



**Employee
Handbook
2023-2024**



Española Public Schools

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Introduction

The Española School Board recognizes that dynamic and efficient staff members dedicated to education is necessary to maintain a constantly improving education program. The Board accepts the responsibility granted by the laws of the State of New Mexico and the authority to ensure that:

1. The schools are operated and conducted in accordance with the state laws on education.
2. The administration is employed to manage the effective and efficient implementation of quality educational programs.
3. The development of staff and programs through the work of central office administrators, principals, and teachers is a continuous process.
4. The schools are maintained for the safety and well-being of students and staff.

Formulation of Policies/Regulations

The School Board creates policies. Regulations and procedures are created by the Superintendent and school administrators, reviewed by the Board when appropriate, and carried out by site administrators in cooperation with staff.

Collective Bargaining

Pursuant to the applicable statutes, resolutions and regulations, the District Administration recognizes the Española-NEA for the purposes of collective bargaining as the exclusive representative of units consisting of Professional Certified Employees and Educational Support Personnel. The Española Public School District sanctioned rules and regulations, administrative directives, department rules and regulations, and workplace practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control.

Staff Ethics (G-0650)

(Statement of Ethics for School Employees)

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

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

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

- seek constantly to improve learning facilities and opportunities.

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

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

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

- recognize that a profession must accept responsibility for the conduct of its members and understand that our own conduct may be regarded as representative of our profession;
- participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education;
- cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns and those colleagues new to their positions;
- accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities;
- refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student;
- refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues;
- keep the trust under which confidential information is exchanged;
- make appropriate use of the time granted for professional purposes;
- interpret and use the writings of others and the findings of educational research with intellectual honesty;
- maintain our integrity when dissenting by basing our public criticism of education on valid assumptions as established by careful evaluation of facts;
- respond accurately to requests for evaluation of colleagues seeking professional positions;
- provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.

Principle IV: Commitment to professional employment practices. We regard the employment agreement as a solemn pledge to be executed both in spirit and in fact in a manner consistent with the

highest ideals of professional service. Sound professional personnel relationships with governing boards are built upon integrity, dignity and mutual respect between employees, administrators and local school boards. In fulfilling our obligations to professional employment practices, we:

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

Adopted: date of manual adoption

LEGAL REF.:

[6.60.9.8 NMAC](#)

[6.60.9.9 NMAC](#)

Staff Conduct (G-0750)

(Standards of Professional Conduct)

Preamble

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

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

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

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

- shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 80), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;
- shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

- shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;
- shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;
- shall not give a gift to any one (1) student unless all students situated similarly receive or are offered gifts of equal value for the same reason;
- shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;
- shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
 - all forms of sexual touching, sexual relations or romantic relations;
 - inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
 - any open displays of affection toward mostly-boys or mostly-girls; and
 - offering or giving a ride to a student unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;
- shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:
 - making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and
 - creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

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

- shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;
- shall not orally or in writing misrepresent our professional qualifications;
- shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;

- shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;
- shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;
- shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;
- shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;
- shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds one hundred dollars (\$100), excluding approved educational awards, honoraria, plaques, trophies, and prizes;
- shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;
- shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:
 - making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;
 - making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent, or they actually initiate the activity;
 - displaying or distributing any sexually oriented materials where the above-named individuals can see them; and
 - creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;
- shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the Equal Employment Opportunity Commission (EEOC) guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 et seq.) or contacting appropriate school human resources personnel;
- shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;
- shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;
- shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;
- shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall not engage in any outside employment:
 - the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;
 - where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and
 - that impairs our physical ability to perform our school duties;

- shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:
 - in connection with our official school duties;
 - in connection with another licensed person's official school duties;
 - in connection with any standardized or non-standardized testing;
 - in connection with any school application or disclosure process; and
 - in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;
- shall not in connection with any State Board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;
- shall not engage in any conduct or make any statement:
 - that would breach the security of any standardized or non-standardized tests;
 - that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;
 - that would give students an unfair advantage in taking a standardized or non-standardized test;
 - that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and
 - that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;
- shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
- shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the State Public Education Department (PED), that the individual does not hold the required credentials; and
- shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;
- shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:
 - striking, assaulting or restraining a student for no valid reason;
 - using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;
 - bringing firearms onto school property or possessing them on school property, except with proper authorization;
 - possessing or consuming alcohol beverages at school;
 - possessing or using illegal drugs;
 - being under the influence of alcohol or illegal drugs at school;
 - actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and

- engaging in favoritism or preferential treatment toward any school employee or applicant in regard to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;
- shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9.9 NMAC with a student or other school employee to the local school authority within thirty (30) days of obtaining such knowledge.

Sanctions

The standards of professional conduct establish minimal standards of accepted professional conduct with which all educators and administrators are required to comply. Therefore, the Secretary of Education through the professional licensure unit ("licensure unit") of the public education department (PED), may revoke or suspend the licensure of any person, or may deny applications for licensure or relicensure to any person, who is within the scope of this regulation and who after hearing is found to have failed to comply with one (1) or more of the enumerated provisions of the standards of professional conduct set forth in Section 6.60.9.9 NMAC, exclusive of the preamble.

In General

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

Investigation and Reporting of Alleged Ethical Misconduct

The Superintendent shall investigate all allegations of ethical misconduct about any school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the Superintendent shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty (30) days following the separation from employment or immediately if knowledge of the ethical misconduct is sexual harassment or sexual abuse of an adult or child. Copies of that form shall not be maintained in the school employee's personnel file.

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

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

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

Adopted: August 7, 2019

LEGAL REF.:

[22-5-4.4 NMSA \(1978\)](#)

[22-10A-5 NMSA \(1978\)](#)

[6.60.9.9 NMAC](#)

[6.68.2.1 NMAC](#)

[6.68.3.1 NMAC](#)

CROSS REF.:

[GCF](#) - Professional Staff Hiring

[JIC](#) - Student Conduct

[JK](#) - Student Discipline

[KFA](#) - Public Conduct on School Property

Staff Conflict of Interest (G-0700)

Prohibited Acts

It is unlawful for a public officer or licensed employee to take an official act for the primary purpose of directly enhancing a personal financial interest or position.

A Board member or licensed employee shall not, directly or indirectly, solicit, sell or be a party to a transaction to solicit or sell a product or service to the school or district with which he is associated. This does not apply to a person making a sale in the regular course of business while complying with the procurement laws and rules of the State of New Mexico.

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

Vendor Relations

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

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

Adopted: date of manual adoption

LEGAL REF.:

[10-16-3 NMSA](#)

[10-16-4 NMSA](#)

[22-5-6 NMSA](#)

[6.10.6.8 NMAC](#)

Staff Conflict of Interest (G-0731)

STAFF CONFLICT OF INTEREST

I, _____, do hereby indicate:

1. That I am presently an officer/employee of the Española Public Schools;

2. That I (or my relative[s]: _____)

have a substantial interest in the contract, sale, purchase, or service to or decision by the Española Public Schools Board as described below.

3. That I shall refrain from participating in any manner in my capacity as an employee or officer of Española Public Schools in such contract, sale, purchase, service to, or decision by the Board unless specifically permitted to do so by law.

Date Signature

Description of Conflict:

Reporting Child Abuse/Child Protection Policy (J-6250)

All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect, including sexual abuse and assault, and substance abuse. This requirement shall be completed by all licensed school employee's during the 2014-2015 school year and all licensed employees hired thereafter during the first year of employment by a school district.

Every person, including a schoolteacher or a school official who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- New Mexico Child Abuse Hotline (1-855-333-SAFE or #SAFE from a cell phone [#SAFE = #7233]);
- a local law enforcement agency;
- the department office in the county where the child resides; or
- a tribal law enforcement or social services agency for any Indian child residing in Indian country.

The report shall contain the following information:

- The names and addresses of the minor, the parents, or the person or persons having custody of such minor, if known.
- The minor's age and the nature and extent of any injuries or physical neglect, including any evidence of previous injuries or physical neglect.
- Any other information that such person believes might be helpful in establishing the cause of the injury or physical neglect.

The school administrator should be informed, and the "Agency Referral Form and Procedure" should be used in order to have documentation and follow up.

A school administrator and/or their designee may permit a member of a law enforcement agency or an employee of the Human Services Department to interview the child with respect to a report without the permission of the child's parent, guardian or custodian.

A person who fails to report abuse as provided in 30-6-4 NMSA 1978 is guilty of a misdemeanor.

Adopted: January 21, 2015

LEGAL REF.:

[22-10A-32 NMSA](#) (1978)

[22-5-4.2 NMSA](#) (1978)

[32A-4-2 NMSA](#) (1978)

[32A-4-3 NMSA](#) (1978)

[30-6-4 NMSA](#) (1978)

Staff Dress Code (G-0800)

The Española Board of Education recognizes that school employees, consultants, and independent contractors are role models for the students with whom they come in contact before, during and after school hours. The Board recognizes the positive effect an employee, consultant or independent educational contractor can have on his or her students in this capacity. To this end, it is strongly expected that employees, consultants, educational contractors dress and groom themselves in a professional manner appropriate to the educational environment.

It is not the intent of this policy to suppress any person's right to dress as he or she pleases. However, in light of the nature of dealing with young formative persons in the school setting, discretion and common sense call for an avoidance of any extreme dress, which would interfere with the normal educational process. In addition, as role models, employees, consultants, independent educational contractors, should always be conscious of how their dress and grooming affect the individual student.

Employees, consultants or independent educational contractors are not to wear muscle shirts, tank tops, spaghetti strap tops, halter tops, translucent blouses, midriff shirts/blouses, spandex or inappropriate fitting attire, sweats or attire with either pictures, logos, phrases, letters or words printed, that have sexual intonations/interpretations or reflect bias, prejudicial, vulgar, profane, obscene or disruptive views as determined by the school administrator or supervisor(s). This includes logos or printed words or letters depicting violence, alcoholic beverages, tobacco or prohibited substances.

Employees, consultants or independent educational contractors are not to wear sunglasses, tinted glasses or hats of any kind within certain school buildings, unless approved by the school administrator for special occasions or are medically prescribed.

Dresses, pants, blouses, shirts and suits shall be appropriate for the work environment and/or professional work environment. Appropriate attire relevant to a bona-fide religious belief will be considered when administrator/supervisor is informed by the employee

The principal/supervisor will determine what is appropriate or inappropriate dressing and grooming. Employees, consultants or independent educational contractors who go to their workplace dressed or groomed inappropriately, may then be sent home without pay, for appropriate attire.

