designates more than one (1) CO, Neola recommends that the District select the following option.]

[] The Board designates _____ [DRAFTING NOTE: Insert Name and/or Title of the District Compliance Officer who is ultimately responsible for the District's compliance with its responsibilities under Federal and State laws that prohibit discrimination /harassment based on P rotected C lasses and retaliation - as the individual who is ultimately responsible for oversight over the Board's compliance with applicable Federal and State laws and regulations that prohibit discrimination based on the basis of protected classes and retaliation. [END-OF-OPTION]

[+] The District Compliance Officer may delegate specific duties to one (1) or more designees. [END-OF-OPTION]

The contact information concerning the District Compliance Officer(s) will be published on the School District's website ~~(-) and annually~~ **[END-OF-OPTION] :**

1. ~~(-) in parent/student and staff handbooks.~~
2. ~~(-) in the School District Annual Report to the public.~~
3. ~~(-) on each individual school's website.~~
4. ~~(-) in the School District's calendar.~~
5. ~~(-) - [Other] _____.~~

[DRAFTING NOTE: The Board may want to select the following option when the Superintendent is not the CO. While Neola recognizes that this may not always be possible, it may be preferable to have the CO be someone other than the Superintendent because then – if the CO serves as the investigator and decision maker – the Superintendent can serve as the appeal decision maker or the facilitator for the informal resolution process.]

[+] The District Compliance Officer(s) shall report directly to the Superintendent except when the Superintendent is a party to a complaint (i.e., either the complainant or the

respondent). Under such circumstances, the CO(s) shall report directly to ~~[SELECT ONE OF THE FOLLOWING] (-) the Board President (-) the Board's Legal Counsel (-)~~
~~_____ [OTHER] [END OF OPTIONS]~~ until the matter in which the Superintendent is a party is concluded. ~~[END OF OPTION]~~

Questions about this policy ~~(-)~~ and AG 4122 - ~~END OF OPTION]~~ should be directed to the District Compliance Officer(s).

The CO(s) is/are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, harassment, retaliation, or denial of equal opportunity/access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), Genetic Information Nondiscrimination Act ("GINA"), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. ~~(-) Any sections of the District's collective bargaining agreements dealing with hiring, promotion, demotion, discipline, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement set forth above. [END OF OPTION] (-) In addition, as practical, gender-specific terms should be eliminated from such contracts. [END OF OPTION] Copies of the laws and regulations listed above are available upon request from the CO(s).~~

The CO(s) will be available during regular work hours to discuss concerns related to Prohibited Conduct, to assist employees, other members of the District community, and third parties who seek support or advice when informing another individual about Prohibited Conduct, including unwelcome conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

The CO(s) shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute Prohibited Conduct pursuant to Federal and/or State laws that prohibit discrimination/harassment based on the basis of a Protected Class/Category and retaliation, and take steps reasonably calculated to address such barriers.

Notice of Nondiscrimination

The Superintendent shall provide a notice of nondiscrimination to students, parents, guardians, or other authorized legal representatives of elementary and secondary students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the Board. Specifically, the Superintendent shall post the notice of nondiscrimination on the District's website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to the persons listed above, or which are otherwise used in connection

with the recruitment of employees. (→) See AG 4122 - Nondiscrimination, Equal Employment Opportunity, and Anti-Harassment and Form 4122 F1 – Notice and Statement of Nondiscrimination. ~~[END OF OPTION]~~

NOTIFICATION/REPORTS OF PROHIBITED CONDUCT

Any person may provide information to the CO(s) concerning conduct that reasonably may constitute Prohibited Conduct. Such information may be submitted in person, by mail, by telephone, or by electronic mail using the CO's(s') published contact information, or by any other means (oral or written) that results in the CO(s) receiving the information.

Information may be provided at any time (including during non-work hours). (→) Anonymous reports may be submitted using (→) the online reporting form posted at _____ - ~~[insert the web address for the reporting form, or insert a hyperlink tied to the phrase "online reporting form"]~~ [or] (→) the hotline reporting number (_____) ~~[insert phone number]~~. ~~[END OF OPTION]~~

All Board employees are required to notify the CO(s) of conduct that reasonably may constitute Prohibited Conduct. For the Board to fulfill its responsibilities under applicable Federal and/or State laws, if a Board employee has knowledge of conduct that reasonably may constitute Prohibited Conduct, the Board employee must notify the/a CO ~~immediately within two (2) days~~ of learning the information or receiving the report. ~~[DRAFTING NOTE: The applicable statutes and regulations do not specify within how many days the Board employee must notify the CO of receiving notification/a report of Prohibited Conduct; Neola suggests "two (2) days". Alternatively, the Board could make this language more open-ended – e.g., "*** must immediately/promptly notify the/a CO of such information or report."]~~ The Board employee must also comply with mandatory reporting responsibilities pursuant to R.C. 2151.412 and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board employee's knowledge about the alleged Prohibited Conduct is based on another individual bringing the information to the Board employee's attention and the reporting individual submitted a written notification/report or complaint to the Board employee, the Board employee must provide the written notification/report or complaint to the CO.

Notification can be provided orally or in writing and should be as specific as possible. The person making the notification/report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a notification/report or complaint involves allegations of Prohibited Conduct by or involving the CO, the person making the report (i.e., providing the notification or filing the complaint) should submit it to the Superintendent or another Board employee who, in turn, will notify the Superintendent of the report/complaint. The Superintendent will then serve in place of the CO for purposes of addressing that report of Prohibited Conduct. ~~[DRAFTING NOTE: If the Superintendent is the CO, substitute "Board President" in place of "Superintendent."]~~

When a Board employee notifies the CO of suspected Prohibited Conduct, the employee is required to report all known details about the alleged Prohibited Conduct including: (1) the name of the alleged respondent(s); (2) the person who experienced the alleged Prohibited Conduct (i.e., the complainant); (3) other persons involved in the alleged Prohibited Conduct (e.g., witnesses); and (4) any other relevant facts, such as date, time, and location. Failure to provide such notification may result in discipline, up to and including suspension or termination of employment.

Any allegations of misconduct not involving Prohibited Conduct as defined in this policy will be addressed through the procedures outlined in other Board policies (–) and/or administrative guidelines ~~[END OF OPTION]~~, the applicable Student Code of Conduct, applicable collective bargaining agreement, and/or Employee/Administrator Handbook.

When a notification/report or complaint of Prohibited Conduct is made, the CO shall promptly (i.e., within two (2) days ~~[DRAFTING NOTE: The applicable laws and/or regulations do not define “promptly” or otherwise specify within how many days the contact has to be made; Neola suggests “two (2) days.”]~~ of the CO’s receipt of the notification/report or complaint of Prohibited Conduct) contact the purported complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a complaint, and explain to the complainant the process for filing a complaint. The CO is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the complainant or respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

GRIEVANCE PROCEDURES

Overview:

The Board adopts the following grievance procedures to provide for the prompt, effective, and equitable resolution of complaints made by employees, applicants, or other individuals who are participating or attempting to participate in the District’s education programs or activities (i.e., members of the School District community and third parties), or by the CO, alleging any act of Prohibited Conduct.

These grievance procedures shall be used for all complaints of Prohibited Conduct, unless it involves conduct involving a student, in which case the grievance procedures set forth in Policy 2260 or Policy 5517.01 shall apply. These grievance procedures set forth the means for investigating and resolving claims involving such Prohibited Conduct; in particular, the procedures provide a method for assessing – in a prompt, effective, and equitable manner – whether an applicable Federal or State law was violated and, if it was, how best to end the Prohibited Conduct, prevent its recurrence, and remedy its effects.

Due to the sensitivity surrounding complaints of Prohibited Conduct, timelines are flexible for initiating the grievance procedures; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner.

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~~[DRAFTING NOTE: Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits discrimination in employment. Specifically, it prohibits employment discrimination based on race, color, religion, sex, or national origin, and applies to employers with fifteen (15) or more employees. Title IX, on the other hand, specifically prohibits discrimination based on sex in education programs and activities that receive Federal financial assistance, including employment within those institutions. Title IX is addressed by Board Policy 2266 and AG 2266. While both laws aim to prevent sex-based discrimination in the workplace, Title VII applies more broadly to various types of employers, whereas Title IX is limited to educational institutions receiving Federal funds. Ultimately, both laws aim to ensure equal employment opportunities and protect individuals from discrimination. When a District Compliance Officer receives a complaint or notification of alleged misconduct involving sex discrimination (in particular, sexual harassment) that involves an employee complainant and an employee respondent, the District Compliance Officer should consult with the Title IX Coordinator and/or the Board's Legal Counsel concerning which law – it may be both – the District will need to comply with when investigating the allegations.]~~

Under all circumstances, the CO shall offer and coordinate supportive measures, as appropriate, in accordance with this policy (-) - and AG 4122 [END OF OPTION].

Complaints:

The following people may make a complaint of Prohibited Conduct – i.e., request that the District investigate and determine whether Prohibited Conduct occurred:

1. A "complainant," which includes:

1. an employee of the District who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or
2. a person other than an employee of the District who is alleged to have been subjected to conduct that could constitute Prohibited Conduct at a time when that individual was participating or attempting to participate in the District's education programs or activities;

2. An authorized legal representative with the legal right to act on behalf of a complainant;

3. District Compliance Officer.

A person is entitled to make a complaint of unlawful harassment only if they themselves are alleged to have been subjected to the unlawful harassment, or if the CO initiates a complaint.

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~~[DRAFTING NOTE: This paragraph emphasizes that in order for a person to file a complaint of unlawful harassment, the person has to have been subjected to the alleged misconduct directly or be a person who has a legal right to act on behalf of the person who was subjected to the alleged misconduct. This is consistent with the prior paragraph where the complainant is identified as an employee who was "subjected to conduct that could constitute Prohibited Conduct." The following paragraph, on the other hand, expands who can file a complaint – when the alleged Prohibited Conduct does not involve unlawful harassment, or the complaint involves allegations of retaliation – to persons who are aware of the alleged Prohibited Conduct, even if that person was not directly affected by or subject to the alleged Prohibited Conduct.]~~

With respect to complaints of Prohibited Conduct other than unlawful harassment, or complaints involving allegations of retaliation, in addition to the people listed above, the following persons have a right to make a complaint:

1. any employee of the District; or
2. any person other than an employee who was participating or attempting to participate in the District's education programs or activities at the time of the alleged Prohibited Conduct.

The District may consolidate complaints of Prohibited Conduct against more than one (1) respondent, or by more than one (1) complainant against one (1) or more respondents, or by one (1) party against another party, when the allegations of Prohibited Conduct arise out of the same facts or circumstances. When more than one (1) complainant or more than one (1) respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

A person may file criminal charges simultaneously with filing a complaint. A person does not need to wait until the District's internal grievance procedures are completed before filing a criminal complaint. Likewise, questions or complaints relating to alleged violations of applicable Federal or State laws may be filed with the U.S. Department of Education's Office for Civil Rights, the U.S. Department of Justice's Civil Rights Division, the U.S. Equal Employment Opportunity Commission, or the Ohio Civil Rights Commission at any time based on the underlying statutory basis for the complaint.

Basic Requirements:

The District will treat complainants and respondents equitably.

All persons involved with implementing the grievance procedures and any other aspects of this Policy, including the District Compliance Officer, the investigator, the decision maker, and the appeal decision maker, () and the facilitator of the informal resolution process, [END OF OPTION] shall be free from any conflicts of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent.

[+] The CO may serve simultaneously as an investigator and/or a decision maker. - [END OF OPTION] [DRAFTING NOTE: Neola recommends the Board select this OPTION; note it is "may" (i.e., optional) so the CO can decide when to serve in both roles and when to designate one or more persons to perform these responsibilities in a given case.]

If the CO does not intend to serve as the investigator/decision maker in a specific case, the CO shall designate one (1) or more administrators who are appropriately trained to serve in the role.

In circumstances when the CO and trained administrators do not have time/capacity to serve, or are prevented due to a conflict of interest, bias, or partiality, or other reasons impair the CO and other trained administrators from serving as an investigator/decision maker in a specific case, the CO shall (), in consultation with () and approval of [END OF OPTION] the Superintendent or () Board () Board President (as appropriate), [END OF OPTION] secure one (1) or more independent third parties to serve as the investigator and/or decision maker.

The District presumes that the respondent is not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of its grievance procedures.

Under ordinary circumstances, the Board expects to complete the major stages of the grievance procedures within the timeframe specified below:

1. **Evaluation** – The District Compliance Officer will determine whether to dismiss a complaint or investigate it within _____ ten (10) [INSERT # OF DAYS] days of receiving the complaint. [DRAFTING NOTE: Neola recommends that the evaluation stage be completed within ten (10) days of the CO receiving notice of the complaint.]
2. **Investigation** – The CO, or designated investigator/decision maker, shall ordinarily complete the investigation (i.e., collect relevant evidence that is not otherwise impermissible) and issue a Determination (i.e., consider the relevant relevant and not otherwise impermissible evidence and decide whether Prohibited Conduct occurred) within _____ twenty (20) [INSERT # OF DAYS] days of the CO determining the charges require investigation. [DRAFTING NOTE: Recognizing that it is

important for investigations to be completed and Determinations issued in a prompt and equitable manner, Neola recommends that a school district typically complete an investigation and issue a Determination within twenty (20) days.]

[DRAFTING NOTE: If the investigator/decision maker is someone other than the CO, upon written request from the investigator/decision maker, the CO should be permitted to approve a reasonable extension of time for the investigation to be completed and the Determination issued. If the CO is the investigator/decision maker, upon written request from the CO, the Superintendent should be permitted to approve a reasonable extension of time for the investigation to be completed and the Determination issued. In either situation, the administrator granting the extension should communicate to the parties the new deadline along with a rationale for the extension.] If, however, the CO, or designated investigator/decision maker, determines that the investigation is going to take longer, the CO will so notify the parties () and the Superintendent [END OF OPTION] and will thereafter keep the parties () and the Superintendent [END OF OPTION] informed of the status of the matter on a regular _____ [INSERT TIME PERIOD – E.G., BIWEEKLY OR REGULAR] basis.

3. **Appeal** – A party filing an appeal of the CO’s decision to dismiss a complaint (), or the Determination, [END OF OPTION] must do so within five (5) days - [INSERT # OF DAYS] days of receiving the Dismissal () or Determination [END OF OPTION].

[DRAFTING NOTE: Neola recommends the Board allow limited appeals based on the Determination. See DRAFTING NOTE below in the Appeal section.]

The CO, or the Superintendent if the CO is the individual requesting an extension, may approve reasonable extensions of the preceding timeframes on a case-by-case basis for good cause with notice to the parties.

The District will take reasonable steps to protect the privacy of the parties and witnesses. () These steps will not restrict the ability of the parties to present evidence or otherwise participate in the grievance procedures. [END OF OPTION] The parties shall not engage in retaliation, including against witnesses.

The CO, or designated investigator/decision maker, shall objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations shall not be based on a person’s status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking such evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one (1)

of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

1. evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed voluntarily waived the privilege or confidentiality; and
2. a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its grievance procedures.

Notice of Allegations:

Upon initiation of the Board's grievance procedures, the District Compliance Officer shall notify the parties of the following:

1. the Board's grievance procedures ~~(+)~~ and informal resolution process ~~[END OF OPTIONS]~~ associated with claims involving Prohibited Conduct; ~~[DRAFTING NOTE: Neola encourages the Board to include an informal resolution process.]~~
2. sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s); and
3. retaliation is prohibited.

Should the CO decide, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the CO will provide a supplemental written notice describing the additional allegations to be investigated.

Dismissal of a Complaint:

The CO may dismiss a complaint of Prohibited Conduct if:

1. the District is unable to identify the respondent after taking reasonable steps to do so;
2. the respondent is not participating in the District's education program or activity and is not employed by the Board;
3. the complainant voluntarily withdraws any or all of the allegations in the complaint, the CO declines to initiate a complaint, and the District determines that, without the

complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct even if proven; or

4. the District determines that the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct. Before dismissing the complaint, the CO will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the CO will promptly notify, in writing, the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, the CO will also simultaneously notify, in writing, the respondent of the dismissal and the basis for the dismissal.

The CO will further notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of the complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the CO will also notify the respondent that the dismissal may be appealed.

Dismissals may be appealed on the following bases:

1. procedural irregularity that would change the outcome;
2. new evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. the CO had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that would change the outcome.