Adopted: date of manual adoption

Staff Conduct with Students (G-0750)

(Standards of Professional Conduct)

Preamble

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

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

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

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

- shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 80), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;
- shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

- shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;
- shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;
- shall not give a gift to any one (1) student unless all students situated similarly receive or are offered gifts of equal value for the same reason;
- shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;
- shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
 - all forms of sexual touching, sexual relations or romantic relations;
 - inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
 - any open displays of affection toward mostly-boys or mostly-girls; and
 - offering or giving a ride to a student unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;
- shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:
 - making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and
 - creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

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

- shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;
- shall not orally or in writing misrepresent our professional qualifications;
- shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;
- shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;
- shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;
- shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;
- shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;
- shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds one hundred dollars (\$100), excluding approved educational awards, honoraria, plaques, trophies, and prizes;
- shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;
- shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:
 - making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;
 - making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent, or they actually initiate the activity;
 - displaying or distributing any sexually oriented materials where the above-named individuals can see them; and

- creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;
- shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the Equal Employment Opportunity Commission (EEOC) guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 et seq.) or contacting appropriate school human resources personnel;
- shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;
- shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;
- shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;
- shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall not engage in any outside employment:
 - the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;
 - where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and
 - that impairs our physical ability to perform our school duties;
- shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:
 - in connection with our official school duties;
 - in connection with another licensed person's official school duties;
 - in connection with any standardized or non-standardized testing;
 - in connection with any school application or disclosure process; and
 - in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;

- shall not in connection with any State Board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;
- shall not engage in any conduct or make any statement:
 - that would breach the security of any standardized or non-standardized tests;
 - that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;
 - that would give students an unfair advantage in taking a standardized or non-standardized test;
 - that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and
 - that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;
- shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
- shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the State Public Education Department (PED), that the individual does not hold the required credentials; and
- shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;
- shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:
 - striking, assaulting or restraining a student for no valid reason;
 - using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;
 - bringing firearms onto school property or possessing them on school property, except with proper authorization;
 - possessing or consuming alcohol beverages at school;

- possessing or using illegal drugs;
 - being under the influence of alcohol or illegal drugs at school;
 - actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and
 - engaging in favoritism or preferential treatment toward any school employee or applicant in regard to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;
- shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9.9 NMAC with a student or other school employee to the local school authority within thirty (30) days of obtaining such knowledge.

Sanctions

The standards of professional conduct establish minimal standards of accepted professional conduct with which all educators and administrators are required to comply. Therefore, the Secretary of Education through the professional licensure unit ("licensure unit") of the public education department (PED), may revoke or suspend the licensure of any person, or may deny applications for licensure or relicensure to any person, who is within the scope of this regulation and who after hearing is found to have failed to comply with one (1) or more of the enumerated provisions of the standards of professional conduct set forth in Section 6.60.9.9 NMAC, exclusive of the preamble.

In General

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

Investigation and Reporting of

Alleged Ethical Misconduct

The Superintendent shall investigate all allegations of ethical misconduct about any school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the Superintendent shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty (30) days following the separation from employment or immediately if knowledge of the

ethical misconduct is sexual harassment or sexual abuse of an adult or child. Copies of that form shall not be maintained in the school employee's personnel file.

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

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

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

Adopted: August 7, 2019

LEGAL REF.:

[22-5-4.4 NMSA \(1978\)](#)

[22-10A-5 NMSA \(1978\)](#)

[6.60.9.9 NMAC](#)

[6.68.2.1 NMAC](#)

[6.68.3.1 NMAC](#)

CROSS REF.:

[GCF](#) - Professional Staff Hiring

[JIC](#) - Student Conduct

[JK](#) - Student Discipline

[KFA](#) - Public Conduct on School Property

Staff Conduct with Students (G-0850)

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

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

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

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

Violations of this policy shall be considered serious and may result in severe disciplinary action in accord with policies on discipline of professional and support staff. Retaliatory or intimidating acts against any

person who has made a complaint under this policy and its corresponding regulations, or against a person who has testified, assisted or participated in any manner in an investigation relating to a complaint or grievance, are specifically prohibited and constitute grounds for discipline. Knowingly submitting a false report or making false accusations under this policy shall subject that individual to disciplinary action.

Adopted: August 27, 2018

LEGAL REF.:

[6.60.9.8 NMAC](#)

[6.60.9.9 NMAC](#)

CROSS REF.:

[EEAG](#) - Student Transportation in Private Vehicles

[GBEA](#) - Staff Ethics

[GBEB](#) - Staff Conduct

[GCQF](#) - Discipline, Suspension, Termination and Discharge of Professional Staff Members

[GDQD](#) - Discipline, Suspension, Termination and Discharge of Support Staff Members

[IJNDB](#) - Use of Technology Resources in Instruction

[JIC](#) - Student Conduct

[JICD](#) - Student Harassment/Bullying/Cyberbullying Prevention

[JII](#) - Student Concerns, Complaints, and Grievances

[JLF](#) - Reporting Child Abuse / Child Protection

Staff Conduct with Students (G-0861)

STAFF CONDUCT WITH STUDENTS (Maintaining Professional Boundaries)

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

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

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

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

Working with the Community

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

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

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

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

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

Inappropriate Behavior Initiated by a Student

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

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

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

Exceptions

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

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

Staff Conduct with Students (G-0881)

STAFF CONDUCT WITH STUDENTS

Working One-On-One with Children and Young People

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

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

Managing Privacy Expectations

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

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

Good practice in managing these circumstances is the following:

- Health/physical care should be provided with respect for the student's dignity and in a manner approved by the student, his/her parents/guardians, and within District policy.

- Counseling should be provided in unlocked rooms with part-glass doors, where possible, that are located near staff traffic areas.
- Avoid out-of-hours contact.
- While parental consent is often not applicable in many counseling situations, the school will provide all parents/guardians with written information about the school's counseling services which outlines confidentiality and privacy issues.
- Ensure student appointments and counseling notes are documented properly, while preserving appropriate levels of confidentiality.

Conducting Home Visits

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

A summary of general expectations is provided below.

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

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

- Making any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under the law or policies addressing the prohibition against Harassment and Retaliation.
- Condoning, hazing, initiations or other rituals that cause embarrassment, harassment or ridicule and risks emotional and/or physical harm to students, regardless of the student's willingness to participate.

- Showing inappropriate images to a student, including, but not limited to violent, disturbing or sexually explicit or pornographic subject matter.
- Dating a student or discussing or planning a future romantic or sexual relationship with a student.
- Making sexual advances toward a student, including but not limited to personalized comments about a student's body, appearance, physical features, attributes or attractiveness, off color jokes, or sexual innuendoes.
- Telling off color jokes or making comments with sexual innuendo.
- Encouraging a flirtatious, romantic, or sexual relationship with a student.
- Unnecessarily invading a student's personal space or privacy.
- Singling out a particular student or students for personal attention and friendship beyond the professional staff/student relationship.
- Socializing where students are consuming alcohol, drugs, or tobacco.
- Providing or offering to provide alcohol, drugs, or tobacco to students.
- For non-guidance/non-counseling staff, excessively encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to immediately use professional judgment as contained in this training and refer the student to appropriate guidance/counseling staff.
- Sending students on personal errands unrelated to any educational, athletic, non-curricular or extracurricular purpose.
- Bantering, joking or making comments of a sexual nature with students.
- Asking a student to keep a secret.
- Disclosing inappropriate personal, sexual, family, employment concerns, or other inappropriate private matters to one (1) or more students.
- Addressing students with personalized terms of endearment or pet names that would suggest the staff member feels love or affection for the student. As a staff member, permitting students to address you by your first name, nickname, personalized terms of endearment, pet names, or otherwise in an overly familiar manner.
- Maintaining personal contact with a student outside of school by telephone, text message, e-mail, Instant Messenger, Internet chat rooms, social networking websites or letters beyond homework or other legitimate school business.

- Exchanging gifts cards or letters that are personal or extravagant in nature with a student beyond customary student-staff gifts.
- Socializing or spending time with students outside of school-related or school-sponsored curricular or extracurricular activities or organized community activities, including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling and recreational activities.
- Giving a student a ride alone in a vehicle in a non-emergency situation or in a situation that can be avoided. If a staff member is approved to give a student a ride, the student shall ride in the back seat of the vehicle when possible, and staff member must attempt to gain prior permission from the parent for the transportation arrangement.

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

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

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

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

Inappropriate Social Interactions, including, but not limited to the following:

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

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

Appearances of Impropriety

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

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

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

Electronic Communication

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

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

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

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

Staff Conduct with Students (G-0882)

REPORTING BOUNDARY VIOLATIONS AND SUSPECTED BOUNDARY VIOLATIONS

Name: _____

E-mail: _____

Phone: _____

Describe what happened/what is happening:

When did it happen? Date: _____ Time: _____

Where did it happen?

- At school
- At school event
- In a school parking lot
- On a school playground
- On the school bus
- Other: _____

Location details:

Who was committing the boundary violation?

Who was the victim of the boundary violation?

Did anyone else witness the boundary violation?

Were you or other persons physically or emotionally hurt?

Have you or the victim missed any school or made changes to your daily routine as a result of the boundary violation?

Have you told anyone about the boundary violation? _____

Has this happened before? _____

Gifts to and Solicitations by Staff Members (G-0900)

Gifts

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

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

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

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

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

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

Solicitations

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

Staff-member solicitation(s) of other employees and/or students for any profit, nonprofit, or charitable groups, institutions, or organizations must have the approval of the Superintendent in advance.

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

Adopted: July 11, 2007

LEGAL REF.:

[10-16B-1 NMSA - Gift Act](#)

[6.60.9.9 NMAC](#)

Drug-Free Workplace (G-0950)

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

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

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

P.L. 100-690 Title V, Subtitle D.

[34 C.F.R. Part 85](#)

CROSS REF.:

[EEAEAA](#) - Drug and Alcohol Testing of Transportation
Employees

Drug-Free Workplace (G-0981)

**DRUG - FREE WORKPLACE
NOTICE TO EMPLOYEES**

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

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

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

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

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

Signature

Date

Drug-Free Workplace (G-0982)

DRUG - FREE WORKPLACE

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

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

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

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

Drug-Free Workplace-Nonmedical Use or Abuse of Drugs or Alcohol (G-1000)

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

- Each employee is responsible for the employee's own actions.
- Each employee is a role model for students.
- Each employee who seeks help is to be given the opportunity to do so in a supportive environment.
- The District shall not ignore employee problems.
- Constructive confrontation will be utilized to make employees aware of opportunities and choices for help.
- Efforts to maintain confidentiality will be made by the District.
- Outside referrals to non school personnel will be provided, at employee expense, to employees who indicate an interest.
- Employees will be required to provide information on progress in dealing with problems.
- Supervisory staff members will receive orientation on methods of constructive confrontation.
- Opportunities for self-referral will be provided.
- As recommended by outside professional sources, the District will consider support to an employee during reentry into the workplace.
- The District's right to intervene is based on (1) a basic concern for the health and welfare of the persons whom it employs and (2) the right to expect quality job performance.
- School employees are human and should not be considered any less vulnerable or immune to human stress than any other person.
- In spite of the above, school employees whose nonmedical use of drugs or use of alcohol endangers the health and safety of students or other employees may of necessity be dealt with summarily.

Employee Drug Use or Abuse

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

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

Adopted: date of manual adoption

LEGAL REF.:

P.L. 100-690 Title V, Subtitle D.

[34 C.F.R. Part 85](#)

CROSS REF.:

[EEAEAA](#) - Drug and Alcohol Testing of Transportation

Employees

Alcohol Use By Staff Members (G-1050)

(Illegal Drugs)

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

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

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

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

An employee of the District who, pursuant to local conditions or an employment contract with the District, resides on District property or resides in District housing may possess and use alcohol at the employee's residence subject to the following restrictions:

- The employee shall not possess (except for possession at said residence), sell, offer to sell, transfer, use, or be under the influence of alcohol while on duty.

- Any alcohol consumption that occurs on school property when the employee is not on duty shall be done in moderation and shall occur within the employee's residence.

Adopted: date of manual adoption

Tobacco Use by Staff Members/Smoking (G-1100)

The use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs is prohibited in the following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events.

The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9. Notice of this policy shall be made by a listing of prohibited items that will be included in a Tobacco, Drug and Alcohol Free School notice posted at the entrance to school buildings and athletic events.

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

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

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

Adopted: February 24, 2016

LEGAL REF.:

[24-16-3 NMSA](#) et seq., Dee Johnson Clean Air Act

[6.12.4.8 NMAC](#)

1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.

[20 U.S.C. 6083](#) Pro-Children Act of 1994 (Environmental Tobacco Smoke).

34 C.F.R. Part 85 Drug Free Workplace Act

CROSS REF.:

[GBEB](#) - Staff Conduct

[GCQF](#) - Discipline, Suspension, Termination and Discharge of Professional Staff Members

[GDQD](#) - Discipline, Suspension, Termination and Discharge of Support Staff Members

[JICG](#) - Tobacco Use by Students

[KF](#) - Community Use of School Facilities

[KFAA](#) - Tobacco Use on School Premises at Public Functions

Drug and Alcohol Testing of Employees (G-2000)

(Preemployment Drug Testing)

Statement on Drug and Alcohol Policy

The Española Public School District (the "District") is committed to a drug and alcohol free work place, and to a safe, healthy, and productive work place for all its employees.

The District is also committed to supplying its students with the highest quality of education possible, as well as a safe and an orderly school environment where students can learn and grow.

The District deems that each employee or individual District is in a safety sensitive position. The District recognizes that drug, alcohol, or other substance abuse poses a safety risk to its employees and students. Alcohol, drug, or other substance abuse by employees, will impair their alertness and their ability to perform properly, and will have serious adverse effects on the safety, efficiency, and productivity of other employees and the District as a whole. From experience in the District, each employee is subject to be called upon to assist in emergency situations involving students and adults, such as in the case of an emergency evacuation as a result of fire or violence. Continued research and practical experience prove that even small quantities of alcohol and/or drugs can affect an employee's reflexes, judgment, alertness, and memory. Such an impairment, even if not readily apparent, can have severe, adverse results for employees involved in ensuring the safety of students. An employee with the presence of alcohol and/or drugs in his or her system can be a threat to co-workers and students and may be more susceptible to making costly errors. Most importantly, the District cannot tolerate employees who may intentionally or inadvertently expose students to alcohol or drugs. The District, therefore, has adopted this policy on the use or abuse of drugs, alcohol, or other controlled substances, as part of its containment to safeguarding the health of its employees, to providing a safe place for its employees to work, to supplying its students with the highest quality of education possible, as well as a safe, orderly school environment. Because substance abuse, either while at work or away from work, can seriously endanger the safety of employees and students and render it impossible to supply top quality service, the District has established this program to detect users and remove abusers of alcohol, drugs, or other controlled substances. The District is committed to preventing the use and/or presence of these substances in the work place. Although this policy refers specifically to alcohol and drugs, it is intended to apply to all forms of substance abuse, including the misuse of legally prescribed drugs or the use, possession, distribution, or sale of illegal drugs or unprescribed controlled substances. Similarly, although the policy refers specifically to employees, it also applies to job applicants.

Purpose of Drug and Alcohol Policy

To provide clear guidelines and consistent procedures for handling incidents of employees, use of alcohol, drugs or controlled substances which affect the District, job performance, or the students, and to make every effort to institute and maintain a drug-free workplace. To ensure that employee's conform to all state and federal regulations regarding alcohol, drugs, or controlled substances. To provide employees substance abuse prevention education for all and supervisory training regarding problem recognition and the implementation of this policy. To prohibit the unlawful manufacture, distribution, dispensation,

presence, or use of alcohol, drugs, or other controlled substances on or in the District is property or work sites

Scope of Drug and Alcohol Policy

This policy covers all school employees not otherwise covered by the Transportation Policy, including job applicants.

Violation of Drug and Alcohol Policy

If an employee violates this policy, appropriate disciplinary action will be taken. Such action cannot be avoided by a request at that time for treatment or rehabilitation.

Violation of this policy will be grounds for termination and will result in a recommendation for termination, subject to applicable New Mexico law, due process requirements, and/or any other applicable laws or regulations. Limitation: Violations of this policy include, without 1) testing positive in a confirmed test; 2) refusing to submit to testing; 3) failing to adhere to a rehabilitation program required by the District or medical provider; or 4) being convicted of any criminal offense involving the manufacture, distribution, sale, or possession of a controlled substance, marijuana, or a dangerous drug. Upon violating this policy, an employee will be removed from service and placed on administrative leave without pay until disciplinary action is taken and becomes effective.

Employees will not be terminated for voluntarily seeking assistance for a substance abuse problem. However, as with any employee, performance, attendance, or behavioral problems may result in disciplinary actions up to and including termination. Any voluntary actions must occur before a conviction or selection for drug or alcohol testing.

Employees who self-identify under this policy must follow the steps below before being returned to service or allowed to continue work.

- Employees will be suspended and will be required to execute a written agreement which:
 - Acknowledges that they violated this policy; and
 - States that in exchange for the District not terminating them for violating this policy they agree to undergo rehabilitation, counseling, or other activities prescribed by the District or medical provider.
- Employees will not be returned to work or be allowed to continue working until they have been evaluated by a physician, therapist, or counselor designated by the District who certifies that, in his or her best judgment, the employee no longer uses drugs and/or other prohibited substances and may safely return to duty.
- Employees must then undergo additional periodic testing without notice for a set period as required by a physician, therapist, or counselor designated by the District or by its designated medical provider.
- If, within one hundred twenty-five (125) days of testing positive or otherwise violating this policy a physician, therapist, or counselor designated by the District certifies that, in his or her best judgment, the employee is not recovering from a drug or alcohol dependence, that the employee is currently using drugs and/or other prohibited substances, that the employee's involvement

with drugs and/or other prohibited substances is an on-going problem, and that the employee may not safely return to duty, the District may terminate the employee, in accordance with New Mexico law, due process requirements, and/or any other applicable laws or regulations.

This policy does not require and should not result in any special regulations, privileges, or exemptions from an employee's normal job performance requirements.

The District is not responsible for the costs of rehabilitation. The employee shall be responsible for all such costs.

Definitions

Accident. Unintended occurrence involving an Española School District's property or vehicles which results in: 1) a fatality (a fatality means any injury which results in the death of a person as a result of an accident); 2) injury to a person requiring immediate treatment away from the scene of the accident; or 3) disabling damage to a vehicle requiring it to be towed from the scene.

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

Collection. A place where employees present themselves for the purpose of providing body fluids to be analyzed for specified controlled substances.

Illegal drugs. A controlled substance as defined by the United States Code, which is unlawful. The possession of the term "illegal drugs" does not mean the use of controlled substances pursuant to a valid prescription or other use authorized by law.

Employee. All school employees not otherwise covered by the Transportation Policy, including job applicants.

Medical Review Officer. The employee responsible for receiving laboratory results generated from the Española Public School District Schools' Substance Abuse program who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an employee's biomedical information.

Work place. Any location where the employee must be to carry on the duties of employment

Testing Programs

The District will utilize drug testing to help administer this policy.

The following types of testing will be used:

- All applicants offered conditional employment will be tested.
- Employees will be tested for cause based upon reasonable suspicion of supervisor.

- Employees will be tested following accidents. Employees who complete a rehabilitation program shall be tested periodically without notice for a set period as required by a physician, therapist, or counselor designated by the District or by its designated medical provider.

A positive test for alcohol consumption is an alcohol concentration of, or greater than 0.02%.

The following examples constitute a verified positive controlled substance test result:

<u>Substance Confirmatory Test</u>	<u>Cut-off Levels (ng/ml)</u>
Marijuana	15
Cocaine	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines	
Amphetamine	500
Methamphetamine	500

The District is responsible for the cost of all testing, including any post-offer, pre employment drug testing, post-accident testing, and reasonable suspicion testing.

If an employee's or applicant's test is positive for substance use, he/she has the right to request, in writing to the District, that the specimen be reanalyzed by an accredited independent agency to verify the validity of the results be borne by the District.

Costs for the review will All positive test results are given to the Medical Review Officer and are strictly confidential with access limited to authorized staff.

Post-Accident Screening

If an employee is involved in an accident the employee will be required to immediately report to a pre-determined screening facility, with a photo identification, and accompanied by a supervisor, for alcohol/drug screening. The supervisor will then take the employee home or arrange to have the employee taken home, and the employee will remain on paid administrative leave until the screening results are received by the District.