If the dismissal is appealed, the CO will:

1. notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. implement appeal procedures equally for the parties;
3. ensure that the appeal decision maker did not take part in the original dismissal of the complaint;
4. ensure that the appeal decision maker has been trained consistent with this Policy { } and AG 4122 **[END OF OPTION]**;
5. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the CO will, at a minimum:

1. offer supportive measures to the complainant as appropriate;
2. if the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
3. take other prompt and effective steps, as appropriate, to ensure that Prohibited Conduct does not continue or recur within the District's education programs or activities.

~~[DRAFTING NOTE: Neola encourages the Board to select the following option so the CO can choose, in appropriate circumstances, to offer the parties the opportunity to participate in an informal resolution process, or to honor the parties' request to use an informal resolution process, to end the Prohibited Conduct, prevent its recurrence, and remedy its effects.]~~

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~~[} OPTIONAL LANGUAGE: INFORMAL RESOLUTION PROCESS]~~

Informal Resolution Process:

In lieu of resolving a complaint through the Board's formal grievance procedures, the parties may instead elect to participate in an informal resolution process. The District will not offer an informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law.

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~~[END OF OPTIONAL LANGUAGE: INFORMAL RESOLUTION PROCESS]~~

Adding Allegations and/or Consolidating Complaints:

If, in the course of an investigation, the District decides to investigate additional allegations of Prohibited Conduct by the respondent toward the complainant that are not included in the original Notice of Allegations or to consolidate charges raised in a different complaint involving the same respondent, the CO will notify the parties of the additional allegations.

Investigation:

The District will provide for an adequate, reliable, and impartial investigation of complaints.

The burden is on the District — not on the parties — to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred.

The CO, or the designated investigator/decision maker, will provide an equal opportunity

for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The CO, or the designated investigator/decision maker, will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible, regardless of relevance.

Determination of Whether Prohibited Conduct Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the CO or designated investigator/decision maker will:

1. Use the preponderance of the evidence standard of proof to determine whether Prohibited Conduct occurred. This standard of proof requires the decision maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker, applying the applicable standard, is not persuaded by the relevant and not otherwise impermissible evidence that Prohibited Conduct occurred, regardless of the quantity of the evidence, the decision maker will not determine that Prohibited Conduct occurred. **[DRAFTING NOTE: While a board of education could elect to use the "clear and convincing" evidence standard of proof, Neola does not recommend it. If a board does select the "clear and convincing" standard, it should use it in all other comparable proceedings. Neola expects it will be a rare situation when a board chooses to use a clear and convincing standard of proof.]**
2. Notify the parties, in writing, of the determination whether Prohibited Conduct occurred, including the rationale for such determination **(+)**, and the procedures and permissible bases for the complainant and respondent to appeal **[END OF OPTION]**.
3. Not impose discipline on a respondent for Prohibited Conduct unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in Prohibited Conduct.
4. If there is a determination that Prohibited Conduct occurred, the CO will, as appropriate:
 1. coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to the District's education programs or activities limited or denied by the Prohibited Conduct;
 2. coordinate the imposition of any disciplinary sanctions on a respondent **(+)**, including notification to the complainant of any such disciplinary sanctions **[END OF OPTION]**; and

3. take other appropriate prompt and effective steps to ensure that the Prohibited Conduct does not continue or recur within the District's education programs or activities.
5. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent.
6. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement based solely on the determination of whether Prohibited Conduct occurred.

~~[DRAFTING NOTE: If the CO dismisses a complaint in the Evaluation stage (i.e., prior to commencing an investigation), the complainant may appeal as set forth above. Neola also recommends that the Board include an appeal process related to the Determination.]~~

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~~[] [OPTIONAL LANGUAGE - APPEAL OF DETERMINATIONS]~~

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Appeal of Determinations:

If a party disagrees with the decision maker's determination as to whether Prohibited Conduct occurred, the party may file an appeal. Appeals must be submitted, in writing, within ~~_____~~ **five (5)** **[INSERT # OF DAYS]** days of the appealing party's receipt of the Determination.

A party may appeal a Determination on the following bases:

1. procedural irregularity that would change the outcome;
2. new evidence that would change the outcome and that was not reasonably available when the investigation occurred and the Determination was made; and
3. the CO, or the designated investigator/decision maker, had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that would change the outcome.

~~[DRAFTING NOTE: The Board may insert additional grounds on which an appeal may be filed. Change period at end of C. to a semi-colon if additional grounds are inserted by the Board.]~~

4. ~~(-) the recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the Prohibited Conduct).~~

5. ~~()~~**[OTHER]** _____.

~~[]~~ The complainant may not challenge the ultimate disciplinary sanction/consequence that is imposed. **[END OF OPTION]**

[DRAFTING NOTE: The following options are offered in case the Board wants the Superintendent to serve as the appeal decision maker or the Board wants to nominally be identified as the appeal decision maker but will be delegating the responsibility to a person who is properly trained. Neola does not recommend that the Board itself be named as the appeal decision maker because of the preference for the decision maker to be trained to render a decision. If the Board wants to serve as the appeal decision maker, it should discuss this issue with its Legal Counsel. Select OPTION 1 or OPTION 2 below.]

[]**[OPTION 1]**

The CO will designate an appeal decision maker, who will be a person who did not conduct the Investigation and render the Determination, and is appropriately trained ~~()~~, as set forth in AG 4122 **[END OF INTERNAL OPTION]** :

The CO has authority ~~()~~, in consultation with ~~()~~ and approval of **[END OF OPTION]** the Superintendent ~~-or () Board () Board President (as appropriate), [END OF OPTION]~~ - to secure an independent third party to serve as the appeal decision maker.

~~[]~~ In designating an appeal decision maker, the CO will work with the Board to identify and appoint an independent third party to serve as the appeal decision maker – this individual shall be considered to be the Board's designee and will submit the appeal decision to the Board who will promptly adopt it as written and forward it to the CO who will send it simultaneously to the parties. **[END OF INTERNAL OPTION]**

[END OF OPTION 1]

[]**[OPTION 2]**

The Superintendent shall serve as the appeal decision maker, provided the Superintendent has not been otherwise involved in the grievance procedures (i.e., did not serve as the investigator/decision maker or informal resolution process facilitator) and is appropriately trained. If the Superintendent is not eligible to serve as the appeal decision maker, the CO will designate an appeal decision maker, who will be a person who did not conduct the Investigation and render the Determination, and is appropriately trained ~~()~~, as set forth in AG 4122 **[END OF INTERNAL OPTION]**.

[END OF OPTION 2]

If a party appeals the Determination, the CO will:

1. notify the parties of the appeal;
2. implement appeal procedures equally for the parties;
3. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the Determination;
4. provide the appeal decision maker with the relevant and not otherwise impermissible evidence and the Determination; and
5. notify the parties, in writing, of the result of the appeal and the appeal decision maker's rationale for the outcome.

Parties Provided a Reasonable and Equal Opportunity to Make a Statement in Support of, or Challenging, the Dismissal (→) or Determination [END-OF-OPTION]

When a party files an appeal, the party must set forth the reason(s)/basis/bases for the appeal, and the other party will have five (5) [INSERT # OF DAYS] days to provide the appeal decision maker with a statement in support of their position. Once the decision maker receives the statement (or the deadline for filing such a statement expires), the appeal decision maker will have ten (10) [INSERT # OF DAYS] days to issue a decision on the appeal.

[DRAFTING NOTE: Neola suggests any appeals should be filed within five (5) days of the parties receiving written notice of the Determination. Neola further suggests that the timeline for the other party submitting a statement be equivalent to the timeframe in which an appeal has to be filed. Finally, Neola suggests the appeal decision maker have ten (10) days from receipt of the statements to issue a decision.]

While a party appealing a Determination may argue the reason/basis for the appeal is that new evidence has been discovered/obtained that would change the outcome and that said new evidence was not reasonably available when the Determination was originally made, the party may not submit the new or additional evidence during the appeal process. Rather, the party appealing should identify/describe, in detail, the evidence, including how and when it was discovered/obtained, and explain why it was not reasonably available during the investigation (i.e., prior to the Determination). If the appeal decision maker accepts the proffered explanation, the appeal decision maker should remand the case back to the investigator/decision maker (i.e., reopen the investigation) so the new evidence may be submitted and considered by the other party and the investigator/decision maker.

The appeal decision maker shall determine the outcome of the appeal based on the appeal decision maker's independent review of the record (i.e., the relevant and not otherwise impermissible evidence and the written determination) and the appeal decision maker's

application of the law and Board policy to the facts in the record. The appeal decision maker must give due deference and due weight to the decision maker's factual findings and credibility determinations and should not overturn them unless non-testimonial extrinsic evidence in the record justifies a contrary conclusion or unless the record, read in its entirety, compels a contrary conclusion. Generally, the appeal decision maker is expected to uphold the original Determination unless the appeal decision maker concludes the original Determination is unlawful, unreasonable, or against the manifest weight of the evidence. Every reasonable presumption must be made in favor of the original Determination.

The appeal decision maker shall

~~[DRAFTING NOTE: The Board must select either OPTION 1 or OPTION 2 unless the Board appointed an independent third party to serve as the Board's appeal decision maker, in which case the Board should select OPTION 3.]~~

~~(-) [OPTION 1]~~

simultaneously notify the parties, in writing, of the result of the appeal and the rationale for the outcome.

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~~[END OF OPTION 1]~~

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~~[OR]~~

~~(-) [OPTION 2]~~

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~~notify the CO, in writing, of the result of the appeal and the rationale for the outcome. The CO will then simultaneously notify the parties, in writing, of the result of the appeal and the appeal decision maker's rationale for the outcome.~~

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~~[END OF OPTION 2]~~

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~~[OR]~~

~~(-) [OPTION 3 - APPOINTED THIRD PARTY AS APPEAL DECISIONMAKER]~~

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~~submit the appeal decision to the Board, who will promptly adopt it as written and forward it to the CO, who will send it simultaneously to the parties. The appeal decision shall set forth the result of the appeal and the appeal decision maker's rationale for the outcome.~~

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~~[END OF OPTION 3]~~

The ~~()~~ appeal decision maker's ~~() Board's [END OF OPTION]~~ decision shall be final.

~~[END OF OPTIONAL LANGUAGE: APPEAL OF DETERMINATIONS]~~

Supportive Measures:

The District will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the District's education programs or activities or provide support during the grievance procedures and/or during the informal resolution process. For allegations of Prohibited Conduct other than prohibited harassment or retaliation, the District's provision of support measures does not require the District, Board employees, or any other person authorized to provide aid, benefit, or service on the District's behalf to alter the alleged discriminatory/retaliatory conduct for the purpose of providing a supportive measure.

The CO shall determine appropriate supportive measures on a case-by-case basis. Supportive measures may vary depending on what the CO deems to be reasonably available. Supportive measures may include, but are not limited to, modifications of work schedules, mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring of certain work settings; training related to Prohibited Conduct; ~~()~~ referral to Employee Assistance Program ~~[END OF OPTION]~~; and other similar measures.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties and/or the District's educational environment, or to provide support during the Board's grievance procedures or the informal resolution process.

The District will not impose such measures for punitive or disciplinary reasons.

The CO may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures, or at the conclusion of the informal resolution process, or the District may continue them beyond that point.

A party may seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The District will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the District's education programs or activities, or as otherwise permitted under existing law and/or policy.

The Superintendent may place an employee respondent on administrative leave from employment responsibilities during the pendency of the Board's grievance procedures.

Disciplinary Sanctions and Remedies:

Following a determination that Prohibited Conduct occurred, the District may impose disciplinary sanctions, which may include:

1. ~~(+) oral or written warning;~~
2. ~~(+) written reprimands;~~
3. ~~(+) required counseling;~~
4. ~~(+) required training or education;~~
5. ~~(-) demotion;~~
6. ~~(+) suspension with pay;~~

~~[END OF OPTIONS]~~

7. suspension without pay;
8. termination; and
9. any other sanction authorized by any applicable Board policy, Employee/Administrator Handbook, and/or collective bargaining agreement.

The District may also provide remedies, which may include disciplinary sanctions/consequences. The CO will notify the Superintendent of the recommended remedies so an authorized administrator can consider the recommendation and implement appropriate remedies in compliance with applicable due process procedures, whether statutory or contractual.

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~~[DRAFTING NOTE: The Board should review applicable policy(ies)/administrative guidelines/employee handbooks to determine whether changes are needed to establish timelines associated with imposition of discipline as a result of possible delays caused by the Board implementing the preceding grievance procedures; likewise, the Board may need to discuss with union representatives how implementation of the grievance procedures may impact any disciplinary provisions contained in applicable collective bargaining (e.g., timelines, permitted attendees at investigative interviews, etc.).]~~

Discipline of an employee will be implemented in accordance with Federal and State law, Board policy, and applicable provisions of any relevant collective bargaining agreement.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging Prohibited Conduct or retaliation, or participates in an investigation, is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the U.S. Constitution, the Ohio Constitution, Federal or State law, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including initiating a disciplinary process against a person for a Code of Conduct violation that does not involve Prohibited Conduct but arises out of the same facts and circumstances as a complaint or information reported about possible Prohibited Conduct, for the purpose of interfering with the exercise of any right or privilege secured by Federal or State law constitutes retaliation. Retaliation against a person for making a complaint or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance procedures set forth above. The District shall initiate its grievance procedures upon receiving any complaint alleging retaliation.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation; provided, however, that a determination that Prohibited Conduct occurred, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the complainant, the respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, take appropriate action, and conform with any discovery or disclosure obligations. The District will keep confidential the identity of any individual who has made a complaint of Prohibited Conduct, any complainant, any individual who has been reported to be the perpetrator of Prohibited Conduct, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of relevant Federal or State law or regulations, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the complainant's and respondent's receipt of the information to which they are entitled

related to the investigation and determination of whether Prohibited Conduct occurred). All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the respondent must be provided the complainant's identity.

During an investigation, the CO or designated investigator/decision maker will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to other members of the School District Community or third parties any information that is learned or provided during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against Prohibited Conduct by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action, up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where Prohibited Conduct is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution - ~~(-) and the principles of academic freedom as set forth in the applicable collective bargaining agreement~~ [END-OF-OPTION]. In no case will a respondent be found to have committed Prohibited Conduct based on expressive conduct that is protected by the First Amendment - ~~(-) and/or the principles of academic freedom specified in the Board's collective bargaining agreement with its teachers~~ [END-OF-OPTION].

Training

All employees, investigators, decision makers, facilitators of informal resolution process, the District Compliance Officer(s), and other persons who are responsible for implementing the Board's grievance procedures or have the authority to modify or terminate supportive measures shall receive training related to their duties under applicable Federal and State laws and this policy. (+) The training shall be provided promptly upon hiring or a change of

position that alters their duties under this policy, and annually thereafter. **[END-OF-OPTION]** The training shall not rely on stereotypes involving Protected Classes.

[+] Training materials will be made available for inspection upon request by members of the public. **[END-OF-OPTION]**

Recordkeeping (Including Retention of Investigatory Records and Materials)

The District Compliance Officer(s) is/are responsible for overseeing the retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media (as defined in Policy 8315) created and received as part of an investigation. Records and materials associated with the implementation of this policy shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for the period set forth below, unless required to be maintained for a longer period pursuant to the District's records retention schedule.

~~[DRAFTING NOTE: For purposes of uniformity, Neola recommends that the Board use the same seven (7) year period for recordkeeping that is required by the 2020 Title IX regulations - see Board Policy 2266; if the Board selects a different timeframe for maintaining the below specified records, it should verify the time period selected is consistent with and/or reflected in its record retention schedule - see AG 8310.] -~~

The District shall maintain, for a period of seven (7) calendar years, the following records:

1. for each complaint of Prohibited Conduct, records documenting the informal resolution process and/or the grievance procedures followed, and the resulting outcome;
2. for each notification that the District Compliance Officer receives of information about conduct that reasonably may constitute Prohibited Conduct, records documenting the actions the District took to implement this policy; and
3. all materials used to provide the training referenced above **[+]** and in AG 4122 **[END-OF-OPTION]**.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records, medical records).

Outside Appointments, Dual Appointments, and Delegations

The Board retains discretion to appoint suitably qualified persons who are not Board employees to fulfill any function of the Board under this policy including, but not limited

to, District Compliance Officer, investigator, decision maker, appeal decision maker, or facilitator of the informal resolution process.

The Board also retains discretion to appoint two (2) or more persons to jointly fulfill the role of District Compliance Officer, investigator, decision maker, appeal decision maker, and facilitator of the informal resolution process.