For Alcohol: The employee involved in the accident who is subject to testing shall make himself or herself available for testing for up to eight (8) hours and no alcohol shall be consumed by the driver for eight (8) hours or until an approved breath alcohol test is performed. No breath alcohol test shall be performed after eight (8) hours from the time of the accident

For Drugs: A urine collection for drug testing shall be conducted no later than thirty-two (32) hours from the time of the initial accident. Refusal by the employee to take the required test(s) or a positive test result shall be grounds for the full range of disciplinary actions, including termination.

Post-Offer, Pre-Employment Screening

Applicants must report to a predetermined collection facility, with a photo identification.

The drug/alcohol test must be undertaken as soon after notification of the conditional offer of employment as possible. Applicants who refuse the pre-employment screen, or who fail to timely report to the collection facility, or who have a confirmed positive screening, shall not be eligible for employment. The District is responsible for the cost of any post-offer, pre-employment drug testing.

Reasonable Suspicion Testing

Whenever there is reasonable cause or suspicion on the part of the supervisor that an employee may be under the influence of alcohol or drugs, the employee will be required to immediately report to a pre-determined screening facility, with a photo identification and accompanied by a supervisor, for alcohol/drug screening. The supervisor will then take the employee home or arrange to have the employee taken home, and the employee will remain on paid administrative leave until the screening results are received by the District. Reasonable suspicion testing may be based upon, among other things:

- Observable phenomena, such as direct observation of drug/alcohol or possession and/or the physical use symptoms of being under the influence of a drug/alcohol, or a pattern of abnormal or erratic behavior.
- Abnormal conduct or erratic behavior may include the following, which are not all inclusive:
 - Abnormally dilated or constricted pupils
 - Glazed stare - redness of eyes
 - Change of speech (i.e., faster or slower)
 - Constant sniffing
 - Redness under nose
 - Needle marks
 - Change in personality
 - Forgetfulness
 - Constant fatigue or hyperactivity
 - Smell of alcohol
 - Slurred speech
 - Difficulty walking
 - Slowed reaction rate
 - Dulled mental processes
- Information provided either by reliable and credible sources or independently corroborated or newly discovered evidence that the employee has tampered with a previous drug/alcohol test.
- Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard.

Procedures for Drug or Alcohol Testing

If an employee is suspected of using, possessing, distributing, or selling illegal drugs, or if an employee is suspected of misusing prescription drugs or alcohol, the supervisor will gather all information, facts, and circumstances leading to and supporting the suspicion.

The supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing. The report should include the appropriate dates and times of reported drug/alcohol related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken. Refusal by an employee to take the required test(s) or a positive test result shall be grounds for the full range of disciplinary actions, including termination.

Conviction Notification Requirement

Any employee who is convicted of a drug- or alcohol-related violation while on duty, on school property, at a school sponsored function, including any vehicle owned by the school or being used to transport employees to or from a school sponsored event, shall, within six (6) working days of the date of such conviction, notify his/her immediate supervisor in writing of such conviction. The supervisor, upon receiving such written notification, shall take one (1) of the following actions within thirty (30) calendar days:

- Impose appropriate disciplinary action against the employee, up to and including termination of employment; and/or
- Require the employee to participate in a drug or alcohol use assistance, counseling or rehabilitation program offered by a federal, state, local, health, law enforcement, or other appropriate agency.

Adopted: date of manual adoption

CROSS REF.:

[EEAEAA](#) - Drug and Alcohol Testing of Transportation Employees

[GBEC](#) - Drug-Free Workplace

[GBECA](#) - Nonmedical Use or Abuse of Drugs or Alcohol

Staff Personal Security and Safety (G-1300)

Threats

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

Adopted: date of manual adoption

LEGAL REF.:

[30-3-9 NMSA](#) (1978)

[30-3-9.1 NMSA](#) (1978)

Staff Personal Security and Safety Regulation (G-1311)

STAFF PERSONAL SECURITY AND SAFETY

Threats

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

Employee Assistance (G-1350)

EMPLOYEE ASSISTANCE

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

[29 U.S.C. 653](#)

CROSS REF.:

[EBBB](#) - Accident Reports

Employee Assistance (G-1381)

EMPLOYEE ASSISTANCE (Bloodborne Pathogen Requirements)

Exposure Control Plan

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

This Exposure Control Plan contains the following elements:

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

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

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

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

Exposure Determination

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

- High risk - Coaches, physical education instructors, custodians, certain special education program personnel, playground duty personnel, health services personnel, and security personnel.
- Moderate risk - Regular instructional program personnel, other special education program personnel, school level office personnel, maintenance personnel, food services personnel, and special assignment personnel (e.g., counselors, librarians).
- Low risk - District level office personnel.

Methods of Compliance

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

Engineering and work practice controls:

- Engineering and work practice controls shall be used to eliminate or minimize employee exposure. If occupational exposure remains after institution of these controls, personal protective equipment shall also be used.
- Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.
- The District shall provide hand-washing facilities that are readily accessible to employees.
- When provision of hand-washing facilities is not feasible, the District shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.
- The District requires that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment. Supervisory personnel shall ensure compliance.
- The District requires that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials. Supervisory personnel shall ensure compliance.
- Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted below. Shearing or breaking of contaminated needles is prohibited.
 - Contaminated needles and other contaminated sharps shall not be recapped or removed unless no other alternative is feasible or such action is required by a specific medical procedure as determined by a competent medical professional qualified to make such determination.
 - Such recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.
- Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:
 - Puncture resistant.
 - Labeled or color coded in accordance with this standard.
 - Leakproof on the sides and bottom.
 - In accordance with legal requirements for reusable sharps.
- Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
- Food and drink shall not be kept in refrigerators, freezers, shelves, or cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present.
- All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.
- Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.
- Specimens of blood or other potentially infectious materials shall be placed in a container that prevents leakage during collection, handling, processing, storage, transport, or shipping.

- The container for storage, transport, or shipping shall be labeled or color coded according to law and closed prior to being stored, transported, or shipped. When a facility utilizes "universal precautions" in the handling of all specimens, the labeling/color coding of specimens is not necessary, provided containers are recognizable as containing specimens. This exemption applies only while such specimens/containers remain with the facility. Labeling or color coding is required when such specimens/ containers leave the facility.
 - If outside contamination of the primary container occurs, the primary container shall be placed within a second container that prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color coded according to the requirements of this standard.
 - If the specimen could puncture the primary container, the primary container shall be placed within a secondary container that is puncture resistant in addition to the above characteristics.
- Equipment that may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the decontamination of such equipment or portions of such equipment is not feasible as determined by a supervisory employee assigned to make such determination.
 - A readily observable label in accordance with law shall be attached to the equipment stating which portions remain contaminated.
 - This information shall be conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

Personal protective equipment:

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

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

Housekeeping:

- General. The work site must be maintained in a clean and sanitary condition. The District shall establish, attach hereto, and implement an appropriate written schedule for cleaning and the method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.
- All school activity areas are cleaned daily.
- In cleaning operations involving human blood, a cleaning solution consisting of ten to one (10:1) ratio of water and bleach will be used.
- All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.
 - Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures, immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials, and at the end of the work shift if the surface may have become contaminated since the last cleaning.
 - Protective coverings - such as plastic wrap, aluminum foil, or imperviously backed absorbent paper used to cover equipment and environmental surfaces - shall be

removed and replaced as soon as feasible when they become overtly contaminated or at the end of the work shift if they may have become contaminated during the shift.

- All bins, pails, cans, and similar receptacles intended for reuse that have a reasonable likelihood of becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.
 - Broken glassware that may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means such as a brush and dust pan, tongs, or forceps.
 - Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
- Regulated waste:
 - Contaminated sharps discarding and containment:
 - Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:
 - Closable.
 - Puncture resistant.
 - Leakproof on sides and bottom.
 - Labeled or color coded.
 - During use, containers for contaminated sharps shall be:
 - Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries).
 - Maintained upright throughout use.
 - Replaced routinely and not be allowed to overfill.
 - When moving containers of contaminated sharps from the area of use, the containers shall be:
 - Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
 - Placed in a secondary container if leakage is possible. The second container shall be:
 - Closable.
 - Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping.
 - Labeled or color coded.
 - Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner that would expose employees to the risk of percutaneous injury.
 - Other regulated waste containment:
 - Regulated waste shall be placed in containers that are:

- Closable.
 - Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping.
 - Labeled or color coded.
 - Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
- If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:
 - Closable.
 - Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping.
 - Labeled or color coded.
 - Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
- Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states, territories, and political subdivisions of states and territories.
- Laundry:
 - Contaminated laundry shall be handled as little as possible, with a minimum of agitation.
 - Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.
 - Contaminated laundry shall be placed and transported in bags or containers labeled or color coded. When a facility utilizes universal precautions in the handling of all soiled laundry, alternative labeling or color coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions.
 - Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers that prevent soaking-through and/or leakage of fluids to the exterior.
 - Employees who have contact with contaminated laundry must wear protective gloves and other appropriate personal protective equipment.
 - When a facility ships contaminated laundry off-site to a second facility, which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers that are labeled or color-coded.

Hepatitis B Vaccination and Postexposure Evaluation and follow-up

General:

- **The District shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and postexposure evaluation and follow-up to all employees who have had an exposure incident.**

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

Hepatitis B vaccination:

- Hepatitis B vaccination shall be made available after the employee has received the training required and within ten (10) working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.
- The District shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.
- If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the District shall make available hepatitis B vaccination at that time.
- The District requires all employees who decline to accept hepatitis B vaccination that is offered to sign the following statement:

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

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

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

- Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred.

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

Information provided to the health care professional:

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

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

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

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

Communication of Hazards to Employees

Labels:

- Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material, and other containers used to store, transport, or ship blood or other potentially infectious materials, except as provided in law.
- These labels shall contain the "biohazard" label.
- These labels shall be fluorescent orange or orange-red or predominantly so, with lettering or symbols in a contrasting color.
- Labels are required to be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.
- Red bags or red containers may be substituted for labels.
- Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of this section on communication of hazards to employees.
- Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment, or disposal are exempted from the labeling requirements.
- Labels required for contaminated equipment shall be in accordance with this section and shall also state which portions of the equipment remain contaminated.
- Regulated waste that has been decontaminated need not be labeled or color coded.

Information and training:

- All employees with occupational exposure shall participate in a training program, which must be provided at no cost to the employees and during working hours.
- Training shall be provided as follows:
 - At the time of initial assignment to tasks where occupational exposure may take place.
 - Within ninety (90) days after the effective date of the standard.