The Superintendent may delegate functions assigned to a specific Board employee under this policy including, but not limited to, the functions assigned to the District Compliance Officer, investigator, decision maker, appeal decision maker, and facilitator of the informal resolution process to any suitably qualified individual, and such delegation may be rescinded by the Superintendent at any time.

[DRAFTING NOTE: The following option expressly sets forth authority that the Board has regardless of whether it is included in this policy, but is offered for those boards of education that may want to affirmatively communicate to/address these issues for readers of this policy.]

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[+] Discretion in Application

The Board retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's interpretation or application differs from the interpretation of any specific complainant and/or respondent.

Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right or as part of any other express or implied contract. Accordingly, the Board retains discretion to revise this policy at any time and for any reason. The Board may apply policy revisions to an active case, provided that doing so is not clearly unreasonable.

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Legal

A.C. 3301-35-03(A)

R.C. 4112.01, 4112.02, 5923.05

Fourteenth Amendment, U.S. Constitution

20 U.S.C. 1092(F)(6)(A)(v), 20 U.S.C. 1232g

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

29 C.F.R. Part 1635

29 U.S.C. 201 et seq., The Fair Labor Standards Act ("FLSA")
29 U.S.C. 218d, PUMP for Nursing Mothers Act ("PUMP Act")
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
34 C.F.R. Part 110 (7/27/93)
38 U.S.C. Chapter 43, 4301-4335 (see in particular 4311(a) [prohibits discrimination based on military service] and 4312 [reemployment rights]), Uniformed Services Employment and Reemployment Rights Act ("USERRA")
42 U.S.C. 1983
42 U.S.C. 2000d et seq.
42 U.S.C. 2000e et seq., Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act ("GINA")
42 U.S.C. 2000gg, Pregnant Workers Fairness Act ("PWFA")
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975
42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4122.01

DRUG-FREE WORKPLACE

4122.01 - DRUG-FREE WORKPLACE

The Board of Education believes that quality education is not possible in an environment affected by drugs. It will seek, therefore, to establish and maintain an educational setting which

Option 1 (needed only if Federal funds come directly from Washington)

(-) –meets the requirements in the Drug-Free Workplace Act.

In compliance with the Act, the Board prohibits the manufacture, possession, use, distribution, or dispensing of any controlled substance, including alcohol, by any member of the District's classified staff at any time while on District property or while involved in any District-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action in accordance with District guidelines and the terms of collective bargaining agreements.

The Superintendent shall establish whatever programs and procedures are necessary to meet the Federal certification requirements but which also comply or do not interfere with collective bargaining agreements.

[END OF OPTION #1]

Option 2 (applies to most schools)

(-) – is not tainted by the use or evidence of use of any **illicit controlled** substance.

The Board shall not permit the manufacture, possession, use, distribution, or dispensing of any **illicit controlled** substance, alcohol, and any drug paraphernalia as the term is defined by law, by any member of the District's classified staff at any time while on District property or while involved in any District-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action in accordance with District guidelines and the terms of collective bargaining agreements.

The Superintendent shall establish guidelines that ensure compliance with this policy and that each staff member is given a copy of the standards regarding unlawful possession, use, or distribution of illicit drugs and alcohol by staff and informed that compliance with this requirement is mandatory. Such guidelines shall provide for appropriate disciplinary actions, if and when needed, which comply with the terms of any negotiated agreement.

[END OF OPTION #2]

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Legal

41 U.S.C. 701, et seq., Drug-Free Workplace Act of 1988

20 U.S.C. 3224A

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4123

SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

4123 - **SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT**

The Board of Education prohibits discrimination against any employee or applicant based upon the employee's/applicant's disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or other terms, conditions, and privileges of employment. The Board further will not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one (1) or more major life activities. Major life activities are functions such as caring for one's self, 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.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

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 aid(s) and cochlear implant(s) 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.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual 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 District's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)"):

Director of Community Engagement
244 South Monroe Street
Tiffin, OH 44883
419-447-2515

Director of Student Services
124 Ohio Ave nue :
Tiffin, OH 44883
419-455-9107

~~[DRAFTING NOTE: Neola suggests the Board appoints both a male and a female District Compliance Officer in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) District Compliance Officers, there should always be a Compliance Officer available to investigate a claim that pertains to the other Compliance Officer.]~~

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the School District's website. ~~() -and:~~

- A. ~~() in the staff handbooks.~~
- B. ~~() in the School District Annual Report to the public.~~
- C. ~~() on each individual school's website.~~
- D. ~~() in the School District's calendar.~~
- E. ~~() - [Other] _____.~~ **[END OF OPTIONS]**

The District Compliance Officer(s) ~~() is ()~~ are responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Compliance Officer(s).

The District Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. See below.

Training

The District Compliance Officer(s) will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines, and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the District's Compliance Officer(s) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that they have been discriminated against on the basis of their 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.

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 District Compliance Officer within the time limits specified below. The District's Compliance Officer is available to assist individuals in filing a complaint.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday–Friday, excluding State-recognized holidays).

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 a District Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with a District 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 District Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the District Compliance Officer for good cause.
- C. The District 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 District Compliance Officer will provide the complainant with a written disposition of the complaint within ten (10) days. If no decision is rendered within ten (10) days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The District Compliance Officer shall maintain the District's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render a decision within ten (10) days of the hearing.
- E. The employee may be represented, at the employee's 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. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the

recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, and effective, and tailored to the specific situation.

OCR Complaint

At any time, if an employee believes that they have been subjected to discrimination based upon their disability in violation of Section 504 or the 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
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave., SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
FAX: (202) 453-6012
TDD: 800-877-8339
E-mail: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Legal

29 C.F.R. Part 1630

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

34 C.F.R. Part 104

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4124

EMPLOYMENT CONTRACT

4124 - EMPLOYMENT CONTRACT

~~[] [CITY OPTION]~~

~~For classified employees newly hired into a position covered by the civil service laws, () but not a part of a bargaining unit represented by a recognized labor representative, [END OF OPTION] a probationary period of _____ (__) days will be served. Following successful completion of the said probationary period, such classified employees will become permanent employees and subject to removal in accordance with civil service law.~~

~~[] For classified staff who are employed in positions within a recognized bargaining unit, employment contracts and sequence will be determined in accordance with the terms and conditions set forth in the collective bargaining agreement.~~

~~Unclassified civil servants are "at will" employees.~~

~~[DRAFTING NOTE: If not already clearly established, to determine the number of days between sixty (60) and one (1) year for your District's probationary period, you will need to contact your municipal civil service commission. If you have opted out of civil service and/or there is no active civil service in your jurisdiction, the Board may choose to set that number within those parameters. Nothing precludes a board from setting the number of days for these employees in concert with the terms set forth in a collective bargaining agreement with a union; however, the parameters remain between sixty (60) days and one (1) year.]~~

~~[END OF CITY OPTION]~~

~~[] [LOCAL OPTION]~~

The Board of Education requires , for the mutual protection of the District and the classified staff member , that every newly employed person in a classified position , including regular hourly rate and per diem classified staff , sign an initial employment contract for a period of not more than one (1) year.

The employment contract shall include the term for which employment is contracted, the salary, and such other matters as may be necessary to a full and complete understanding of the contract. In order to ensure employment, the applicant must sign the contract and abide by the policies of the Board that ~~which~~ pertain to the applicant.

If classified staff are rehired, their three (3) subsequent contracts shall be for a period of two (2) years each. At the end of the third of these two (2) year contracts, if the classified

staff member is renewed, it will be under a continuing contract.

Notice of the Board's intention not to re-employ a classified staff member shall be given on or before the first day of June. Notice shall be given by regular mail with a certificate of mailing, electronic mail with proof of delivery, or other method with proof of delivery.

Annual salary notices for the succeeding contract year shall be provided to classified staff no later than the first day of July.

Salaries provided to classified staff by contract may not be reduced unless such reduction is part of a uniform plan affecting the non-teaching employees of the entire District.

[DRAFTING NOTE: Most collective bargaining agreements with non-teaching unions are silent on the issue of contract sequence and renewal/nonrenewal. If so, this policy provides local districts with concise language that parallels the law. However, if your agreement spells out a different sequence (for example, a probationary period followed by continuing contract status) then an additional sentence should be added:]

[] - For classified staff who are employed in positions within a recognized bargaining unit, employment contracts and sequence will be determined in accordance with the terms and conditions set forth in the collective bargaining agreement.

[END OF LOCAL OPTION]

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Legal

R.C. 3319.081, 3319.082, 3319.083



CLASSIFIED STAFF FOR BOARD APPROVAL

po4130

ASSIGNMENT AND TRANSFER

4130 - **ASSIGNMENT AND TRANSFER**

The Board of Education believes that the careful placement of classified staff within the District is vital to the utilization of qualified and competent classified staff for the successful functioning of the District.

Responsibility for the assignment and transfer of classified staff members shall be vested in the Superintendent/Designee _____.

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Legal

R.C. 3319.081, 3319.04

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4131

REDUCTION IN STAFF

4131 - REDUCTION IN STAFF

It is the responsibility of the Board of Education to provide appropriate staffing levels for the implementation of the educational program of the District and the operation of the schools and to do so efficiently and economically.

The Board reserves the right to reduce positions and to suspend the contracts of staff members pursuant to such reduction whenever reasons of decreased enrollment of students, return to duty of regular classified staff members after leaves of absence, suspension of schools or territorial changes affecting the District, or financial reasons so warrant. In lieu of suspending an entire contract, the Board may suspend the contract of a staff member in part and provide a level of compensation commensurate with the percentage of work performed.

In making any such reduction, the Board will suspend contracts in accordance with the recommendation of the Superintendent who shall, within each pay classification affected, give preference first to employees on continuing contract and then to employees on the basis of seniority.

Continuing contract employees whose contracts are suspended shall have a right to restoration of employment in order of seniority of service in the District if a non-teaching position for which the employee is qualified becomes vacant or is created. Such continuing contract employees will not forfeit such right to restoration by reason of having declined recall to a position with fewer hours.

H - For covered employees, such reduction shall be in accordance with the terms of the negotiated, collectively-bargained agreement(s) entered into prior to September 29, 2005. Reductions occurring under collective bargaining agreements entered into by the District after September 29, 2005, will be in accordance with the terms of the collective bargaining agreement(s), but only to the extent that such terms do not conflict with the requirements of Section 3319.172 of the Ohio Revised Code as described above.

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R.C. 3319.172



CLASSIFIED STAFF FOR BOARD APPROVAL

po4138

SUSPENSION DURING PENDING CRIMINAL ACTIONS

4138 - **SUSPENSION DURING PENDING CRIMINAL ACTIONS**

The Superintendent shall immediately suspend any non-licensed, non-teaching employee from all duties that require the care, custody, or control of a child during any pending criminal action for which that staff member has been arrested, summoned and/or indicted for any crimes listed under R.C. 3319.31(B)(1).

If the individual arrested, summoned, and/or indicted for any of the crimes listed under R.C. 3319.39(B)(1) is a person whose duties are assigned by the Treasurer under R.C. 3313.31(B), the Treasurer shall immediately suspend the person from all duties that require the care, custody, or control of a child while the criminal action is pending.

[1] - A comprehensive list of the crimes which must result in a suspension of such non-licensed employees are set forth in AG 4121.

In addition, in accordance with State law and Policy 3138, the Superintendent shall immediately suspend any licensed non-teaching employees from all duties that require the care, custody, or control of a child during any pending criminal action for which that licensed, non-teaching staff member has been arrested, summoned and/or indicted for any crimes listed under R.C. 3319.31(C).

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R.C. 3319.40



CLASSIFIED STAFF FOR BOARD APPROVAL

po4139

STAFF DISCIPLINE

4139 - **STAFF DISCIPLINE**

The Board of Education retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary, such action shall be in proportion to the employee's offense or misconduct, consistent with appropriate procedural and substantive due process, State law, and/or the specific provision of any appropriate collective bargaining agreement.

The Superintendent will file a report with the Ohio Department of Education, in accordance with Policy 8141 and State law, concerning certain non-teaching employees who are also licensed by the Ohio Department of Education (e.g., aides with a permit, paraprofessionals with a license, and those individuals who do not hold a valid educator's license but who are employed by the Board under a Student Activity Permit) who plead guilty to or who are convicted of certain specified crimes and/or where it is reasonably determined that such non-teaching employee has engaged in conduct which is unbecoming the teaching profession under certain specific circumstances as defined therein.

All other non-teaching employees who are the subject of a criminal records check as set forth in Policy 4121 and Policy 8142, including applicants hired provisionally in advance of a completed criminal records check, as well as employees engaged to operate a vehicle for student transportation (bus/van drivers), and/or individuals employed by a private company under contract with the Board to provide essential school services and who will work within the District in a position which does not require a license issued by the State Board of Education, is not for the operation of a vehicle for student transportation, and involves routine interaction with a child or regular responsibility for the care, custody or control of a child, who it is determined have pled guilty to or been convicted of any offense enumerated under R.C. 3319.39(B)(1), shall not be hired or shall be released from employment, as applicable, unless such individual meets the rehabilitation standards adopted by the Department of Education under division (E) of that section at the time of the hiring and/or upon discovery of such plea or conviction by the Board.

In the case of employees hired by the Board to operate a vehicle used for student transportation (i.e., bus/van drivers), a guilty plea or conviction of a crime to any offense listed in R.C. 3319.31(C) will serve as a bar to further employment with the Board and the rehabilitation standards will not apply.

Legal

R.C. 124.34, 3319.081, 3319.31, 3319.313, 4117.08(C), 3319.391, 3319.392

R.C. 3327.10

A.C. 3301-73-21, 3301-20-01

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4140

TERMINATION AND RESIGNATION

4140 - TERMINATION AND RESIGNATION

The employment of a classified staff member may, upon a majority vote of the Board of Education, be suspended and/or terminated for violation of Board policies and in accordance with the criteria and procedures set forth in the ~~(-) Civil Service rules, (~~
~~) - Ohio Revised Code, (-) - applicable terms of any collectively-bargained agreement, [END~~
~~OF OPTIONS]~~ - as appropriate.

~~[] It is the policy of the Board that classified staff who are not going to be rehired be given an opportunity to resign.~~

Notice of the Board's intention to terminate a classified staff member shall be given by regular mail with a certificate of mailing, electronic mail with proof of delivery, or other method with proof of delivery.

Any classified employee who fails to maintain a required license, certificate, or permit throughout the term of employment will be immediately suspended without pay, and such failure is grounds for termination.

A classified staff member under contract may resign by filing a written resignation with the Treasurer or the Superintendent at least thirty (30) days prior to the effective date of the resignation, unless an earlier date is permitted by the Board.

~~[]~~ - A resignation, once accepted by the Board, may not then be rescinded.

Reporting Professional Misconduct

The Superintendent will file a report to the Ohio Department of Education, on forms provided by the Department for that purpose, matters of professional misconduct on the part of certain classified employees who are also licensed by the Ohio Department of Education (e.g., aides with a permit, paraprofessionals with a license, and those individuals who do not hold a valid educator's license but who are employed by the Board under a Student Activity Permit), in those specific circumstances set forth in State law and Policy 8141, including a conviction of the staff member of certain enumerated crimes and/or in conjunction with the non-renewal or termination of a licensed staff member, or resignation by a licensed staff member under threat of same and/or during the course of an

investigation, for conduct which is determined to be unbecoming to the teaching profession. Reports of any investigation regarding whether or not a licensed classified staff member has committed an act or offense for which the Superintendent is required to make a report to the Ohio Department of Education shall be kept in the personnel file of the classified staff member. Should the Ohio Department of Education determine that the results of that investigation do not warrant initiating an action suspending, revoking, or otherwise limiting that classified employee's license or permit, the report(s) of any investigation will be moved to a separate public file.

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A.C. 3301-73-21

R.C. 3319.31, 3319.39, 3319.081, 3319.313



CLASSIFIED STAFF FOR BOARD APPROVAL

po4161

UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY

4161 - UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY

The Board of Education may place a classified staff member on unrequested leave of absence for physical or mental inability when the staff member is unable to perform assigned duties.

If the Superintendent believes the staff member is unable to perform assigned duties, the classified staff member will be offered the opportunity for a meeting to discuss these issues.

Prior to placing a classified staff member on unrequested leave, the Board may require the staff member to submit to an appropriate examination by a health provider determined by the District. The results of any such examination shall be treated as a confidential medical record and will be used only in compliance with law.

The staff member will be required to execute a release that complies with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) in order to allow the report of the medical examination to be released to the Board/Superintendent and to allow the Superintendent or **their his/her** designee to speak to the health care provider who conducted the medical examination in order to get clarification. Refusal to submit to an appropriate examination or to execute the HIPAA release will be grounds for disciplinary action, up to and including termination.

As required by Federal law and regulation and Board Policy 4122.02, the Superintendent shall direct the provider designated by the Board to conduct the examination not to collect genetic information or provide any genetic information, including the individual's family medical history, in the report of the medical examination.

Pursuant to State law and in accordance with the Americans with Disabilities Act, as amended (ADA) and the Genetic Information Nondiscrimination Act (GINA), the results of any such examination shall be treated as a confidential medical record and will be exempt from release, except as provided by law. If the District inadvertently receives genetic information about an individual who is required to submit to an appropriate examination from the medical provider it shall be treated as a confidential medical record as required by the ADA.

If, as a result of such examination, the classified staff member is found to be unable to perform assigned duties and no reasonable accommodations are available, the classified staff member may be placed on involuntary leave of absence for a period not to exceed two (2) consecutive school years.

A classified staff member subject to an unrequested leave of absence is entitled to a hearing as provided for in State law or the terms of an applicable collective bargaining agreement.

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R.C. 3319.13, 3319.16

29 C.F.R. Part 1630

29 C.F.R. Part 1635

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act



CLASSIFIED STAFF FOR BOARD APPROVAL

po4162

DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS WHO PERFORM SAFETY-SENSITIVE FUNCTIONS AND ARE SUBJECT TO DOT TESTING

4162 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS WHO PERFORM SAFETY-SENSITIVE FUNCTIONS AND ARE SUBJECT TO DOT TESTING

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with Board-owned and/or operated ("Board-owned") vehicles, must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply:

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- C. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- D. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- E. The term *safety-sensitive functions* includes all tasks associated with the operation and maintenance of Board-owned vehicles. This term further includes any period in

which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

F. The term *CDL license holder* means all regular and substitute bus drivers, other CDL-licensed staff members who may drive students in Board-owned vehicles, or inspect, repair, and maintain Board-owned vehicles.

G. The term *while on duty* means all time from the time the CDL license holder begins to work or is required to be in readiness for work until the time the CDL license holder is relieved from work and all responsibility for performing work.

The Board expects all CDL license holders to comply with Board Policy 4122.01 on Drug-Free Schools which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the Federal requirement that all CDL license holders should be free of any influence of alcohol or a controlled substance while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby each regular and substitute bus driver, as well as any other staff member who holds a CDL license and may operate a commercial motor vehicle, is tested for the presence of alcohol in the bus driver's or CDL license holder's system as well as for the presence of the following controlled substances:

A. Marijuana

B. Cocaine

C. Opioids

D. Amphetamines

E. Phencyclidine (PCP)

A list of all active CDL holders that are expected to be qualified to operate commercial motor vehicles will be provided to the contracted certified testing center for purposes of managing Federally mandated random testing. This list shall **NOT** include non-CDL holders.

~~[DRAFTING NOTE: CHOOSE OPTION #1 OR OPTION #2]~~

~~[] [OPTION #1]~~

The drug tests are to be conducted in accordance with Federal and State regulations a.) prior to employment (Controlled Substances Only), b.) for reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation, d.) post-accident, e.) on a random basis, and f.) on a follow-up basis.

[END OF OPTION #1]

[] [OPTION #2]

~~The drug tests are to be conducted in accordance with Federal and State regulations a.) prior to employment, b.) for reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation, d.) post-accident, e.) on a random basis, and f.) on a follow-up basis.~~

~~[] -Candidates shall also be tested for the presence of alcohol in their system prior to employment.~~

[END OF OPTION #2]

[END OF OPTIONS]

Any staff member who tests positive shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle) and be referred to the District's Employee Assistance Program.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

- A. ~~(+)~~ - the test will be considered positive, and the employee shall be prohibited from driving any school vehicle and be referred to the District's Employee Assistance Program; and/or
- B. ~~(-)~~ the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.

Any staff member who refuses to submit to a test shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle).

Staff members who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with the staff member's alcohol and/or drug use, regardless of whether the employee has disclosed having an alcohol or drug addiction.

If a staff member admits to failing a previous drug or alcohol test or has refused to test, the staff member will not be permitted to perform safety-sensitive functions until completing the return-to-duty ("RTD") process.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of any detectable amount or performs safety-sensitive functions within four (4) hours after using alcohol
- B. reports for duty or performs work while testing positive for using a controlled substance, or while being under the influence of a controlled substance
- C. refuses to disclose any therapeutic drug use or submit to drug and/or alcohol testing
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results
- E. fails to remain readily available for post-accident testing (including refraining from the use of alcohol for eight (8) hours following the accident or until undergoing a post-accident alcohol test, whichever occurs first, and notifying the staff member's supervisor of the staff member's location, if the staff member leaves the scene of the accident prior to the submission of a post accident test, unless the staff member's departure is to obtain necessary emergency medical care)

Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each CDL license holder about:

- A. the dangers of illegal drug use and controlled substances and alcohol abuse;
- B. Board Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- C. the topics identified in AG 4162A;
- D. the sanctions that may be imposed for violations of Policy 4122.01.

All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at the staff member's overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. Requests for a "split specimen" must be made within seventy-two (72) hours of receipt of the notification of a positive drug test. The Board will not pay for the employee's time while not on duty if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under Federal law (i.e., test results shall be provided on a right-to-know basis - the employee, the employer, and the substance abuse professional - and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will be promptly provided copies of any records relating to the tested individual's use of drugs and alcohol, including any records pertaining to the tested individual's drug and alcohol tests. A tested individual must provide specific written consent before the tested individual's test result can be provided to any other person except as required by law.

All tests shall be conducted in accordance with Federal testing guidelines and be performed by a laboratory that is Federally certified.

The alcohol and drug testing program shall be under the direction of the Superintendent.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples
- B. clear and consistent communication with the District's Medical Review Officer ("MRO") (may be provided through the contract with a certified testing facility)
- C. methodology and procedures for conducting random tests for controlled substances and alcohol
- D. preparation and submission of all required reports to the District, the MRO, and to Federal and State governments

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

Notification

A tested candidate shall be notified of the results of a pre-employment controlled substances test conducted under this part if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

A tested individual shall be notified of the results of random, reasonable suspicion, and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The tested individual shall also be informed which controlled substance or substances were verified as positive.

The Superintendent shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

The Superintendent shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within seventy-two (72) hours.

Individuals holding a CDL license must notify all current employers of any DOT violations (such as testing positive for the presence of alcohol or a controlled substance in violation of this policy). The notification must be made 1) by the end of the business day following the day the individual first receives notice of the violation or 2) prior to performing any safety-sensitive function, whichever comes first. Individuals are not required to notify the employer that administered the test or that documented the circumstances giving rise to the violation.

In the event that an individual is selected for testing, the Superintendent will inform the individual that the test is required by applicable law.

Reporting Test Results

The Superintendent shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this policy during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers. Such summaries shall be submitted in a manner and timeline as required by law.

Educational Materials Related to Certain Federal Regulations, Board Policies, and Procedures

CDL License Holders and other employees who perform safety-sensitive functions will be provided educational materials that discuss the employer's policies and procedures with respect to post-accident information and positive test results, among other things, at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of applicable Federal regulations and the Board's policies and the District's procedures with respect to meeting these Federal regulations. The Board designates the Transportation Supervisor as the individual responsible for providing educational materials to CDL License Holders and

other employees who perform safety-sensitive functions. The educational materials will include, at a minimum, the following:

- A. the contact information for the Transportation Supervisor _____, who is the individual designated by the Board to answer questions about the educational materials
- B. a statement that all CDL License Holders and other employees who perform safety-sensitive functions are subject to Federal law addressing the misuse of alcohol and other controlled substances
- C. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations
- D. information concerning prohibited conduct
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information, procedures, and instructions required under Federal regulations
- G. the requirement that staff members must submit to alcohol and controlled substance testing as required by the regulations
- H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences
- I. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment
- J. the consequences for employees found to have an alcohol concentration of 0.02 or greater but less than 0.04
- K. information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol and/or controlled substances problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management), and

L. information regarding the requirement that certain personal information collected and maintained under Federal law be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse

M. indicating that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, is prohibited on all School Board property and at school-sponsored activities

Individuals are strictly prohibited from reporting to work or being on duty while under the influence of alcohol or a controlled substance.

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member will receive a copy of the educational materials and must sign a statement certifying receipt of such materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety-sensitive functions. Each employee (and a labor organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering questions about the materials.

Return-to-Duty (Safety-Sensitive Positions)

Employees who are removed from performing safety-sensitive functions as a result of this policy must complete the Return-to-Duty ("RTD") process as required by the U.S. Department of Transportation ("DOT") regulations and their Federal Motor Carrier Safety Act ("FMCSA") Drug and Alcohol Clearinghouse status must be changed from "prohibited" to "not prohibited" before resuming safety-sensitive duties. The RTD process requires an evaluation by a qualified Substance Abuse Professional ("SAP"), successful compliance with the SAP's prescribed education and/or treatment program, and a follow-up evaluation by the SAP determining that the employee has complied with the program. The employee must then complete a DOT return-to-duty test and obtain a verified negative drug test result and/or an alcohol test result of less than 0.02 before being permitted to return to the performance of safety-sensitive functions.

In addition, employees must comply with the SAP's written follow-up testing plan, which will be administered by the District in accordance with DOT regulations. An employee who fails to comply with the follow-up testing plan will not be permitted to perform safety-sensitive duties.

Subject to any collective bargaining agreement or other legal requirements, employees who are otherwise eligible to resume safety-sensitive functions may not do so without the Superintendent's approval.

Legal

34 C.F.R. Part 84

49 C.F.R. Part 40

49 C.F.R. Part 382

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4162.01

DRUG AND ALCOHOL TESTING OF EMPLOYEES WITHOUT CDL LICENSES WHO TRANSPORT STUDENTS IN ALTERNATIVE VEHICLES (Non-DOT Testing)

4162.01 - DRUG AND ALCOHOL TESTING OF EMPLOYEES WITHOUT CDL LICENSES WHO TRANSPORT STUDENTS IN ALTERNATIVE VEHICLES (Non-DOT Testing)

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who transport students with Board-owned and/or operated ("Board-owned") vehicles, must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

The Board recognizes that these drivers are not subject to Federal DOT testing, but are subject to non-DOT drug and alcohol testing as required by State law.

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply:

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- C. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- D. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.

E. The term *transporting students* includes all tasks associated with the operation and maintenance of Board-owned alternative vehicles. This further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

F. The term *alternative vehicles* includes all vehicles that are designed for nine (9) passengers or less that do not meet school bus construction standards. These vehicles do not meet the Federal definition of commercial motor vehicles, and do not require a CDL license to operate.

This policy includes all regular and substitute drivers, other staff members who may drive students in Board-owned alternative vehicles, or inspect, repair, and maintain Board-owned alternative vehicles.

G. The term *while on duty* means all time from the time the employee begins to work or is required to be in readiness for work until the time the employee is relieved from work and all responsibility for performing work.

The Board expects all drivers to comply with Board Policy 4122.01 on Drug-Free Schools, which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the State requirement that all drivers of alternative vehicles should be free of any influence of alcohol or controlled substances while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby each regular and substitute driver, as well as any other staff member who transports students in alternative vehicles, is tested for the presence of alcohol in the driver's system, as well as for the presence of the following controlled substances:

A. Marijuana

B. Cocaine

C. Opioids

D. Amphetamines

E. Phencyclidine (PCP)

A list of all active drivers that are not covered by DOT testing regulations but are expected to be qualified to operate alternative vehicles will be provided to the contracted certified testing center for purposes of managing random testing. This list, which may be updated seasonally, is to be separate and managed separately from the DOT testing list.

[DRAFTING NOTE: SELECT OPTION #1 OR OPTION #2]

[] [OPTION #1]

The drug tests are to be conducted similar to Federal DOT regulations a.) prior to employment (Controlled Substances Only), b.) for reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation, d.) post-accident, e.) on a random basis, and f.) on a follow-up basis.

~~**[END OF OPTION #1] - [] [OPTION #2] - The drug tests are to be conducted similar to Federal DOT regulations a.) prior to employment, b.) for reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation, d.) post-accident, e.) on a random basis, and f.) on a follow-up basis. - [] - Candidates shall also be tested for the presence of alcohol in their system prior to employment.**~~

[END OF OPTION #2]

[END OF OPTIONS]

Any staff member who tests positive shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle) and be referred to the District's Employee Assistance Program.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

~~**(-) - the test will be considered positive and the employee shall be prohibited from driving any school vehicle and be referred to the District's Employee Assistance Program.**~~

[OR]

~~**(-) - the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.**~~

Any staff member who refuses to submit to a test shall immediately be prohibited from performing or continuing to perform safety-sensitive functions (e.g., driving any Board-owned vehicle).

Staff members who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with the staff member's alcohol and/or drug use, regardless of whether the employee has disclosed having an alcohol or drug addiction.

If a staff member admits to failing a previous drug or alcohol test, or has refused to test, the staff member will not be permitted to perform safety-sensitive functions until completing the return-to-duty process.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of ~~(-) 0.04~~ ~~(-) - any detectable amount or greater - [END-OF-OPTION]~~ or provides student transportation within four (4) hours after using alcohol
- B. reports for duty or performs work while testing positive for using a controlled substance, or while being under the influence of a controlled substance
- C. refuses to disclose any therapeutic drug use or submit to drug and/or alcohol testing
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results
- E. fails to remain readily available for post-accident testing (including refraining from the use of alcohol for eight (8) hours following the accident or until undergoing a post-accident alcohol test, whichever occurs first, and notifying the staff member's supervisor of their location, if the staff member leaves the scene of the accident prior to the submission of a post accident test, unless the staff member's departure is to obtain necessary emergency medical care).

Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each CDL license holder and alternative vehicle drivers about:

- A. the dangers of illegal drug use, and controlled substance and alcohol abuse;
- B. Board Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- C. the topics identified in AG 4162A;
- D. the sanctions that may be imposed for violations of Policy 4122.01.

An alternative vehicle driver on a supplemental contract will participate in random drug testing as part of the supplemental contract compensation. For other contracted alternative vehicle drivers, all time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at the staff member's

overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. Requests for a "split specimen" must be made within seventy-two (72) hours of receipt of the notification of a positive drug test. The Board will not pay for the employee's time while not on duty if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under Federal law (i.e., test results shall be provided on a right-to-know basis - the employee, the employer, and the substance abuse professional - and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will be promptly provided copies of any records relating to the tested individual's use of drugs and alcohol, including any records pertaining to the tested individual's drug and alcohol tests. A tested individual must provide specific written consent before the tested individual's test result can be provided to any other person except as required by law.

All tests shall be conducted using Federal testing guidelines and be performed by a laboratory that is Federally certified.

The alcohol and drug testing program shall be under the direction of the Superintendent.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples;
- B. clear and consistent communication with the District's Medical Review Officer ("MRO") (may be provided through the contract with a certified testing facility);
- C. methodology and procedures for conducting random tests for controlled substances and alcohol;
- D. preparation and submission of all required reports to the District and the MRO.

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

Notification

A tested candidate shall be notified of the results of a pre-employment controlled substances test conducted under this part if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

A tested individual shall be notified of the results of random, reasonable suspicion, and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The tested individual shall also be informed which controlled substance or substances were verified as positive.

The Superintendent shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with the MRO who has been unable to contact the driver.

The Superintendent shall immediately notify the MRO that the driver has been notified to contact the MRO within seventy-two (72) hours.

In the event that an individual is selected for testing, the Superintendent will inform the individual that the test is required by applicable law.

Reporting Test Results

The Superintendent shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this policy during the previous calendar year.