- At least annually thereafter.
- For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard that were not included need be provided.
- Annual training for all employees shall be provided within one (1) year of their previous training.
- The District shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affects the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.
- Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.
- The training program shall contain at a minimum the following elements:
 - An accessible copy of the regulatory text of this standard and an explanation of its contents.
 - A general explanation of the epidemiology and symptoms of bloodborne diseases.
 - An explanation of the modes of transmission of bloodborne pathogens.
 - An explanation of the District's Exposure Control Plan and the means by which the employee can obtain a copy of the written plan.
 - An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials.
 - An explanation of the use and limitations of methods that will prevent or reduce exposure, including appropriate engineering controls, work practices, and personal protective equipment.
 - Information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment.
 - An explanation of the basis for selection of personal protective equipment.
 - Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge.
 - Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials.
 - An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available.
 - Information on the postexposure evaluation and follow-up that the District is required to provide for the employee following an exposure incident.
 - An explanation of the labels and/or color coding required.
 - An opportunity for interactive questions and answers with the person conducting the training session.
- The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

Record Keeping

Medical records:

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

Training records:

- Training records shall include the following information:
 - The dates of the training sessions.
 - The contents or a summary of the training sessions.
 - The names and qualifications of persons conducting the training.
 - The names and job titles of all persons attending the training sessions.
- Training records shall be maintained for three (3) years from the date on which the training occurred.

Availability:

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

Transfer of records:

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

Employee Assistance Wellness Programs (G-1400)

WELLNESS PROGRAMS (Communicable Diseases)

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

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

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

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

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

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

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

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

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

Universal Precautions

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

Food Service Workers

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

HIV/AIDS

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

Adopted: date of manual adoption

LEGAL REF.:

[22-10A-34 NMSA](#)

[29 U.S.C. 794](#) et seq. (Sec. 504 of the Rehabilitation Act)

[42 U.S.C. 12101](#) et seq. (Americans with Disabilities Act)

[29 C.F.R. 1630](#) (ADA guidelines)

[29 C.F.R. 1910.10](#) (OSHA Universal Precautions Standard)

CROSS REF.:

[GBGC](#) - Employee Assistance

[JLCB](#) - Immunizations of Students

Wellness Programs (G-1431)

WELLNESS PROGRAMS (Communicable Diseases)

Handling Body Fluids in Schools

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

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

- Whenever possible, avoid direct skin contact with body fluids. Disposable gloves are recommended when direct hand contact with body fluids is anticipated. If extensive contact is made with body fluids, hands must be washed afterwards. Gloves used for this purpose should be put in a plastic bag, secured, and disposed of daily.
- If direct skin contact does occur, hands and other affected skin areas of all exposed people shall be routinely washed with soap and water.

- Proper hand washing requires the use of soap and water and vigorous washing under a stream of running water for approximately ten (10) seconds.
- Clothing and other non disposable items that are soaked through with body fluids should be rinsed and placed in plastic bags. If presoaking is required to remove stains, rinse or soak the item in cold water prior to bagging. Clothing should be sent home with the student for washing, with appropriate directions to parents and teachers (see laundry instructions below). Always wear gloves when handling items that have come in contact with body fluids.
- Contaminated disposable items shall be handled with disposable gloves, put in a plastic bag, secured, and disposed of daily.
- Body fluid spills on hard surfaces (i.e., floors, countertops, books, etc.) shall be disinfected with bleach (diluted to ten [10] parts water and one [1] part bleach). Gloves shall always be worn during cleanup.
- Cleaning equipment:
 - Non Disposable cleaning equipment (such as dust pans, brooms, and buckets) shall be disinfected by thoroughly rinsing in diluted bleach (ten [10] parts water and one [1] part bleach). Mops shall be soaked in the disinfectant after use and then rinsed with hot water. The disinfectant solution shall be promptly disposed of down a drain pipe.
 - Disposable cleaning equipment (such as paper towels, the vacuum bag, or sweepings) shall be placed in plastic bags, secured, and disposed of daily. No special handling is required for vacuuming equipment. Gloves shall always be used during cleanup.
- Laundry instructions:
 - Clothing soaked with body fluids shall be washed separately from other items. Presoaking may be required for heavily soiled clothing. Otherwise, wash and dry as usual. If the material can be bleached, add one-half (1/2) cup of household bleach to the wash cycle. If the material is not colorfast, add one-half (1/2) cup of all-fabric bleach to the wash cycle.

Workers' Compensation (G-1500)

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

Adopted: date of manual adoption

LEGAL REF.:

[6.50.3.9 NMAC](#)

CROSS REF.:

[EBBB](#) - Accident Reports

[GBGC](#) - Employee Assistance

Workers Compensation Claims (G-1511)

WORKERS' COMPENSATION

Any employee who has an accident, no matter how slight, while on duty shall notify the supervisor immediately (one [1] work day). Failure to follow this procedure could result in the loss of workers' compensation benefits.

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

The Superintendent, upon receiving the supervisor's report, shall, within ten (10) days after notification, submit the Report of Industrial Injury to the Worker's Compensation Administration, and send a copy to the New Mexico Public Schools Insurance Authority.

Compensation Claims

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

- The physician will be responsible for reporting the circumstances of the injury to the District, the Industrial Commission, and the District's insurance carrier.
- During the first seven (7) days of absence due to a job-related injury/accident, the employee will be placed on sick leave, provided the employee has accumulated sufficient sick leave.
- If a job-related injury/accident results in more than seven (7) days absence, the insurance carrier will be responsible for handling the claim for lost pay. During such a period the employee will be removed from the Española Public School District payroll and will receive worker's compensation benefits from the insurance carrier according to Worker's Compensation Administration regulations. In order to continue current personal insurance benefits (health, dental, etc.), it will be necessary for the employee to pay directly to the Española Public School District the amount of his/her payroll deductions for insurance premiums once he/she has been removed from the payroll to be placed on worker's compensation. The premium payment will be due in the insurance office on or before the first working day of each month. The District will continue payment of the Board's portion of this insurance premium while the employee is under contract.
- An employee may use his personal and/or sick leave for the initial seven (7)-day period (normally five [5] working days). If an employee is off more than four (4) weeks compensation is retroactive to the date of disability and sick leave is reinstated to be verified by the Worker's Compensation representative in the Human Resource Department. The Worker's Compensation carrier will reimburse the District for this absence. The weekly compensation rate for a total disability is 66-2/3% of the employee's average weekly gross earnings subject to the maximum specified by law.

Staff Participation in Political Activities (G-1600)

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

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

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

[22-14-14 NMSA](#)

[6.60.9.8 NMAC](#)

Personnel Records and Files (G-1650)

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

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

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

[14-2-1 NMSA](#) et seq. (1978)

CROSS REF.:

[DKA](#) - Payroll Procedures/Schedules

[KDB](#) - Public's Right to Know/Freedom of Information

Employment Recommendations (G-1790)

Board Findings

The Board of Education finds as follows:

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

- That limitations and conditions are required to prevent employment references or recommendations by individual employees from being attributed to the District when such references or recommendations have not been authorized by the District.

Rules Regarding Employment References and Recommendations

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

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

Investigation and Record-Keeping

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

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

Penalties

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

Adopted: date of manual adoption

LEGAL REF.:

[14-2-1 NMSA](#) et seq. (1978)

CROSS REF.:

[KDB](#) - Public's Right to Know/Freedom of Information

Staff Grievances (G-1800)

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

Such procedure shall provide for Board review of any grievance that cannot be resolved at the administrative level. In such instances, the affected individual may request that the Board review the situation. Such request shall be in writing and shall contain the basis for the appeal, including the act or acts out of which the grievance arose, identification of the Board policies and/or administrative regulations involved, and the remedy sought. Within five (5) working days following notification of the Superintendent's decision, any written request for appeal shall be submitted to the Superintendent for transmittal to the Board. The Board, at a time of its choosing, shall review the grievance and issue a response within fifteen (15) working days following such review.

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

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

The decision of the Board is final.

Adopted: date of manual adoption

Staff Grievances (G-1811)

STAFF GRIEVANCES

Definitions

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

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

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

Informal Level

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

Formal Level

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

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

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

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

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

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

Level III. If the grievant is not satisfied with the decision at Level II, the grievant may, within five (5) days, submit an appeal in writing to the Superintendent for consideration by the Board.

General provisions:

- Failure at any step of this procedure to appeal a grievance to the next step within the specified time limits shall be deemed an acceptance of the decision rendered at that step, and there shall be no further right of appeal. Failure to file a grievance within fifteen (15) days after the employee knew, or should have known, of the circumstances upon which the grievance is based shall constitute a waiver of that grievance. The filing or pendency of any grievance under the provisions of this policy shall in no way operate to impede, delay, or interfere with the jurisdiction of the Board or the Superintendent.
- No person(s) shall suffer retaliation, recrimination, discrimination, harassment, or be otherwise adversely affected because of the use of the grievance procedure.
- Whenever possible, a grievance conference or hearing, at any level, shall be scheduled during a mutually convenient time that does not conflict with the regularly scheduled school program.
- A grievant requiring the attendance and testimony of other employees shall have the right to bring such witnesses as are willing to testify on behalf of the employee. When hearings must be scheduled during the work day, any necessary substitutes or released time shall be provided at District expense.
- A separate file shall be maintained by the District for all grievances. To the extent permitted by law, all documents produced during the processing of a grievance shall be filed therein. Nothing herein shall be construed to prevent the District from taking appropriate corrective action, reporting and documenting such action, and maintaining such documentation in any appropriate files maintained by the District.
- Nothing contained herein shall be construed to limit, in any way, the ability of the District and the grievant to resolve any grievance by informal means, and nothing herein shall be construed as requiring resorting to the formal procedures when grievable problems arise.
- A grievant may terminate the process at any level if he/she indicates, in writing, a desire to do so, accepts the resolution at that level, or fails to pursue the grievance by filing at the next level within the specified time limit.
- All grievances shall be filed and processed on grievance forms provided by the District and made available at each school and building site.
- The time limits at any level may be extended by mutual agreement between the grievant and the appropriate respondent or hearing authority.
- The grievant may be represented by legal counsel or union representative, if applicable, in conferences or hearings, except the informal conference. Any representative who intends to

represent a grievance at a conference or hearing shall notify the Superintendent of that intention within a reasonable time before the conference or hearing. Failure to do so may justify postponement of the conference or hearing or suspension of the deadline while the Superintendent arranges for or consults with District legal counsel.