Educational Materials Related to Certain Board Policies and Procedures

CDL License Holders and other employees who transport students in alternative vehicles will be provided educational materials that discuss the employer's policies and procedures with respect to post-accident information and positive test results, among other things, at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of the Board's policies and the District's procedures. The Board designates the Transportation Supervisor as the individual responsible for providing educational materials to CDL License Holders and other employees who transport students in alternative vehicles. The educational materials will include, at a minimum, the following:

- A. the contact information for the Transportation Supervisor, who is the individual designated by the Board to answer questions about the educational materials

- B. a statement that all CDL License Holders and other employees who transport students in alternative vehicles are subject to Board policies addressing the misuse of alcohol and other controlled substances
- C. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations
- D. information concerning prohibited conduct
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information, procedures, and instructions required under Federal regulations
- G. the requirement that staff members must submit to alcohol and controlled substance testing as required by the District policy
- H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences
- I. the consequences of testing positive, including the requirements of immediate removal from student transportation functions, and the procedures regarding referral, evaluation, and treatment
- J. the consequences for employees found to have an alcohol concentration of ~~(-) 0.02 or greater but less than 0.04~~ ~~(-) - any detectable amount -~~ **[END OF OPTION]**
- K. information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol and/or controlled substances problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management), and
- L. indicating that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, is prohibited on all school board property and at school-sponsored activities

Individuals are strictly prohibited from reporting to work or being on duty while under the influence of alcohol or a controlled substance

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member will receive a copy of the educational materials and must sign a statement certifying receipt of such materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety-sensitive functions. Each employee (and a labor organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering questions about the materials.

Return-to-Duty (Safety-Sensitive Positions)

[DRAFTING NOTE: PLEASE CHOOSE ONE OF THE FOLLOWING OPTIONS]

~~[]~~ - Employees who are removed from student transportation functions as a result of this policy will not be returned to duty and ~~may~~ **will** be terminated.

[OR]

~~[]~~ - Employees who are removed from student transportation functions as a result of this policy must complete the following Return-to-Duty process:

- A. ~~Must be evaluated by a qualified Substance Abuse Professional ("SAP")~~
- B. ~~Must successfully comply with and complete the SAP's prescribed education and/or treatment program~~
- C. ~~Must have a follow-up evaluation by the SAP determining that the employee has complied with the program~~
- D. ~~Must complete a return-to-duty drug and alcohol test and obtain a verified negative drug test result and/or an alcohol test result of () no detectable amount () less than 0.02- [END OF OPTION] before being permitted to return to the performance of student transportation functions~~
- E. ~~Employees must comply with the SAP's written follow-up testing plan which will be administered by the District~~

~~An employee who fails to comply with any of the above shall not be returned to duty.~~

[END OF OPTIONS]

Subject to any collective bargaining agreement or other legal requirements, employees who are otherwise eligible to resume student transportation functions may not do so without the Superintendent's approval.

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34 C.F.R. Part 84

49 C.F.R. Part 40

49 C.F.R. Part 382

R.C. 3796.28



CLASSIFIED STAFF FOR BOARD APPROVAL

po4170

SUBSTANCE ABUSE

4170 - SUBSTANCE ABUSE

The Board of Education recognizes alcoholism and drug abuse as treatable illnesses. Such illnesses may impair the performance of classified staff. When appropriate, the Board may assist such employees in a manner recommended by appropriate specialists in the treatment of those illnesses.

A classified staff member having an illness or other problem relating to the use of alcohol or other drugs including, controlled substances, medications not prescribed by the employee's physician, or medications not taken as prescribed, will receive the same careful consideration and offer of assistance that is presently extended to classified staff having any other illness.

The responsibility to correct unsatisfactory job performance, attendance or behavioral problems resulting from a suspected health problem rests with the classified staff member. Additionally, regardless of whether a classified staff member has an illness or other problem relating to the use of alcohol or other drugs it remains the responsibility of the classified staff member to report to work and perform **their his/her** duties in a fit and appropriate condition at all times. Being under the influence of alcohol or other drugs while on duty, on school property, or at a school related activity/event is not acceptable. Failure to correct unsatisfactory job performance, attendance or behavior and/or working or reporting to work under the influence of alcohol or other drugs for whatever reason, will result in appropriate corrective or disciplinary action as determined by the Board, up to and including termination.

If a classified staff member sustains a workplace injury while **they are s/he is** under the influence of alcohol or a controlled substance not prescribed by **their his/her** physician, **they s/he** may be disqualified for compensation and benefits under the Workers Compensation Act. If the classified staff member tests positive or refuses to submit to a test for alcohol and/or other drugs after sustaining a workplace injury, the employee may dispute or prove untrue the presumption or belief that alcohol and/or other drugs are the proximate cause of the injury (i.e., rebuttable presumption). The Board directs the Superintendent to establish guidelines and post a notice advising employees that the results of, or the employees refusal to submit to an alcohol or other drug test may affect an employee's right to receive workers' compensation benefits.

If a classified staff member voluntarily requests counseling or assistance before the Board learns of the classified staff member's substance abuse problem (through a positive test result or otherwise), the classified staff member's job security or promotion opportunities will not be jeopardized by **their his/her** request for counseling or referral assistance. A classified staff member may not avoid the consequences of a positive test by requesting counseling or assistance for a substance abuse problem after being instructed to submit to a drug test.

Classified staff who suspect they may have an alcoholism or other drug abuse problem are encouraged to seek counseling and information on a confidential basis by contacting resources available for such service.

[NOTE: VERIFY THAT LANGUAGE IN THIS POLICY IS CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENT(S).]

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R.C. 2925.01 et seq., 3313.60, 3719.01 et seq., 3793.02, 4123.54
Rehabilitation Act of 1973, 29 U.S.C. 794



CLASSIFIED STAFF FOR BOARD APPROVAL

po4170.01

EMPLOYEE ASSISTANCE PROGRAM (EAP)

4170.01 - EMPLOYEE ASSISTANCE PROGRAM (EAP)

The Board of Education believes that early recognition and treatment of illegal drug use, controlled substance abuse, or alcohol abuse is important for successful rehabilitation, return to productive work, and reduced personal, family, and social disruption.

The District encourages the earliest possible diagnosis and treatment for illegal drug use or controlled substance abuse and supports sound treatment efforts. Whenever feasible, the District will assist staff members in overcoming illegal drug use or controlled substance abuse. However, the decision to seek diagnosis and accept treatment for illegal drug use or controlled substance abuse is primarily the individual staff member's responsibility. Any costs associated with treatment in excess of those costs covered by the staff member's medical insurance plan shall be borne by the individual.

Staff members with personal drug or controlled substance abuse problems should request assistance from the **Treasurer** _____ **[coordinator of the assistance program or administrator]**. Assistance will be provided on a confidential basis, and each staff member will be referred to the appropriate treatment and counseling services.

Although the District will assist a staff member to the extent feasible through the Employee Assistance Program, the Board cannot guarantee that the staff member's use of illegal drugs or abuse of alcohol or controlled substances will not impact adversely the staff member's employment status through disciplinary procedures.

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4210

STAFF ETHICS

4210 - STAFF ETHICS

An effective educational program and successful operation of the District requires the services of individuals with integrity, high ideals, and human understanding. To maintain and promote these essentials, the Board of Education expects all classified staff members to maintain high standards in their working relationships, and in the performance of their duties, to:

- A. (H) – recognize basic dignities of all individuals with whom they interact in the performance of duties;
- B. (H) – represent accurately their qualifications;
- C. (H) – exercise due care to protect the mental and physical safety of students, colleagues, and subordinates;
- D. (H) – seek and apply the knowledge and skills appropriate to assigned responsibilities;
- E. (H) – keep in confidence legally-confidential information;
- F. (H) – ensure that their actions or those of another on their behalf are not made with specific intent of advancing private economic interests;
- G. (H) – refuse to accept anything of value offered by another for the purpose of influencing judgment;
- H. (H) – refuse to accept compensation from any other source, other than the Board, for the performance of his/her official duties, any other act or service in their his/her public capacity, for the general performance of the duties of their his/her public employment, or as a supplement to their his/her public compensation;
- I. (H) – refrain from using their his/her position or public property, or permitting another person to use an employee's position or public property for partisan

political or religious purposes. (This will in no way limit constitutionally or legally protected rights as a citizen.)

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Ohio Ethics Commission Advisory Opinion 2008-01



CLASSIFIED STAFF FOR BOARD APPROVAL

po4211

WHISTLEBLOWER PROTECTION

4211 - WHISTLEBLOWER PROTECTION

The Board of Education expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative guidelines. The Board encourages staff to report possible violations of these Board expectations to their immediate supervisors.

It is the responsibility of an employee who is aware of conduct on the part of any Board member or employee that possibly violates Federal or State law, or Board policy, to call this conduct to the attention of their his/her immediate supervisor. If the employee's immediate supervisor is not responsive or is the employee whose behavior is in question, the employee may report to the Superintendent. If the reported conduct relates to the Superintendent, the report may be filed directly with the Board President.

After such a report is made, the immediate supervisor will ask that employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

In the case of reporting suspected fraud or fraudulent activity, an employee may file a report using the Auditor of State's system for reporting of fraud. This reporting mechanism may be used either in addition to or instead of filing a written report with the employee's supervisor or other District authority.

The Superintendent shall develop administrative guidelines necessary for implementation of this policy, including the development of forms upon which such reports may be made.

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R.C. 4113.52



CLASSIFIED STAFF FOR BOARD APPROVAL

po4213

STUDENT SUPERVISION AND WELFARE

4213 - STUDENT SUPERVISION AND WELFARE

Classified staff members shall maintain a standard of care for the supervision, control, and protection of students commensurate with assigned duties and responsibilities and are expected to establish and maintain professional staff/student boundaries that are consistent with their legal, professional, and ethical duty of care for students.

The Superintendent shall maintain and enforce the following standards:

- A. (H) - Each classified staff member shall report immediately to a building administrator any accident, safety hazard, or other potentially harmful condition or situation the staff member detects.
- B. (H) Each classified staff member shall immediately report to a building administrator any knowledge of threats of violence by students.
- C. (H) - A classified staff member shall not send students on any personal errands.
- D. (H) A classified staff member shall not engage in grooming as defined by State law, or otherwise associate or fraternize with students at any time in a manner that may give the appearance of impropriety including, but not limited to, the creation or participation in any situation or activity that could be considered abusive or sexually suggestive or involve harmful substances such as illegal drugs, alcohol, or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal prosecution and disciplinary action by the Board, up to and including termination of employment.

[DRAFTING NOTE: This detailed definition of "grooming" is included in the new AG 1613 and need not be repeated in policy]

"For purposes of Policy 1613, "grooming" involves:

- 1. A person who is eighteen (18) years of age or older engaging in a pattern of conduct with a minor who is less than sixteen (16) years of age and who is four (4) or more years younger than the person, when the pattern of conduct would cause a reasonable adult person to**

believe that the person is communicating with the minor with the purpose to do either of the following:

- a. Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person; or**
- b. Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person, that would be a violation of R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07.**

2. A person who is eighteen (18) years of age or older engaging in a pattern of conduct with a minor if the person and the minor are in any of the relationships described in R.C. 2907.03(A)(5) to (13) (e.g., the person is a teacher, administrator, coach, or other person in authority employed by or serving in the District, the minor is enrolled in or attends this District, and the person is not enrolled in and does not attend this District; the person is the minor's athletic or other type of coach, is the minor's instructor, or is a person with temporary or occasional disciplinary control over the minor), when the pattern of conduct would cause a reasonable adult person to believe that the person is communicating with the minor with the purpose to do either of the following:

- a. Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person; or**
- b. Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person, that would be a violation of R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07.**

3. A "pattern of conduct" involves two (2) or more actions or incidents closely related in time. The actions or incidents may involve the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer,

computer network, computer program, computer system, or telecommunications device.

4. "Sexual activity" means sexual conduct or sexual contact, or both.

- a. ~~("Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.~~
- b. ~~("Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.")~~

E. ~~(-)~~ - If a student approaches a classified staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the classified staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. However, under no circumstances should a classified staff member attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such classified staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law. Consistent with State law, the staff member shall promptly notify the Principal of any such communications with a student so the Principal can determine whether a notice needs to be provided to the student's parent pursuant to R.C. 3313.473 ~~(-)~~ and Policy 5780.01 - Parents' Bill of Rights.

~~[END-OF-OPTION]~~

F. ~~(-)~~ - A classified staff member shall not transport students in a private vehicle without the approval of a building administrator.

G. ~~(-)~~ - A student shall not be required to perform work or services that may be detrimental to the student's health.

H. ~~(-)~~ - Classified staff members shall not engage students in electronic communication via email, texting, social media, and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., at any time unless such communication has been specifically authorized by the student's Principal.

- I. (H) - Classified staff members are prohibited from electronically transmitting any personally identifiable image of a student(s), including video, photographs, streaming video, etc., via email, texting, social media, and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc.

(H) - Since most information concerning a child in school, other than directory information described in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline and/or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse.

Pursuant to the laws of the State and Board Policy 8462, each classified staff member shall report to the proper legal authorities, immediately, any sign of suspected child abuse or neglect.

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R.C. 2907.03

R.C. 2907.071



CLASSIFIED STAFF FOR BOARD APPROVAL

po4214

STAFF GIFTS

4214 - STAFF GIFTS

The Board of Education considers the presentation of gifts to classified staff members by students and their parents an undesirable practice because it tends to embarrass students with limited means and gives the appearance of currying favor.

Based on the foregoing premise, it is the policy of the Board that

~~(-) classified staff members not accept gifts from students or parents.~~

(-) classified staff members may accept gifts of nominal value from students or parents.

The Superintendent may approve acts of generosity to individual staff members in unusual situations. However, at no time may a staff member accept compensation from any other source, other than the Board, for the performance of ~~their~~ ~~his/her~~ official duties, any other act or service in ~~their~~ ~~his/her~~ public capacity, for the general performance of the duties of ~~their~~ ~~his/her~~ public employment, or as a supplement to ~~their~~ ~~his/her~~ public compensation.

~~††~~ Upon the recommendation of the Superintendent, the Board shall consider, as appropriate, the presentation of token gifts to retiring members of the staff who have rendered service for a period of time.

Classified staff members shall not accept any form of compensation from vendors that might influence their recommendations on the eventual purchase of equipment, supplies, or services. Furthermore, classified staff members shall not accept any compensation from a vendor after a decision has been made to purchase equipment, supplies, or services from said vendor. In addition, classified staff members who recommend purchases shall not enter into a contractual arrangement with a vendor seeking to do business with the District, or a vendor with whom the District is doing business, whereby an individual classified staff member receives compensation in any form for services rendered.

Such compensation includes, but is not limited to, cash, checks, stocks, or any other form of securities, and gifts such as televisions, microwave ovens, computers, discount certificates, travel vouchers, tickets, passes, and other such things of value. In the event

that a classified staff member receives such compensation, albeit unsolicited, from a vendor, the classified staff member shall immediately notify the Treasurer, in writing, that s/he received such compensation and shall thereafter promptly transmit said compensation to the Treasurer.

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Auditor of State Bulletin 2000-006, Ohio Ethics Commission Advisory Opinion 2008-01



CLASSIFIED STAFF FOR BOARD APPROVAL

po4215

TOBACCO USE PREVENTION

4215 - TOBACCO USE PREVENTION

The Board of Education is committed to providing students, staff, and visitors with a tobacco, nicotine, vapor/aerosol, and smoke-free environment. The negative health effects of tobacco use for both users and nonusers, including the effects of secondhand smoke and vapor/aerosol exposure, are well established. Further, providing a non-smoking and tobacco-free environment is consistent with the responsibilities of teachers and staff to be positive role models for our students.

For purposes of this policy, "use of tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco or tobacco substitutes, including cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, any other matter or substances that contain tobacco or nicotine (including synthetic nicotine), in addition to papers used to roll cigarettes, and/or the smoking of electronic, "vapor," or other substitute forms of cigarettes, clove cigarettes, and other smoking devices for burning tobacco or any other substance.

The term "tobacco" includes any product containing, made of, or derived from tobacco or nicotine (including synthetic nicotine) that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; an e-cigarette (including, but not limited to, "JUUL", "NJOY," "BREEZE," "Puff Bar," etc.), e-cigar, e-pipe, vape pen, or e-hookah; but does not include any cessation product approved by the United States Food and Drug Administration for use as a medical treatment to reduce or eliminate nicotine or tobacco dependence.

The Board prohibits the use of tobacco or tobacco substitute products by employees at all times

(~~7~~) (twenty-four (24) hours a day, seven (7) days a week) **[END-OF-OPTION]**

within any enclosed facility owned, leased, or contracted for by the Board, and in the areas directly or indirectly under the control of the Board immediately adjacent to locations of ingress or egress to such facilities. This prohibition extends to any Board-owned and/or

operated vehicles used to transport students and to all other Board-owned and/or operated vehicles. Such prohibition also applies to

~~(-) - school grounds,~~

~~(-) - athletic facilities, and~~

~~(-) - any school-related event,~~

~~(-) on or off Board premises~~

~~(-) except at designated times~~

~~(-) and in designated areas as defined in statute and by Ohio's Smoke-Free Workplace Program.~~

~~[END OF OPTIONS]~~

The Superintendent shall require the posting of signs as required by R.C. 3794.06 and as specified by the Ohio Department of Health.

~~[+] - Advertising/Promotion~~

In accordance with Policy 9700.01, tobacco advertising is prohibited on school grounds, in all school-sponsored publications, and at all school-sponsored events. ~~[END OF OPTION]~~

~~[+] - Tobacco promotional items that promote the use of tobacco products, including clothing, bags, lighters, and other personal articles, are not permitted on school grounds, in school vehicles, or at school-sponsored events. [END OF OPTION]~~

~~[+] Education and Training~~

~~Training will be provided on this policy and associated resources. Information will be provided on cessation resources, including the free Ohio Tobacco Quit Line. [END OF OPTION]~~

Enforcement

Employees who violate this policy shall be subject to disciplinary action in accordance with the applicable Collective Bargaining Agreement and/or in accordance with policies of the Board.

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A.C. 3701-52

R.C. 3313.20, 3313.47, 3313.751, 3794 et seq.

20 U.S.C. 6081 et seq., 20 U.S.C. 7182



CLASSIFIED STAFF FOR BOARD APPROVAL

po4216

STAFF DRESS AND GROOMING

4216 - STAFF DRESS AND GROOMING

The Board of Education believes that classified staff members, like professional staff members, set an example in dress and grooming for students to follow. Staff members who understand this precept and adhere to it enlarge the importance of their ~~his/her~~ task and present an image of dignity and professionalism.

The Board retains the authority to specify the following dress and grooming guidelines for staff that will prevent such matters from having an adverse impact on the educational process. When assigned to District duty, all classified staff members shall:

- A.  - be physically clean, neat, and well-groomed;
- B.  - dress in a manner consistent with their assigned responsibilities;
- C.  - dress in a manner that communicates to students a pride in personal appearance;
- D.  - dress in a manner that does not cause damage to District property  
- E.  - be groomed in such a way that their hairstyle or dress does not disrupt the educational process nor cause a health or safety hazard.

~~[] The Board recognizes classified staff members' right to dress in accordance with their gender identity, within the constraints of the preceding dress and grooming guidelines.~~



CLASSIFIED STAFF FOR BOARD APPROVAL

po4217

WEAPONS

4217 - **WEAPONS**

The Board of Education prohibits staff members from possessing, storing, making, or using a weapon, including a concealed weapon, in a school safety zone and any setting that is under the control and supervision of the Board for the purpose of school activities approved and authorized by the Board including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board-owned vehicle, except as permitted by law.

The term weapon includes any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to, firearms, guns of any type, including air and gas-powered guns (whether loaded or unloaded), knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, incendiary devices, explosives, and other objects defined as dangerous ordnances under State law.

The Superintendent shall immediately refer a staff member who violates this policy to law enforcement officials, regardless of whether such staff member possesses a valid concealed weapon license. The staff member who violates this policy will also be subject to disciplinary action, up to and including termination, as permitted by applicable Board policy and the terms of existing collective bargaining agreements.

Exceptions to this policy include:

- A. weapons under the control of State or Federal agents authorized to carry deadly weapons who are acting within the scope of their duties or law enforcement agents, and weapons carried by security personnel employed by the Board who are qualified under State law to carry a weapon in a school safety zone while on active duty;
- B. handguns in the possession of an individual who has been issued a concealed handgun license that is valid at the time of conveyance or who is an active duty member of the armed forces with a valid military identification card and documentation of successful completion of firearms training if the handgun remains in a vehicle with the individual or is left in a locked vehicle when the person exits

the vehicle;

[DRAFTING NOTE: With the passage of S.B. 215, Ohio's concealed-carry gun laws changed significantly. The change took effect June 13, 2022 and for the first time, authorized qualified individuals to carry certain weapons without an official concealed-carry license. The revised law defines "qualifying adult" as a person who is twenty-one (21) years of age or older, is not legally prohibited from possessing or receiving a firearm under specified Federal or State law, and satisfies specified criteria necessary to obtain a concealed handgun license. Importantly, however, the law still requires an individual to have a concealed-carry permit or be an active duty member to carry a weapon onto school grounds under these limited circumstances. Permitless carriers are not allowed to carry weapons into a school safety zone. A violation of this law is still considered a felony offense in Ohio.]

- C. (–) weapons carried by other qualified individuals who receive written authorization by the Board as summarized below:

Qualified Individuals with Written Authorization to Carry Weapons

Individuals who are not hired to serve as special police officers or security guards, or to serve in similar law enforcement or security positions, may receive written authorization from the Board to carry weapons onto school property if they meet the following requirements:

1. the individuals have successfully completed the curriculum and training required under State law, or alternatively have received a certificate of satisfactory completion of an approved basic peace officer training program, or are a law enforcement officer; and
2. the individual submits to an annual criminal background check.

Qualified individuals who have not completed the peace officer training program must complete initial training of up to twenty-four (24) hours, as well as annual requalification training of up to eight (8) hours, which is developed and provided by the Department of Public Safety's Mobile Training Team ("MTT"). In addition to the training required under State law, the Board may require further training for individuals to become or remain eligible. Individuals must fulfill any other requirements adopted by the Department of Public Safety as well. The Board will pay all fees associated with any required training. As an alternative to requiring a designated individual to complete training provided by the MTT, the Board has the authority to develop and adopt alternate curriculum, instruction, and training that follows the private investigator and security guard firearms training guidelines. Alternate curriculum and training will be submitted and approved in advance by the Ohio School Safety and Crisis Center ("OSSCC").

- D. (H) - objects indistinguishable from a firearm used during school safety trainings;
- E. (H) items indistinguishable from a firearm approved by a principal as part of a class or individual presentation under adult supervision if used for the purpose of and in the manner approved (working firearms and ammunition shall never be approved);
- F. (H) theatrical props used in appropriate settings;
- G. (H) starter pistols used in appropriate sporting events.
- H. (H) _____.

The Board will notify the public, using the Board's regular channels of public communication, that it has authorized one (1) or more persons to go armed within a school operated by the Board when such authorization is granted. The Board will also submit a current list of qualified individuals who have received written authorization to carry weapons to the OSSCC which is within the Department of Public Safety. Records pertaining to individuals authorized to carry weapons onto school property do not constitute public records.

Staff members shall immediately report any information concerning weapons and/or threats of violence by students, staff members, or visitors to the Supervisor _____. Failure to report such information may subject the staff member to disciplinary action, up to and including termination.

The Board directs the Superintendent to post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities. The notices shall contain a statement substantially in the following form:

"Unless otherwise authorized by law, pursuant to R.C. 2923.122, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone."

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. Further, notices shall be posted in each school bus and other Board-owned vehicle, including a school van.

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R.C. 109.78, 149.43, 149.433

R.C. 2923.11, 2923.12, 2923.19, 2923.22, 2923.122, 2923.161, 3313.20
R.C. 5502.70, 5502.701, 5502.702, 5502.703
18 U.S.C. 922

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4220

EVALUATION OF CLASSIFIED STAFF

4220 - **EVALUATION OF CLASSIFIED STAFF**

The Board of Education recognizes the importance of implementing a program of classified staff member evaluations for the purpose of promoting individual job performance and improving services to students.

The goals of the Board's evaluation plan for classified personnel are to:

- A. **H** - improve and reinforce the skills, attitudes, and abilities which enable a classified staff member to be effective in achieving assigned job goals;
- B. **H** - identify and remediate weaknesses which prevent a classified staff member from achieving the goals of assigned duties;
- C. **H** _____.

The Superintendent shall prepare administrative guidelines for the conduct of classified staff member evaluations.

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R.C. 3319.081

A.C. 3301-35-03 (A)



CLASSIFIED STAFF FOR BOARD APPROVAL

po4231

OUTSIDE ACTIVITIES OF CLASSIFIED STAFF

4231 - OUTSIDE ACTIVITIES OF CLASSIFIED STAFF

Staff members should avoid situations in which their personal interests, activities, and associations may conflict with the interests of the District. If such situations threaten a staff member's effectiveness within the School System, the Superintendent and Board of Education shall evaluate the impact of such interest, activity, or association upon the staff member's responsibilities.

- A. **H** - Staff members may not dedicate work time to an outside interest, activity, or association.
- B. **H** - Staff members may not use school property or school time to solicit or accept customers for private enterprises.
- C. **H** - Staff members may not engage in business transactions on behalf of private enterprises in which s/he may profit by virtue of his/her official position or authority or benefit financially from confidential information that the staff member has obtained or may obtain by reason of his/her position or authority.
- D. **H** - Staff members may not campaign on school property during working hours on behalf of any political issue, or candidate for local, State, or National office. The constitutional right to express political and other opinions as citizens is reserved to all employees.
- E. **H** - Staff members should refrain from expressions that disrupt the efficient operation of the school and/or interfere with the maintenance of discipline by school officials.

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R.C. 3313.20



CLASSIFIED STAFF FOR BOARD APPROVAL

po4242

STAFF DEVELOPMENT

4242 - **STAFF DEVELOPMENT**

The Board of Education believes that training is a prerequisite for continued growth of staff and, therefore, encourages the participation of classified staff members in in-service and other training programs.

The Superintendent

[H] - shall

[H] - may

plan and implement a program of in-service training for classified staff members.

[H] - and explore other training programs.

The Board

[H] - shall

[H] - may

reimburse staff members for the costs incurred in participation therein, subject to prior approval of the Superintendent. However, under no circumstances will staff members be reimbursed for the purchase of alcoholic beverages.

Participation in the program shall be voluntary unless considered part of the duties of any participating staff member according to provisions in a negotiated, collectively-bargained agreement or other contractual arrangements.

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4281

USE OF EMPLOYEE'S PERSONAL PROPERTY AT SCHOOL

4281 - USE OF EMPLOYEE'S PERSONAL PROPERTY AT SCHOOL

From time-to-time, Board of Education employees may wish to bring personal property to school either for reasons associated with classified responsibilities or for use during off-duty time. This practice is permitted provided it is understood that the Board is not responsible for any loss, damage, or misuse of said property. Employees who bring personal property onto District premises for work-related purposes must complete Form 4281 F1, Board Notification of Personal Property Being Brought Onto District Premises for Work-Related Purposes, and notify the building principal prior to bringing such property onto District premises. Except in extraordinary circumstances, the Board will provide all employees with the equipment and tools necessary to perform their assigned duties.

H - If the employee's building principal or supervisor request an employee bring a certain piece of equipment or tool to school in order to complete a specific task, and the employee completes Form 4281 F1, Board Notification of Personal Property Being Brought Onto District Premises for Work-Related Purposes, the personal property may be covered by the Board's property insurance policy during the period of time referenced on the form, subject to deductibles and limitations of District insurance coverage.

H - Board employees are permitted to possess personal communication devices (e.g., cellular telephones) at work in accordance with Policy 7530.01.

H - Other individuals may wish to bring personal property onto District premises. The owner of the personal property bears all responsibility and assumes all risk for loss, damage or misuse of said personal property while it is on Board property. This provision applies, without limitation, to trespassers, invitees, visitors, and independent contractors.

The limitation of liabilities set forth in the previous paragraphs applies to all personal property, regardless of any benefit the Board receives from its use.

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4362.01

THREATENING BEHAVIOR TOWARD STAFF MEMBERS

4362.01 - THREATENING BEHAVIOR TOWARD STAFF MEMBERS

The Board of Education believes that a staff member should be able to work in an environment free of threatening speech or actions.

Threatening behavior consisting of any words or deeds that intimidate a staff member or cause anxiety concerning their his/her physical well-being is strictly forbidden. Any student, parent, visitor, staff member, or agent of this Board who is found to have threatened a member of the staff will be subject to discipline or reported to the authorities.

The Superintendent shall implement guidelines whereby students and employees understand this policy and appropriate procedures are established for prompt and effective action on any reported incidents.

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R.C. 2917.11



CLASSIFIED STAFF FOR BOARD APPROVAL

po4419

GROUP HEALTH PLANS

4419 - GROUP HEALTH PLANS

The Board of Education shall have discretion to establish and maintain group health plans for the benefit of eligible employees. These group health plans may provide health benefits through insurance or otherwise as permitted by law.

[] [OPTION #1]

The Board has elected to provide minimum value health coverage for some or all of its eligible employees. The terms and conditions of the health coverage are set forth in the appropriate plan documents.

~~[] Eligible employees who have coverage through the employer of a working spouse may receive additional compensation if they waive the District's medical coverage. Eligible employees who waive the medical coverage will be paid an additional () monthly () quarterly compensation equal to _____ ()% of the cost of single medical coverage for that employee, with the understanding that this additional compensation is subject to FICA and Federal, State and local income tax. To receive this compensation, the eligible employee must provide the District with proof of medical coverage provided by the spouse's employer. [This policy should be adopted only if the District has established a flexible benefit plan qualified by the Internal Revenue Service].~~

[] [OPTION #2]

~~The Board has elected not to provide minimum value health coverage for any of its eligible employees. The Board is aware that the failure to offer minimum value health coverage to employees may result in penalties under the Affordable Care Act.~~

[END OF OPTION #2]

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4419.02

PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS

4419.02 - **PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS**

The Board of Education provides coverage to eligible employees under fully insured group health plans. The Board has established the following fully insured group health plans:

- A. ~~()~~ – Medical Plan
- B. ~~()~~ – Prescription Drug Plan
- C. ~~()~~ – Dental Plan
- D. ~~()~~ – ~~Vision Plan~~
- E. ~~()~~ – Employee Assistance Plan
- F. ~~()~~ – ~~Long-term Care Plan (not long-term disability)~~
- G. ~~()~~ – ~~[Other; specify]~~ _____

The Board acknowledges that these group health plans are required to comply with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule as amended by Title I of the Genetic Information Nondiscrimination Act (GINA). Fully insured group health plans generally are exempt from many of the requirements imposed upon self-funded group health plans.

The Board also acknowledges that these fully insured group health plans are required to comply with the HIPAA Security Rule. The group health plans, working together with the insurer, will ensure the confidentiality, integrity, and availability of the group health plans' electronic Protected Health Information in accordance with the HIPAA Security Rule.

The Board hereby appoints the Treasurer to serve as the Security Official of the group health plans. All of the group health plans' functions are carried out by the insurer and the insurer owns and controls all of the equipment and media used to create, maintain, receive, and transmit electronic Protected Health Information relating to the group health plans. Accordingly, the insurer is in the best position to implement the technical, physical, and administrative safeguards required by the HIPAA Security Rule. The

Security Official may elect to utilize, as administrative guidelines, the insurer's own policies addressing security measures for the group health plans' electronic Protected Health Information, as appropriate.

The Security Official does not have the ability to assess or adjust the insurer's policies related to the HIPAA Security Rule. Accordingly, unless otherwise determined by the Security Official, the group health plans shall utilize as administrative guidelines the insurer's own policies addressing security measures for the group health plans' electronic Protected Health Information.

[H] – The Department of Health and Human Services (HHS) has the authority to impose civil monetary penalties upon Covered Entities. HHS has not historically imposed these penalties directly upon individuals. Notwithstanding the foregoing, the Board agrees to indemnify and hold harmless the Privacy Official and Security Official in connection with the performance of their delegated duties for the group health plans, except to the extent that any liability is imposed as the result of intentional misconduct or gross negligence by the Privacy Official or Security Official as defined by law.

The fully insured group health plans established by the Board shall:

- A. Refrain from taking any retaliatory action against any individual for exercising any right under the plan, filing a complaint with Health and Human Services, participating in any proceeding under Part C of Title XI of the Social Security Act, or opposing any act or practice made unlawful by the Privacy Rule provided that the individual has a good faith belief that the practice opposed is unlawful.
- B. Not impose a requirement that participants waive their rights under the Privacy Rule as a condition of the provision of payment, enrollment in a health plan, or eligibility of benefits.
- C. If the plan document is amended in accordance with the Privacy Rule, the plan must retain a copy of the plan document as amended for six (6) years from the date of its amendment or the date when it last was in effect, whichever is later.
- D. Provide notification to affected individuals, the Secretary of the U.S. Department of Health and Human Services, and the media (when required), if the plan or one of its business associates discovers a breach of unsecured protected health information, in accordance with the requirements of HIPAA and its implementing regulations.