- The grievance proceedings shall focus only on the issues raised by the written grievance as filed and any related issues as the parties in interest may agree to have considered.

Staff Grievances (G-1831)

STAFF GRIEVANCES

LEVEL I GRIEVANCE FORM A

FORMAL GRIEVANCE PRESENTATION

To be completed by grievant within five (5) days after the last informal conference but no later than fifteen (15) days after the employee knew or should have known of the act or omission giving rise to the grievance.

Date _____

Grievant Name _____ Informal presentation _____

School/Site _____ Supervisor _____

Job Assignment/Title _____

Policy or regulation alleged to have been violated _____

Statement of grievance: (Please provide detailed information)

Action requested: _____

Signature of Grievant: _____

Staff Grievances (G-1832)

STAFF GRIEVANCES

LEVEL I GRIEVANCE FORM B

DECISION OF IMMEDIATE SUPERVISOR

To be completed by the immediate supervisor within five (5) days after formal filing.

Grievant _____

Date of formal grievance presentation _____

School _____

Immediate supervisor _____

Decision of immediate supervisor and reasons therefor:

Signature of immediate supervisor _____

Date of decision _____

Grievant's response [to be completed by the grievant within five (5) days after the decision]:

- I accept the above decision of the immediate supervisor.
- I hereby refer the above decision to the Superintendent, with reasons detailing nonacceptance at Level I and any relief sought (Level II).

Signature of grievant _____

Date _____

Staff Grievances (G-1833)

STAFF GRIEVANCES

LEVEL II GRIEVANCE FORM C

REFERRAL TO SUPERINTENDENT

To be completed by grievant within five (5) days of immediate supervisor's response.

Grievant _____

Date of formal presentation _____

Detail reasons for nonacceptance of grievance

decisions and any relief sought:

The attached grievance is hereby referred to the Superintendent.

Signature of grievant _____

Date of referral _____

Staff Grievances (G-1834)

STAFF GRIEVANCES

LEVEL II GRIEVANCE FORM D

DECISION OF SUPERINTENDENT

To be completed by the Superintendent within five (5) days.

Grievant _____

Date of formal grievance presentation _____

Date appeal received by Superintendent _____

Date hearing held by Superintendent (optional) _____

Decision of Superintendent and reasons therefor:

Signature of superintendent _____

Date of decisions _____

Grievant's response [to be completed by grievant within five (5) days after the decision]:

- I accept the above decision of the Superintendent.
- I hereby appeal to the Board for a review of this grievance (Level III).

Signature of grievant _____

Date of response _____

Staff Grievances (G-1835)

STAFF GRIEVANCES

LEVEL III (Final Action) GRIEVANCE FORM E

REVIEW BY BOARD

Grievant _____

Date of formal grievance receipt _____

“ The attached grievance is hereby appealed to the Board for a review.

Detail reasons for nonacceptance of grievance

decision at Level II and any relief sought:

Date appeal received by Board _____

BOARD RESPONSE:

- The Board affirms the Superintendent's response.
- The Board rejects the Superintendent's response.
- The Board modifies the Superintendent's response as follows:

Signature of BOE President or Secretary _____

Date of response _____

[TO BE COMPLETED WITHIN FIFTEEN (15) DAYS OF REVIEW]

Prohibited Personnel Practices (G-1900)

PROHIBITED PERSONNEL PRACTICES

(Whistleblower Complaints)

For purposes of this policy:

- "Good faith" means that a reasonable basis exists in fact as evidenced by the facts available to the public employee.
- "Retaliatory action" means taking any discriminatory or adverse employment action against a public employee in the terms and conditions of public employment; and
- "Unlawful or improper act" means a practice, procedure, action or failure to act on the part of a public employer that: 1) violates a federal law, a federal regulation, a state law, a state administrative rule or a law of any political subdivision of the state; 2) constitutes malfeasance in public office; or 3) constitutes gross mismanagement, a waste of funds, an abuse of authority or a substantial and specific danger to the public.
- "Whistleblower" means a District employee, applicant for employment or contractor who discloses a public employer's unlawful or improper acts, testifies about a public employer's unlawful or improper acts in a public investigation, and/or refuses to participate in a public employer's unlawful or improper act.
- "Whistleblower complaint" does not include communications or personnel grievances that primarily relate to the employment of a single employee and the employee's job or managerial decisions about which the employee disagrees. Such grievances are for the benefit of the individual employee(s) and not the public.

The Board will not tolerate any form of reprisal, retaliation against:

- Any employee, or applicant for employment, because he/she communicated to the District or a third party about a public employer's action or a failure to act that the public employee believes in good faith constitutes an unlawful or improper act, or because he/she opposed any practice that he/she reasonably believed to be made unlawful by federal or state laws prohibiting employment discrimination on the basis of sex, sexual orientation, race, color, national origin, age, religion, height, weight, marital status, handicap or disability.
- Any employee, or applicant for employment, because he/she provides information to, or testifies before, a public body as part of an investigation, hearing or inquiry into an unlawful or improper act of a public employer, or because he/she filed a charge, testified, assisted or participated, in any manner, in an investigation, proceeding or hearing under federal or state laws prohibiting employment discrimination on the basis of sex, sexual orientation, race, color, national origin, age, religion, height, weight, marital status, handicap or disability or because he/she reported a suspected violation of such laws according to this policy; or,
- Any employee or applicant who objects to or refuses to participate in an activity, policy or practice that constitutes an unlawful or improper act.

An employee or applicant for employment who believes that he/she has suffered reprisal, retaliation or discrimination in violation of this policy shall report the incident(s) to the Superintendent or his/her designee. The Board is committed to ensuring that no employee or applicant for employment who makes such a report will suffer any form of reprisal, retaliation or discrimination for making the report. Preventing or interfering with whistleblowers who make good faith disclosures of misconduct is prohibited.

To the extent reasonably possible, the District will:

- investigate complaints of retaliation, or complaints of interference made by whistle blowers;
- take immediate steps to stop any retaliation; and
- discipline any person associated with the District found to have retaliated against any individual or interfered with a whistleblower.

The Board considers violations of this policy to be a serious offense that will result in disciplinary action, up to and including termination, of an employee. Likewise, an alleged whistleblower report that an employee knows to be false shall also constitute a serious offense that will be subject to disciplinary, and potentially civil, action.

Adopted: March 3, 2022

LEGAL REF.:

[10-16-13 NMSA](#)

[10-16-13.3 NMSA](#)

CROSS REF.:

[BCB](#) - Board Member Conflict of Interest

[DJ](#) - Purchasing

[DJE](#) - Bidding Purchasing Procedures

[GBEAA](#) - Staff Conflict of Interest

Professional Staff Contracts and Compensation (2150)

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

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

- contracts for less than one (1) school year are permitted to fill personnel vacancies which occur during the school year;
- contracts for the remainder of a school year are permitted to staff programs when the availability of funds for the programs is not known until after the beginning of the school year;
- contracts for less than one (1) school year are permitted to staff summer school programs and to staff federally funded programs in which the federally approved programs are specified to be conducted for less than one (1) school year;

- contracts not to exceed three (3) years are allowed at the discretion of the Governing Authority for Superintendents; and
- contracts not to exceed three (3) years are allowed at the discretion of the Governing Authority for Licensed School Employees in public schools who have been employed in the School District for three (3) consecutive school years.

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

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

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

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

Adopted: August 7, 2019

LEGAL REF.:

[22-10A-10 NMSA \(1978\)](#)

[22-10A-21 NMSA \(1978\)](#)

[22-10A-22 NMSA \(1978\)](#)

[6.66.2.8 NMAC](#)

[6.66.3.8 NMAC](#)

Professional Staff Salary Systems (G-2200)

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

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

Other Provisions

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

Adopted: date of manual adoption

LEGAL REF.:

[22-5-11 NMSA \(1978\)](#)

[22-5-14 NMSA \(1978\)](#)

Professional Staff Supplemental Pay Plans (G-2400)

(Extra-Duty Pay)

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

Adopted: date of manual adoption

Professional Staff Fringe Benefits (G-2450)

The Board will review professional staff fringe benefits each year during the budget process and may modify the benefits to meet the best interest of the District. Breaks for the personnel other than Licensed teaching staff shall be in accord with GDBD-R as cross referenced below.

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

Adopted: date of manual adoption

Professional/Support Staff Leaves and Absences (G-2500)

(Absent Without Leave)

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

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

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

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

Adopted: date of manual adoption

Professional/Support Staff Sick Leave (G-2550)

Sick leave for District personnel is a designated amount of compensated leave that is to be granted to a staff member who, through personal or family illness, injury, or quarantine, is unable to perform the duties assigned. Family, for purposes of sick leave, shall include:

Spouse Grandparents
Children Grandchildren
Parents Like relations created by marriage
Siblings (e.g., stepchild, father-in-law, etc.)

A medical certificate is required after the fourth (4th) day of absence (nonconsecutive) explaining the nature of the illness. Sick leave may be taken on a one-fourth (1/4), one-half (1/2), three-fourths (3/4) or full day basis. Family illness, for purposes of sick leave, shall not exceed a period of three (3) days, unless an approval is granted by the Superintendent.

Excessive absence before or after a holiday or weekend can be grounds for requiring medical certification of illness.

Sick leave may include other excused absences, such as medical, dental, or optical examination or treatment impossible to schedule on nonduty days.

Each staff member shall be credited with a sick leave allowance at the rate of one and one-quarter (1 1/4) days for every twenty (20) days worked.

When a staff member exhausts all days of accumulated sick leave, an unpaid leave of absence must be requested, pursuant to District policy.

Sick leave of any staff member who does not serve a full school year shall be prorated at the rate of one (1) day per month.

Sick leave may be used for childbirth during the time the physician verifies that the employee is physically unable to perform her normal duties. If the employee does not wish to return to her duties following childbirth, an extended leave of absence must be requested, consistent with existing District policy.

Upon request, the staff member shall inform the Superintendent of the following:

- Expected date of return from sick leave.
- Where the staff member may be contacted during the leave.

Sick leave is only for the purpose of recuperative activities, e.g., obtaining medical care or treatment, procuring medications or other prescribed materials, convalescing at home or at a medical facility, or other therapy or activity prescribed by the employee's physician or health practitioner (with verification required if requested by the Superintendent). The District may, at District expense, require the employee to submit to medical or psychiatric examination by a physician or psychiatrist selected by the District to determine (1) whether or not the continued use of sick leave is appropriate or (2) whether return to duty is appropriate.

The employee must contact his/her supervisor as soon as practicable to let the supervisor know he/she will be absent. Failure to notify the supervisor within one (1) hour after the expected start time for the employee will result in deduction of salary for that day and each day thereafter when the employee is absent without leave (AWOL). This may be appealed to the Superintendent if unforeseen issues arise. Repeat violations of this requirement to notify the supervisor about absences may result in employee discipline, up to and including termination or discharge.

At the close of each fiscal year each employee's accumulation of unused sick leave shall be calculated.

Resignation or dismissal from the School District forfeits all accumulated sick leave.

Any employee whose has not used more than three (3) days of leave and has accumulated days that equal at least forty (40) days but less than eighty (80) days shall be paid two hundred fifty dollars (\$250) and any employee whose has not used more than three (3) days of leave and has accumulated days that equal at least eighty (80) days shall be paid five hundred dollars (\$500). Payment will be subject to that category of substitute in the budget line item. If funds are not available or that line item is not enough then a pro-rated amount will be given.

Sick Leave Payment for Retiring Employees

Employees who notify the Superintendent the year prior to the contract year in which they intend to take New Mexico Retirement may receive payment during the retirement year for accumulated sick leave in an amount and on a schedule as determined by the Board.

Subject to the above conditions, retiring Española Public Schools (EPS) employees may receive monetary payment for unused sick leave on the following scales not to exceed one hundred (100) days:

<u>Category</u>	<u>Rate of Compensation</u>	<u>Maximum</u>
Certificated	\$50.00/ per day	\$5,000.00
Support Staff	\$40.00/ per day	\$4,000.00

This payment will be separate from the employee's final payment with the School District.

Any employee who can be shown to have willfully violated or misused the District's sick leave policy or misrepresented any statement or condition will be subject to discipline, which may include reprimand, suspension, and/or dismissal.

Adopted: July 11, 2007

Professional/Support Staff Personal/Emergency Religious Leave (G-2600)

Each staff member will be granted personal leave not to exceed two (2) days per year. No more than ten percent (10%) of the staff or other groupings of employees may take personal leave at any one time. Requests for personal leave must be received at least four (4) working days prior to the first day of leave unless considered an emergency by the approving administrator, and must be approved by the principal.

Requests shall be acted upon in order of receipt, and the availability of substitutes, if necessary, may limit the number of requests granted at any one (1) time.

Personal leave will not be granted during the following periods:

- On the day immediately preceding or following a holiday or vacation.
- During the first two (2) weeks of school or the last two (2) weeks of school.

Victims Domestic Abuse Leave

An employee will be allowed intermittent paid or unpaid leave time of up to fourteen (14) days in any calendar year for up to eight hours in one day for the purpose of:

- Obtaining or attempting to obtain an order of protection or judicial relief from domestic abuse;
- Meet with law enforcement officials, consult with attorneys or district attorneys' victim advocates or attend court proceedings related to domestic abuse of the employee or the employees minor child.

The leave will be allowed in increments of one half (1/2) day of the normal work day for the employee.

Such leave shall include any and all leave, compensatory time or any other paid for time off available to the employee before the imposition of unpaid leave time. The Superintendent may authorize up to fourteen (14) days of leave for the victim abuse purposes indicated above.

When the leave is take in an emergency notice must be given to the Superintendent's office within twenty-four (24) hours of the type of leave requested, Other policies on notice for absence may apply. Verification will be required in the form of:

- A court order or other court evidence of the incident of domestic abuse;
- A written statement of appearance or schedule to appear as a victim or on behalf of a minor child victim in a domestic abuse incident made by an attorney, advocate or law enforcement official knowledgeable of the appearance.

Confidentiality of any disclosed material and a position of non-retaliation for use of such leave will be maintained by the district.

Emergency Responder Leave

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

Adopted: April 21, 2010

LEGAL REF.:

12-10-C1 et seq. - Voluntary Emergency Responder
Leave Act

50-4-2 et seq. - Domestic Abuse Act

Professional/Support Staff Leave of Absence without Pay (G-2900)

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

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

- For additional education that relates to the employee's primary assignment. A plan of contemplated course work must be presented.
- To provide for an unpaid leave in a situation where the employee will be absent from work because of (1) a reason that conforms to a policy currently in effect but the maximum number of days provided for in that policy will be exceeded, or (2) failure to report to work without prior notification to the Superintendent.
- For a leave of absence that benefits or is in the best interest of the District, as determined by the Board upon review of the application.
- For leave under the Family and Medical Leave Act.
- A leave of absence requested pursuant to this policy may be:
 - Approved by the Superintendent if the leave period does not exceed twelve (12) weeks; or
 - Recommended by the Superintendent and approved by the Governing Board if the leave period exceeds twelve (12) weeks.

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

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

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

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

Family and Medical Leave Act (FMLA)

The District shall fully comply with the Family and Medical Leave Act and all interim and final regulations interpreting the FMLA issued by the U.S. Department of Labor. Accordingly, all portions of this policy that pertain to the FMLA shall be interpreted in a manner consistent with the FMLA and its regulations.

Subject to the conditions set forth herein, any eligible employee of the District may take up to twelve (12) weeks of leave (FMLA leave) during any one (1) fiscal year (July 1 to June 30), without pay, for any one (1) or more of the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Leave begins more than five (5) weeks before the end of the semester, leave is for at least three (3) weeks, and return to employment would occur during the last three (3) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last five (5) weeks of the semester, leave is for greater than two (2) weeks duration, and return to employment would occur during the last two (2) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last three (3) weeks of the semester and leave exceeds five (5) working days.
- **Employee notification.** With each request for FMLA leave, the employee shall be notified:
- About FMLA by provision of the FMLA fact sheet (exhibit 2).
- As appropriate concerning the expectations, obligations, and consequences of taking FMLA leave per 29 C.F.R. 825.301 of FMLA.
- That FMLA leave may be withheld until a requested notice is provided or the time frame is met.
- That if leave is granted to an employee who is unable to perform the work required, restoration may be denied until the employee has complied with the request to provide medical certification of ability to return to work.

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

Health care continuation. An employee taking FMLA leave shall be entitled to have the health care plan in which the employee is participating continue under the same terms and conditions applicable

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

Position restoration. Upon return from FMLA leave, an employee shall be restored to the same position held before the FMLA leave commenced or to an equivalent position with equivalent pay, benefits, and working conditions. The District requires an employee to provide a medical certificate from a health care provider that the employee is able to resume work before returning from FMLA leave for a serious personal health condition. The District may delay the return of an instructional employee from FMLA leave at the end of a semester, in accordance with Section 108(d) of FMLA. The District may deny restoration of position to any key employee (i.e., one who is among the highest-paid ten percent [10%] of all employees of the District), in accordance with Section 104(b) of FMLA.

Adopted: April 30, 2008
LEGAL REF.: Family and Medical Leave Act of 1993
[29 C.F.R. Part 825](#)

Family Medical Leave Act (G-2931)

PROFESSIONAL / SUPPORT STAFF LEAVES OF ABSENCE WITHOUT PAY

[CERTIFICATION OF PHYSICIAN OR PRACTITIONER](#)

Family and Medical Leave Act of 1993

Contact EPS Human Resource Department for Support
(Click [link](#) for sample form)

Family Medical Leave Act (G-2932)

PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY
FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act of 1993 (FMLA) requires employers of fifty (50) or more employees within a seventy-five (75) mile area to provide up to twelve (12) weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are "eligible" if they have worked for a covered employer for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months.

Reasons for taking leave. An employer must grant unpaid leave to an eligible employee for one (1) or more of the following reasons:

- For the care of the employee's child (birth, or placement for adoption or foster care);
- For the care of the employee's spouse, son or daughter, or parent, who has a serious health condition; or

- For a serious health condition that makes the employee unable to perform the employee's job.
- Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

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

Advance notice and medical certification. The employee may be required to provide advance leave notice and medical certification.

- In certain cases, the employee ordinarily must provide thirty (30) days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition.
- An employer may also require medical certification if the employee is unable to return from leave because of a serious health condition of a family member or cared for servicemember.
- Intermittent or reduced leave:
- An employee may take intermittent or reduced leave to reduce the usual number of hours per day or work week.
- Intermittent or reduced leave schedules are subject to employer approval unless medically necessary.

Job and benefits protection:

- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Employers may deny restoration to certain highly compensated employees, but only if necessary to avoid substantial and grievous economic injury to the employer's operation.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- The use of unpaid FMLA leave cannot affect the exempt status of bona fide executive, administrative, and professional employees under the Fair Labor Standards Act.

Medical insurance coverage:

- For the duration of FMLA leave, the employer must maintain the employee's medical insurance coverage under any "group health plan," under the conditions coverage would have been provided if the employee had continued working.
- In some cases, the employer may recover premiums paid for maintaining an employee's health coverage if the employee fails to return to work from FMLA leave.

Unlawful acts by employers. FMLA makes it unlawful for any employer to:

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

Miscellaneous provisions:

- Similar provisions of the law apply to federal and congressional employees.
- Special rules apply to employees of local education agencies.
- Employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Any employer who willfully violates this requirement may be subject to a fine of up to one hundred dollars (\$100) for each separate offense.
- A "Commission on Leave" will conduct a comprehensive study of existing and proposed policies relating to leave, and submit a report to Congress within two (2) years.

FMLA does not:

- Affect any federal or state law prohibiting discrimination.
- Supersede any state or local law that provides greater family or medical leave rights.
- Diminish an employer's obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan, nor may the rights provided under FMLA be diminished by such agreement or plan.
- Discourage employers from adopting policies more generous than are required by FMLA.

Enforcement:

- The Secretary of Labor is authorized to investigate and attempt to resolve complaints of violations, and may bring an action against an employer in any federal or state court of law.
- FMLA's enforcement procedures parallel those of the federal Fair Labor Standards Act. The FMLA will be enforced by the department's Wage and Hour Division.
- An eligible employee may bring a civil action against an employer for violations.
- Employers who act in good faith and have reasonable grounds to believe their actions did not violate FMLA may have any damages reduced to actual damages, at the discretion of a judge.

For more information, please contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor, Employment Standards Administration.

Family Medical Leave Act (G-2933)

PROFESSIONAL / SUPPORT STAFF LEAVES OF ABSENCE WITHOUT PAY YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

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

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

- To care for the employee's child after birth, or placement for adoption or foster care.
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee's job.
- Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

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

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

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

Job benefits and protection:

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

Unlawful acts by employers. FMLA makes it unlawful for any employer to:

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

Enforcement:

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

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

For additional information. Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under "U.S. Government, Department of Labor."