Fully insured group health plans established by the Board shall not create or receive protected health information, except for:

- A. Summary health information. Summary health information is de-identified information that summarizes claims history, claims expenses, or type of claims experienced by health plan participants.

B. Information on whether an individual is participating in a group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan.

C. Information disclosed to the plan under a signed authorization that meets the requirements of the Privacy Rule.

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29 C.F.R. Part 1635

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

45 C.F.R. 160.102(a), 164.530(g), 164.530(h), 164.530(j), 164.530(k), 164.404

45 C.F.R. 164.406, 164.408, 164.502, 164.520(a)



CLASSIFIED STAFF FOR BOARD APPROVAL

po4419.03

PATIENT PROTECTION AND AFFORDABLE CARE ACT

4419.03 - PATIENT PROTECTION AND AFFORDABLE CARE ACT

The Board of Education acknowledges that the Patient Protection and Affordable Care Act ("ACA") imposes certain obligations upon the District. Such obligations may include the following:

- A. The District shall notify new employees of health insurance options available through the Health Insurance Marketplace within fourteen (14) days of an employee's employment start date. Sample form notices are available from the U.S. Department of Labor at:

<http://www.dol.gov/ebsa/healthreform/regulations/coverageoptionsnotice.html>

- B. Employees of the District have the option to enroll in the Health Insurance Marketplace. If a full-time employee (as defined by the ACA) of the District enrolls in the Health Insurance Marketplace and receives a subsidy, then the District may be liable for a penalty.

In event that the District concludes that it is fiscally-wise to incur the potential penalty in lieu of providing affordable, minimum value coverage to all full-time employees, the District shall incur the potential penalty.

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29 USC 218B

26 USC 4980H



CLASSIFIED STAFF FOR BOARD APPROVAL

po4421

BENEFITS

4421 - **BENEFITS**

The Board of Education realizes the concern of its classified staff for the availability of those protective and personally advantageous benefits beyond an individual's basic salary. It is the Board's desire to make available or provide, within the limits of law and sound fiscal management, those which are beneficial to the classified staff member and the District.

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R.C. 9.90, 3313.202, 3917.01



CLASSIFIED STAFF FOR BOARD APPROVAL

po4422

BENEFITS FOR NONREPRESENTED STAFF

4422 - **BENEFITS FOR NONREPRESENTED STAFF**

Salaries and fringe benefits for all classified staff members not covered by the terms of a currently-valid negotiated, collectively-bargained agreement shall be determined by the contract the Board of Education has with OAPSE ~~the _____~~ and the recommendation of the Superintendent.

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4430.01

FMLA LEAVE

4430.01 - FMLA LEAVE

Qualifying Reasons for FMLA and Military Family Leave

In accordance with the Family and Medical Leave Act of 1993, as amended, ("FMLA"), eligible staff members may take up to twelve (12) work weeks of job-protected, unpaid leave, or substitute appropriate paid leave if the staff member has earned or accrued it, for the following reasons:

- A. the birth and/or care of a newborn child of the staff member, within one (1) year of the child's birth;
- B. the placement with the staff member of a child for adoption or foster care, within one (1) year of the child's placement;
- C. the staff member is needed to provide physical and/or psychological care for a spouse, child or parent with a serious health condition;
- D. the staff member's own serious health condition makes them him/her unable to perform the functions of their his/her position; or
- E. any qualifying exigency (as defined in applicable Federal regulations) arising out of the fact that the staff member's spouse, child son, daughter, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces ("Qualifying Exigency Leave"). Covered active duty is defined in AG 4430.01.

In addition, an eligible staff member who is a spouse, child son, daughter, parent or next of kin of a covered service member with a serious injury or illness may take up to a total of twenty-six (26) work weeks of job-protected, unpaid leave, or substitute appropriate paid leave if the staff member has earned or accrued it, during a "single twelve (12) month period" to provide physical and/or psychological care for the covered service member ("Military Caregiver Leave") as described more fully in AG 4430.01.

Eligible Employees

Staff members are "eligible" if they have worked for the Board for at least twelve (12) months, **and** for at least 1,250 hours over the twelve (12) months prior to the leave request, ~~(-) and are employed at a work site where fifty (50) or more employees are employed by the Board within seventy-five (75) miles of that work site.~~ **[NOTE: only include this option if it is possible an employee in the District may not meet this criteria; in most, if not all, school districts in Ohio, this criteria will be met.]** Months and hours that employees who performed USERRA-covered service would have worked if they had not been called up for military service counts towards the staff member's eligibility for FMLA leave. While the twelve (12) months of employment need not be consecutive, employment periods prior to a break in service of seven (7) years or more will not be counted unless the break is occasioned by the staff member's fulfillment of his/her USERRA-covered service obligation, or a written agreement **[NOTE: this includes a collective bargaining agreement]** exists concerning the Board's intention to rehire the staff member after the break in service.

Twelve (12) Month Period

Twelve (12) month period is defined as

~~(-) the calendar year.~~

~~(-) a fixed twelve (12) month period (i.e. the "leave year" is identical for all staff members -- e.g. a fiscal year or calendar year).~~

~~(-) the twelve (12)-month period measured forward from the date the staff member's first FMLA leave begins (i.e. the "leave year" is specific to each individual staff member).~~

~~(-) a rolling twelve (12)-month period measured backward from the date the staff member uses FMLA leave (i.e. the "leave year" is specific to each individual staff member).~~

Serious Health Condition

Serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider. As utilized in this policy, the term "incapacity" means an inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom. The term "treatment" includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. (Treatment does not include routine physical examinations, eye examinations, or dental examinations.)

- A. Inpatient care means an overnight stay in a hospital, hospice, or residential medical-care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.

B. Continuing treatment by a healthcare provider, includes any one or more of the following: 1.) "incapacity and treatment"; 2.) any incapacity experienced by an expectant mother related to pregnancy, or for prenatal care; 3.) any incapacity or treatment for such incapacity due to a chronic serious health condition; 4.) a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, terminal stages of a disease); or 5.) any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare provider for a.) restorative surgery after an accident, or other injury or b.) a condition that would likely result in a period of incapacity of more than three (3) consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

1. "Incapacity and treatment" involves a period of incapacity of more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves a.) treatment two (2) or more times, within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a healthcare provider, by a nurse under direct supervision of a healthcare provider, or by a provider of healthcare services (e.g. physical therapist) under orders of, or on referral by, a healthcare provider, or b.) treatment by a healthcare provider on at least one (1) occasion that results in a regimen of continuing treatment under the supervision of the healthcare provider.

a. Treatment by a healthcare provider as referenced above involves an in-person visit to a healthcare provider. The first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity. The healthcare provider is responsible for determining whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period.

b. Regimen of continuing treatment includes a course of prescription medication (e.g. antibiotics), or therapy requiring special equipment to resolve or alleviate the health condition (e.g. oxygen).

c. A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a healthcare provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

2. An expectant mother is entitled to FMLA leave for incapacity due to pregnancy even if she does not receive treatment from a healthcare provider during the absence, and even if the absence does not last for more than three (3) consecutive, full calendar days.
3. A chronic serious health condition is one that: a.) requires periodic visits (i.e. at least twice a year) for treatment by a healthcare provider, or by a nurse under direct supervision of a healthcare provider; b.) continues over an extended period of time (including recurring episodes of a single underlying condition); and c.) may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.). A visit to a healthcare provider is not necessary for each absence, and each absence need not last more than three (3) consecutive, full calendar days.
4. With regard to permanent or long-term conditions, the employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider.

C. Conditions for which cosmetic treatments are administered (e.g. most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomachs, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, periodontal disease, etc., are conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave.

Intermittent and Reduced Schedule Leave

The Superintendent may allow a staff member to take FMLA leave intermittently (i.e. leave in separate blocks of time for a single qualifying reason) or on a reduced schedule leave (i.e. reducing the employee's usual weekly or daily work schedule) under Qualifying Reasons for FMLA and Military Family Leave (A) or (B). A staff member is entitled to take FMLA leave on an intermittent or reduced schedule leave when medically necessary as indicated under Qualifying Reasons for FMLA and Military Family Leave in (C) and (D). A staff member may also take FMLA leave on an intermittent or reduced schedule leave for Qualifying Exigency Leave (i.e. reason under Qualifying Reason for FMLA and Military Family Leave (E)). Finally, Military Caregiver Leave may be taken on an intermittent or reduced schedule leave when medically necessary. Regardless, the taking of FMLA leave intermittently or on a reduced schedule leave results in the total reduction of the twelve (12) or twenty-six (26) weeks only by the amount of leave actually taken. If the intermittent or reduced schedule leave is foreseeable based on planned medical treatment for the employee, a family member or a covered service member, the Superintendent may require the staff member to transfer temporarily, during the period the intermittent or reduced schedule leave is required, to an available alternative position for which the staff member is qualified and which better accommodates recurring periods of leave than the staff

member's regular position. The alternative position shall have equivalent pay and benefits but not necessarily equivalent duties. The Superintendent may also transfer the staff member to a part-time job with the same hourly rate of pay and benefits, provided the staff member is not required to take more leave than is medically necessary.

When leave is needed for planned medical treatment, the staff member must make a reasonable effort to schedule the treatment so as not to unduly disrupt the District's operations, subject to the approval of the healthcare provider.

If the Superintendent agrees to permit FMLA leave intermittently or on a reduced schedule leave for reason (A) or (B) under Qualifying Reasons for FMLA and Military Family Leave, the Board may also require the staff member to transfer temporarily, during the period the intermittent or reduced leave is required, to an available alternative position for which the staff member is qualified and which better accommodates recurring periods of leave than does the staff member's regular position.

Staff Member Notice Requirements (Forms available at the U.S. Department of Labor Website: www.dol.gov)

Staff members seeking to use FMLA leave (including Military Caregiver Leave) are required to provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than thirty (30) days in advance, the staff member must provide notice as soon as practicable - generally, either the same or next business day. When the need for leave is not foreseeable, the staff member must provide notice as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, staff members must comply with the Board's usual and customary notice and procedural requirements for requesting leave. Failure to provide timely notice may result in the leave being delayed or denied, and/or possible disciplinary action.

Staff members must provide "sufficient information" for the Superintendent to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, that the staff member or **their his/her** qualifying family member is under the continuing care of a healthcare provider, that the requested leave is for a particular qualifying exigency related to a qualifying family member's covered active duty or call to covered active duty status, or that the leave is due to a qualifying family member who is a covered service member with a serious injury or illness. The information may also include the anticipated timing and duration of the leave.

When a staff member seeks leave for a FMLA-qualifying reason for the first time, the staff member need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the District has

previously provided the staff member FMLA-protected leave, the staff member must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Substitution of Paid Leave

~~[] - The Board shall require the staff member~~

~~[] - The staff member may request~~

to "substitute" (i.e. run concurrently) any of his/her earned or accrued paid leave (e.g. sick leave, personal leave, ~~- ()~~ assault leave, vacation leave, ~~()~~ compensatory time ~~()~~ family leave) for unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the District's normal leave policy. A staff member electing to use any type of paid leave concurrently with FMLA leave must follow the same terms and conditions of the Board's policy that apply to other employees for use of such leave. The staff member is always entitled to unpaid FMLA leave if s/he does not meet the Board's conditions for taking paid leave. On occasion the Board may waive any procedural requirements for the taking of any type of paid leave.

~~[] If a staff member requests and is permitted to use accrued compensatory time to receive pay for time taken off for an FMLA reason, or if the Superintendent requires such use pursuant to the Fair Labor Standards Act, the time taken will be counted against the staff member's FMLA leave entitlement.~~

If the staff member has not earned or accrued adequate paid leave to encompass the entire twelve (12) work week period of FMLA leave or a twenty-six (26) work week period of Military Caregiver Leave, the additional weeks of leave to obtain the twelve (12) work weeks of FMLA leave or twenty-six (26) work weeks of Military Caregiver Leave the staff member is entitled to shall be unpaid. Whenever a staff member uses paid leave in substitution for unpaid FMLA leave/Military Caregiver Leave, such leave counts toward the twelve (12) work week/twenty-six (26) work week maximum leave allowance provided by this policy and Federal law.

District Notice Requirements (Forms available at the U.S. Department of Labor Website: www.dol.gov)

The Superintendent is directed to post the Department of Labor approved Notice explaining employees' rights and responsibilities under the FMLA. Additionally, this general notice shall be included in employee handbooks or other written guidance to staff members concerning benefits or leave rights or, in the alternative, distributed to each new staff member upon hiring.

When a staff member requests FMLA leave or the District acquires knowledge that leave may be for a FMLA purpose, the Superintendent shall notify the staff member of his/her eligibility to take leave, and inform the staff member of his/her rights and responsibilities

under the FMLA (including the consequences of failing to meet those obligations). Along with the Notice of Rights and Responsibilities, the Superintendent will attach any medical certification that may be required, and a copy of the employee's essential job functions. **[NOTE: If the essential job functions are not provided at this time, they must be provided with the Designation Notice Form.]** If the Superintendent determines the staff member is not eligible for FMLA leave, the Superintendent must state at least one (1) reason why the staff member is not eligible. Such notice may be given orally or in writing and should be given within five (5) business days of the request for FMLA leave, absent extenuating circumstances. When oral notice is given, it must be followed by written notice within five (5) business days. Staff member eligibility is determined (and notice provided) at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable twelve (12) month period. All FMLA absences for the same qualifying reason are considered a single leave and staff member eligibility as to that reason for leave does not change during the applicable twelve (12) month period. If at the time a staff member provides notice of a subsequent need for FMLA leave during the applicable twelve (12) month period due to a different FMLA-qualifying reason and the staff member's eligibility status has not changed, no additional eligibility notice is required. If, however, the staff member's eligibility status has changed, the Superintendent must notify the staff member of the change in eligibility status within five (5) business days, absent extenuating circumstances.

If the specific information provided by the Notice of Rights and Responsibilities changes, the Superintendent shall, within five (5) business days of receipt of the staff member's first notice of need for leave subsequent to any changes, provide written notice referencing the prior notice and setting forth any of the information in the Notice of Rights and Responsibilities that has changed.

When the Superintendent has sufficient information to determine that leave is being taken for a FMLA-qualifying reason (e.g. after receiving certification), the Superintendent shall notify the staff member whether the leave will be designated and counted as FMLA leave. Leave that qualifies as **both** Military Caregiver Leave and leave to care for a qualifying family member with a serious health condition (i.e. reason (C)) must be considered as Military Caregiver Leave in the first instance. This designation must be in writing and must be given within five (5) business days of the determination, absent extenuating circumstances. Additionally, when appropriate, the Superintendent shall notify the staff member of the number of hours, days and weeks that will be counted against the employee's FMLA entitlement, and whether the employee will be required to provide a fitness-for-duty certification to return to work. **[NOTE: If a handbook or other written document clearly provides that fitness-for-duty certification will be required in specific circumstances, the Board's designee may provide only oral notice of this requirement.]**

Only one (1) Designation Notice is required for each FMLA-qualifying reason per applicable twelve (12) month period, regardless of whether the leave taken due to the qualifying reason will be a continuous block of leave or as intermittent or on a reduced schedule

leave. If the Superintendent determines the leave will not be designated as FMLA-qualifying (e.g. if the leave is not for a reason covered by the FMLA or the staff member's FMLA leave entitlement has been exhausted), the Superintendent shall notify the staff member of that determination. If the staff member is required to substitute paid leave for unpaid FMLA leave, or if paid leave taken under an existing leave plan is being counted as FMLA leave, the "Designation Notice" shall include this information. Additionally, the "Designation Notice" shall notify the staff member if **they are s/he is** required to present a fitness-for-duty certification to be restored to employment. Further, if the fitness-for-duty certification is required to address the staff member's ability to perform the essential functions of his/her job, that will be indicated on the Designation Notice, and a list of the essential functions of the staff member's position will be included.

If the information provided to the staff member in the Designation Notice changes, the Superintendent shall provide, within five (5) business days of receipt of the staff member's first notice of need for leave subsequent to any change, written notice of the change.

In the case of intermittent or reduced schedule leave, only one such notice is required unless the circumstances regarding the leave have changed.

Limits on FMLA When Both Spouses are Employed by the Board

When eligible spouses are both employed by the Board, they are limited to a combined total of twelve (12) workweeks of FMLA leave during any twelve (12) month period if the leave is taken for reason (A) or (B) under Qualifying Reasons for FMLA and Military Family Leave, or to care for the staff member's parent who has a serious health condition.

Where the spouses both use a portion of the total twelve (12) week FMLA leave entitlement for reason (A) or (B) under Qualifying Reasons for FMLA and Military Family Leave, or to care for a parent, the spouses are each entitled to the difference between the amount s/he has taken individually and the twelve (12) weeks of FMLA leave for other purposes.

When eligible spouses are both employed by the Board, they are limited to a combined total of twenty-six (26) workweeks of Military Caregiver Leave during the "single twelve (12) month period" if the leave is taken for reason (A) or (B) under Qualifying Reasons for FMLA and Military Family Leave, or to care for the staff member's parent who has a serious health condition, or to care for a covered service member with a serious injury or illness.

Certification

When FMLA leave is taken for either reason (C) or (D) under Qualifying Reasons for FMLA and Military Family Leave, the staff member must provide medical certification from the healthcare provider of the eligible staff member or **their his/her** immediate family member. The staff member may either:

- A. submit the completed medical certification to the Superintendent; or

- B. direct the healthcare provider to transfer the completed medical certification directly to the Superintendent, which will generally require the staff member to furnish the healthcare provider with a HIPAA-compliant authorization.

If the staff member fails to provide appropriate medical certification, any leave taken by the employee shall not constitute FMLA leave.

When the need for FMLA leave is foreseeable and at least thirty (30) days notice has been provided, the staff member must provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the Superintendent within fifteen (15) calendar days after the staff member requests FMLA leave unless it is not practicable under the circumstances to do so despite the staff member's diligent and good faith efforts.

The Board reserves the right to require second or third opinions (at the Board's expense), and periodic recertification of a serious health condition. If a third opinion is sought, that opinion shall be binding and final. The staff member may either:

- A. submit the opinion of the second healthcare provider, and the opinion of the third healthcare provider if applicable, to the Superintendent;
- B. direct the second or third healthcare provider to transfer his/her opinion directly to the Superintendent, which will generally require the staff member to furnish the healthcare provider with a HIPAA-compliant authorization.

In the event that the staff member fails to provide the medical opinion of the second or third healthcare provider, if applicable, any leave taken by the staff member shall not constitute FMLA leave.

Recertification

Recertification may be required no more often than every thirty (30) days in connection with an absence by the staff member unless the condition will last for more than thirty (30) days. For conditions that are certified as having a minimum duration of more than thirty (30) days, the District will not request recertification until the specified period has passed, except that in all cases the staff member must submit recertification every six (6) months in connection with an absence by the employee. Additionally, the Superintendent may require a staff member to provide recertification in less than thirty (30) days if the staff member requests an extension of leave, the circumstances described in the previous certification have changed significantly, or if the District receives information that casts doubt upon the staff member's stated reason for the absence or the continuing validity of the certification. Finally, staff members must provide a new medical certification each leave year for medical conditions that last longer than one (1) year.

Staff members requesting Qualifying Exigency Leave are required to submit to the Superintendent a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party.

Staff members requesting Military Caregiver Leave are required to submit to the Superintendent certification completed by an authorized healthcare provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

The Board authorizes its healthcare provider, ~~() human resource professional, () -leave administrator, () management official-~~ but not the staff member's direct supervisor - to authenticate or clarify a medical certification of a serious health condition, or an ITO or ITA (i.e. medical certification provided for reasons (C) or (D) under Qualifying Reasons for FMLA and Military Family Leave, or Military Caregiver Leave). Additionally, the Superintendent is authorized to contact the individual or entity named in the Qualified Exigency Leave certification for purposes of verifying the existence and nature of the meeting.

[] - A staff member who takes leave for reason (D) under Qualifying Reasons for FMLA and Military Family Leave, prior to returning to work, may be required to ~~must~~ provide the Superintendent with a fitness-for-duty certification that specifically addresses the staff member's ability to perform the essential functions of his/her job. The fitness-for-duty certification shall only apply to the particular health condition that caused the staff member's need for FMLA leave. ~~[NOTE: If this option is selected, it must be uniformly applied to all similarly-situated employees (i.e. same occupation, same serious health condition) returning from leave for their own serious health condition, and a list of the employee's essential functions must be provided to him/her at the time his/her leave was designated as FMLA leave]~~ : If reasonable safety concerns exist, the Superintendent may, under certain circumstances, require a staff member to submit a fitness-for-duty certification before they ~~s/he~~ return ~~s~~ to work from intermittent FMLA leave. The cost of the certification shall be borne by the staff member.

Job Restoration & Maintenance of Health Benefits

Upon return from FMLA leave, the Board shall restore the staff member to their ~~his/her~~ former position, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. During FMLA leave, the Board shall maintain the staff member's current coverage under the Board's group health insurance program on the same conditions as coverage would have been provided if the staff member had been continuously working during the leave period. If the staff member was paying all or part of the premium payments prior to going on FMLA leave, the staff member must continue to pay their ~~his/her~~ share during the leave.

~~[H]~~ - The staff member shall not accrue any sick leave, vacation, or other benefits during a period of unpaid FMLA leave.

The use of FMLA leave shall not result in the loss of any employment benefit that the staff member earned or was entitled to before using FMLA leave - ~~(-)~~, nor shall it be counted against the staff member under a no fault attendance policy. ~~[END-OPTION]~~ If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked or perfect attendance, and the employee does not meet the goal due to FMLA leave, payment shall be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

A staff member shall have no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

~~[I] If the staff member fails to return to work at the end of the leave for reasons other than the continuation, recurrence, or onset of a serious health condition that entitles the staff member to leave pursuant to reasons (C) or (D) under Qualifying Reasons for FMLA and Military Family Leave, or Military Caregiver Leave, or for circumstances beyond the control of the staff member, the staff member shall reimburse the Board for the health insurance premiums paid by the Board during the unpaid FMLA leave period.~~

Generally, a staff member may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave.

A staff member who fraudulently obtains FMLA leave is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Superintendent shall prepare any guidelines that are appropriate for this policy and verify that the policy is posted properly.

Copies of this policy shall be available to staff members upon request.

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29 U.S.C. 2601 et seq. (as amended)

29 C.F.R. Part 825

45 C.F.R. Part 160, 164



CLASSIFIED STAFF FOR BOARD APPROVAL

po4430.03

CALL TO ACTIVE DUTY LEAVE

4430.03 - CALL TO ACTIVE DUTY LEAVE

Once per calendar year, an eligible staff member may take leave for up to ten (10) days or eighty (80) hours, whichever is less, if all of the following conditions are satisfied:

- A. The Board of Education has employed the staff member for at least twelve (12) consecutive months and for at least 1,250 hours in the twelve (12) months immediately preceding commencement of the leave.
- B. The staff member is the parent, spouse, or a person who has or had legal custody of a person who is a member of the uniformed services and who is called into active duty in the uniformed services for a period longer than thirty (30) days, or is injured, wounded, or hospitalized while serving on active duty in the uniformed services.
- C. The staff member gives notice to the Board that they ~~s/he~~ intend ~~s~~ to take leave pursuant to this policy at least fourteen (14) days prior to taking the leave if the leave is being taken because of a call to active duty or at least two (2) days prior to taking the leave if the leave is being taken because of an injury, wound, or hospitalization. If the staff member receives notice from a representative of the uniformed services that the injury, wound, or hospitalization is of a critical or life-threatening nature, the staff member may take the leave under this policy without providing prior notice to the Board.
- D. In non-medical situations, the dates on which the staff member takes leave pursuant to this policy occur no more than two (2) weeks prior to or one (1) week after the deployment date of the employee's spouse, child, ward, or former ward.
- E. The staff member does not have any other leave available for their ~~his/her~~ use except sick leave or disability leave.

A staff member seeking to take leave pursuant to this policy must provide certification from the appropriate military authority to verify that the staff member satisfies the criteria described in paragraphs B, C, and D above.

"Active Duty" means full-time duty in the active military service of the United States or active duty pursuant to an executive order of the President of the United States, an act of

the Congress of the United States, or a proclamation of the Governor. "Active Duty" does not include active duty for training, initial active duty for training, or the period of time for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any duty unless such period is contemporaneous with an active duty period.

"Uniformed Services" means the armed forces, the Ohio organized militia when engaged in full-time National Guard duty, the commissioned corps of the public health service, and any other category of persons designated by the President of the United States in time of war or emergency.

While the leave provided by this policy is unpaid, the Board will continue to provide benefits to the staff member during the period of time the staff member is on this leave. For purposes of this policy, "benefits" is defined as employment benefits, other than salary or wages, that the Board regularly provides or makes available to employees, including, but not limited to, medical insurance, disability insurance, life insurance, pension plans, and retirement plans. The staff member is responsible for the same proportion of the cost of the benefits as s/he regularly pays during periods of time when they are ~~s/he is~~ not on leave.

Upon the completion of the leave taken pursuant to this policy, the Board will restore the staff member to the position they ~~s/he~~ held prior to taking that leave or a position with equivalent seniority, benefits, pay, and other terms and conditions of employment.

The Board will not interfere with, restrain, or deny the exercise or attempted exercise of a right established under this policy. Further, the Board will not discharge, fine, suspend, expel, discipline, or discriminate against a staff member with respect to any term or condition of employment because of the staff member's actual or potential exercise, or support for another employee's exercise, of any right established under this policy. Nothing herein shall prevent the Board from taking an employment action that is independent of the exercise of a right under this policy. Finally, the Board will not deprive an employee who takes leave pursuant to this policy of any benefit that accrued before the date that leave commences.

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R.C. 5906.01-.03



CLASSIFIED STAFF FOR BOARD APPROVAL

po4432

SICK LEAVE

4432 - SICK LEAVE

The Board recognizes its statutory duty to provide paid sick leave to regular employees of the Board for absence due to personal illness, pregnancy, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family.

All regular full-time employees of the Board eligible for sick leave shall receive fifteen (15) such sick leave days annually at the rate of one and one-quarter (1 1/4) a month. Unused sick leave shall be cumulative up to two hundred seventy (270) days. ~~[May not be less than 120 days in accordance with R.C. 3319.141, however, any number more than 120 days must be approved by the employing Board.]~~

Regular part-time employees shall be entitled to sick leave in proportion to the time actually worked in accordance with R.C. 124.38 (i.e., 4.6 hours of paid sick leave for each eighty (80) hours of service).

The Board shall accept by transfer the accumulated sick leave up to two hundred sixty (260) days which any new employee has acquired in another position of public service in Ohio, provided that the last termination of such service shall have been within the last ten (10) years.

Newly hired full-time non-teaching employees and regular full-time non-teaching employees who have exhausted their ~~his/her~~ accumulated sick leave shall be credited with five (5) days ~~[cannot be less than five(5)]~~ sick leave in advance which shall be part of the fifteen (15) days that can be accumulated for the year.

Substitutes or persons who are employed by the Board on an as-needed, seasonal, or intermittent basis, are not eligible for paid sick leave.

Employees must be in attendance on scheduled work days or be in authorized leave status.

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R.C. 124.38, 3319.141



CLASSIFIED STAFF FOR BOARD APPROVAL

po4439

HOLIDAYS

4439 - HOLIDAYS

A. To be eligible for a paid holiday, regular nonteaching employees must have accrued earnings on the next preceding and next following scheduled workdays before and after such holiday or must be properly excused from attendance at work on either or both of those days. Holidays must fall during the time of year in which an employee is scheduled to work. Eligible employees receive their regular salary or hourly rate of pay on a holiday.

B. **Eleven (11) and Twelve (12) Month Employees.** All regular nonteaching school employees employed on an eleven (11) or twelve (12) month basis, whether salaried or compensated on an hourly or per diem basis, are entitled to a minimum of the following holidays for which they shall be paid their regular salary or their regular rate of pay:

1. New Year's Day;

2. Martin Luther King Day;

3. President's Day

4. Good Friday

5. Memorial Day;

6. Juneteenth Day;

7. Independence Day;

8. Labor Day;

9. () _____;

10. () _____;

11. Thanksgiving Day; and the day after [†]

12. Christmas Eve and Christmas Day.

13. New Year's Eve Day.

~~[DRAFTING NOTE: For employees covered under R.C. 3319.087, Juneteenth is a mandatory holiday for eleven (11) or twelve (12) month employees. Districts may elect to add other holidays as approved by the Board of Education, excluding those days when teachers are attending an educational meeting. It is imperative that districts coordinate enactment of this policy with the language of any existing collective bargaining agreements.]~~

C. **Nine (9) and Ten (10) Month Employees.** All regular nonteaching school employees employed on a nine (9) or ten (10) month basis, whether salaried or compensated on an hourly or per diem basis, are entitled to a minimum of the following holidays for which they shall be paid their regular salary or their regular rate of pay:

1. New Year's Day;
2. Martin Luther King Day;
3. Memorial Day;
4. Labor Day;
5. Thanksgiving Day; and
6. Christmas Day.

Regular nonteaching school employees employed less than nine (9) months shall be entitled to a minimum of those holidays enumerated in this section which take place during the employees' scheduled time of employment.

D. If New Year's Day (January 1st), Independence Day (July 4th), and/or Christmas Day (December 25th) fall on a Sunday, then they shall be observed on the following Monday. If any of these holidays fall on a Saturday, they will be observed the Friday before.

E. When any employee is required by the employee's responsible administrative superior to work on a paid holiday, the employee shall be granted compensatory time off with regular pay. The Board of Education may establish a premium rate of pay for work performed on a paid holiday.

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R.C. 1.14, 124.18, 3319.086, 3319.087

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CLASSIFIED STAFF FOR BOARD APPROVAL

po4440

JOB-RELATED EXPENSES

4440 - JOB-RELATED EXPENSES

The Board of Education ~~() will ()~~ may ~~[END OF OPTION]~~ provide for the payment of the actual and necessary expenses, including traveling expenses, of any classified staff member of the District incurred in the course of performing services for the District, whether within or outside the District, under the direction of the Board and in accordance with the Superintendent's administrative guidelines.

The validity of payments for job-related expenses shall be determined by the Principal/Supervisor _____. Pre-approval for estimated travel expenses by the Superintendent/Designee _____ is required.

The Board ~~() shall ()~~ may ~~[END OF OPTION]~~ pay the expenses of classified staff members when they attend meetings with prior approval in accordance with the policy of this Board and in accordance with the administrative guidelines of the Superintendent.

~~Whenever a staff member is unable to provide one (1) or more receipts for appropriate expenses, the staff member may be reimbursed in an amount not to exceed~~

~~() \$100~~

~~() \$_____ [ENTER AMOUNT] [END OF OPTION]~~

~~upon written explanation of the reason for the lack of the receipt and the approval of the expenses by the Superintendent.~~

Classified staff members are expected to exercise the same care incurring travel expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Unauthorized costs and additional expenses incurred for personal preference or convenience will not be reimbursed.

Unauthorized expenses include but are not limited to alcohol, movies, supplemental insurance on rental cars, fines for traffic violations, and the entertainment/meals/lodging of spouses or guests.

[DRAFTING NOTE: CHOOSE ONE (1) OF THE OPTIONS BELOW]

~~[] Accrual of personal frequent-flyer miles, hotel "bonus points", credit card "rewards", or any other reward under similar affinity programs (including credit points or rewards directed to non-profit organizations) is strictly prohibited.~~

[OR]

[] - Accrual and use of frequent flyer miles, credit card rewards, hotel points, or other rewards earned during official business in their personal life is permitted, provided that these rewards are earned the same way as members of the public would earn them; and they do not impose additional costs to the District. Such accrual and use shall be in accordance with Policy 6465 - Affinity, Rewards, or Other Discount Programs.

[END-OF-OPTIONS]

This policy does not address every issue, exception, or contingency that may arise in the course of travel.

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Attorney General Bulletin 2025-012

Ohio Ethics Commission Opinion No. 2025-02



CLASSIFIED STAFF FOR BOARD APPROVAL

po4531

UNAUTHORIZED WORK STOPPAGE

4531 - **UNAUTHORIZED WORK STOPPAGE**

The Board of Education is obligated and committed to provide certain basic services to students participating in District programs. Therefore, if the schools are open and students are in attendance, those basic services will be provided.

Recognizing the fact that a District, for various reasons, could experience an unauthorized work stoppage, the Board remains committed to providing educational and related services to the schools and will fulfill its obligations to operate the schools, when possible.

Classified staff members who fail to perform their normal duties when so required as part of an unauthorized work stoppage will be subject to loss of pay and fringe benefits, including paid insurance coverage, as well as disciplinary measures in accordance with the policies of this Board and the laws of the State.

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R.C. 3313.202, 4117.01 et seq.

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