Professional/Support Staff Military/Legal Leave (G-2950)

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

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

Subpoena

You will be granted leave if you are served a subpoena for a deposition or a trial that is related to your employment. Please notify your supervisor as soon as you receive the subpoena and you must attach a copy of the subpoena to your Absence Report.

Jury Duty

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

- Only the regular salary may be received by an employee on jury duty.
 - It is the responsibility of the employee to reimburse the District for jury duty pay when such payment is made directly to the employee. Failure to reimburse the District at the completion of the jury duty service will result in a full deduction equal to the number of contract days missed.

- An employee excused from jury duty after being summoned shall report for regular duty as soon as possible. Failure to report for duty will result in a deduction equal to that portion of a contract day missed.

Military Leave

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

Adopted: April 21, 2010

LEGAL REF.:

[20-4-7 NMSA, Military leave for National Guard](#)

and Reserves.

[38 U.S.C. 4301](#) et seq., Uniformed Services Employment and Reemployment Rights Act

CROSS REF.:

GCCC - Professional/Support Staff Leaves of Absence Without Pay

Professional/Support Staff Military/Legal Leave (G-2981)

EXHIBIT

PROFESSIONAL / SUPPORT STAFF

MILITARY / LEGAL LEAVE

Part 200 - Regulations Under the Uniformed Services

Employment and Reemployment Rights Act of 1994

Professional / Support Staff Military / Legal Leave (G-2981)

PROFESSIONAL / SUPPORT STAFF MILITARY / LEGAL LEAVE

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

Appendix to Part 1002 – Your Rights Under USERRA

The Uniformed Services Employment and Reemployment Rights Act

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

Reemployment Rights

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

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

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

Right to be Free from Discrimination and Retaliation

If you:

- are a past or present member of the uniformed service;
- have applied for membership in the uniformed service; or
- are obligated to serve in the uniformed service;
- then an employer may not deny you:
 - initial employment;
 - reemployment;
 - retention in employment;
 - promotion; or
 - any benefit of employment;

Because of this status.

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

Health Insurance Protection

- If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

Enforcement

- The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its website at <http://www.dol.gov/vets>. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice for representation.
- You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

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

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

Professional Development/ Training (G-3000)

PROFESSIONAL STAFF CONFERENCES / VISITATIONS / WORKSHOPS

To attend meetings or conferences, licensed employees must obtain approval from the administration at least two (2) weeks prior to the meeting or conference dates (whenever such prior request is possible).

Leave involving out of state attendance is subject to Board approval and shall be submitted at least two (2) weeks prior to the date of the proposed leave. Board approval must be obtained prior to confirming travel arrangements.

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

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

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

Adopted: date of manual adoption

Sabbatical Leave (G-3050)

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

Adopted: August 7, 2019

LEGAL REF.:

[22-10A-2 NMSA](#)

[22-10A-35 through 22-10A-38 NMSA \(1978\)](#)

[6.66.4.8 NMAC](#)

Professional / Support Staff Voluntary (3100)

TRANSFER OF ACCRUED SICK LEAVE

Purpose

The purpose of the Sick Leave Bank (SLB) is to provide participating employees paid leave in the event of a catastrophic illness or accident that requires hospitalization and/or home confinement beyond accumulated sick, personal and/or vacation leave.

Definitions

Sick Leave Bank - a pool of sick leave days contributed voluntarily by employees who wish to participate in the SLB. Participating employees may apply to the SLB for paid leave days in accordance with the policy guidelines.

Catastrophic Illness - major surgeries, life-threatening illness/disease (i.e., cancer, heart attack, stroke)

Serious Accident - an accident requiring extensive hospitalization and/or home confinement.

Eligibility

All employees of the Española Public Schools are eligible.

A participating employee who has applied for SLB days will have experienced a catastrophic illness or accident and be hospitalized and/or confined at home.

All accrued sick, personal, and vacation leave must be used before a participating employee is eligible to receive days from the SLB.

The participating employee cannot receive SLB days while receiving Workmen's Compensation and/or employer-matched disability.

Participating employees will donate one (1) day of accrued sick leave upon enrollment into the SLB. The first thirty (30) days of a new school year is designated as an open enrollment period. If a newly hired employee wishes to join the SLB they must enroll within the first thirty (30) days of employment and the first day of accumulated sick leave must be donated.

In the event that the SLB falls below fifty (50) days, all participating employees of the SLB will donate one (1) day to the SLB to maintain eligibility.

If, when the SLB committee calls for another donation due to bank days less than fifty (50), and a participating employee has no sick day to contribute, then, the next accrued sick day will be donated.

Part time employees are eligible for SLB compensation on a pro-rated status based on their FTE's.

Any employee hired as a substitute employee is not eligible for participation in the SLB.

Ongoing participation in the SLB will remain unless a participating employee states, in writing, that they wish to withdraw from the SLB.

Should a participating employee elect to withdraw from the SLB, all donated days will remain as part of the SLB.

Upon separation of service from the Española Public Schools, all donated days will remain as part of the SLB.

A list of employees participating in the SLB is available upon request.

Exclusions:

- Routine pregnancy with no prenatal or postnatal complications.
- Chronic or congenital conditions which lead to an employees inability to fulfill their contractual obligations on a continuous basis.
- Leave of absence.

Administration

The Sick Leave Bank Committee shall administer the SLB. This committee will consist of five (5) members. The Board of Education will appoint two (2) support staff employees and two (2) teachers for a term of two (2) years. One (1) teacher will be from an elementary school and the other teacher will be from a secondary school (Mid-High or High School). The head nurse is a permanent member. Members of the SLB Committee will be selected from the list of participating employees.

Upon receiving a complete application packet from a participating employee, the SLB Committee will have ten (10) working days in which to review and respond in writing to the request.

A minimum of three (3) members of the SLB Committee will review each claim and vote on a recommendation (approval/denial). The majority rules.

Recommendations are sent to the Superintendent of Schools for approval/denial.

All decisions are final; there is no appeal process.

All members of the SLB Committee must sign a statement of confidentiality. Breaches of confidentiality will result in immediate dismissal from the SLB Committee and further administrative action may result.

The SLB Committee shall base its recommendation on the following information:

- All eligible leave must be used prior to the application for SLB days.
- The application letter must be submitted to the chairperson of the SLB Committee.
- A physician's statement verifying severe or life threatening medical condition must accompany the application.

No other criteria will be considered in the SLB Committee's decision-making process. Should the SLB be dissolved, the days remaining in the bank shall be distributed equally among those currently participating in the SLB.

Application

An employee must submit an official Initial Sick Leave Bank Request and an official Sick leave Bank Physician's Statement. All costs for medical services related to the employee's request for SLB days shall be assumed by the employee. Incomplete applications will not be considered for review. The initial SLB days shall not exceed ten (10) days. Upon completion of the initial days, a participating employee may request an additional increment of ten (10) days. This request is submitted on the official Additional Sick Leave Bank Request. An updated Sick Leave Bank Physician's Statement must accompany the Additional Sick Leave Bank Request. All medical costs related to the employee's request for additional SLB days shall be assumed by the employee. The official forms can be obtained from the District's Human Resource Office. A participating employee will be limited to a maximum of twenty (20) SLB days per school year. Extension of SLB days will be considered in very special cases. SLB days granted to a participating employee and not utilized by the last day of the contract year will be returned to the SLB. Committee members will report to the Superintendent any person who attempts to intervene on behalf of any applicant. Intervention on behalf of an applicant could result in the elimination of the applicant from the review process. The SLB Committee will review all applications for SLB days and render its decision in writing within ten (10) working days.

The Superintendent's decision is final. There is no appeal process. All decisions are confidential. Leave that accumulates into sick leave shall only be taken for the purposes of illness, physical disability, or health maintenance of the employee and/or immediate family. Immediate family shall be defined as spouse, children, parents, grandparents, brothers, sisters, grandchildren, in-laws, aunts and uncles of the employee. A doctor's certificate is required after the third (3rd) consecutive day of absence.

Adopted: date of manual adoption

Professional Staff/Bereavement Leave (G-3150)

An employee may be granted, upon request to the Superintendent, up to five (5) days of leave per year to be used in the event of death in the employee's family as defined in GCCA. In making his/her decision, the Superintendent shall take into account any non-work days prior to or following the death and any extenuating circumstances.

Extensions of bereavement leave may be granted upon personal request to the Superintendent. If approved, all such extensions of bereavement leave shall be deducted from the employee's earned sick leave.

If an immediate family member dies on the day before or during the long-term winter recess, spring recess, or approved vacation, and or approved annual leave the employee will not be granted Bereavement Leave then or after the fact. If two (2) family members die in a common accident, the bereavement periods begin and end on the same day.

In addition, the Superintendent may approve Bereavement Leave upon receipt of a written request of two (2) days upon the death of an aunt, uncle, nephew or niece of the employee related through consanguinity (blood related) or affinity (by marriage).

Bereavement leave is not cumulative or subject to compensation upon resignation or termination. Bereavement leave does not apply to employees who apply for summer enrichment programs due to the fact that they are not working within the approved regular school working calendar.

In the absence of any earned sick leave, and upon request, the Superintendent may approve an unpaid leave of absence for each day of extended bereavement leave used.

Adopted: date of manual adoption

Professional Staff Vacations And Holidays (G-3200)

Vacations

Administrators employed on a twelve (12) month (two hundred sixty [260] days) contract basis and who are exempt from being compensated for overtime, shall be entitled to one and two-third (1 2/3) days per each month worked as annual leave with pay for a total of twenty (20) days annually. Unused annual leave may be accumulated and carried from calendar year to the next for a total of not more than fifty (50) working days. Therefore, upon cessation of a twelve (12) month (two hundred sixty [260] days) licensed administrator's employment, no-payment shall be made for more than forty (40) days of unused annual leave at his/her current wage.

With the approval of the Superintendent, all twelve (12) month (two hundred sixty [260] days) contract employees who are prevented from taking annual leave due to justifiable needs of the School District or uncontrollable or unforeseeable circumstances relevant to their jobs assignments, e.g., timelines/deadlines/projects, etc., may be permitted to carry over accrued annual leave in excess of the permitted fifty (50) days allowed to be carried over. Request for annual leave must be submitted to the supervisor and Superintendent in advance of the intended day(s) of leave.

Annual leave dates shall also be arranged by the immediate supervisor and approved by the Superintendent in a manner, which will provide for the District's needs without disrupting the work or performance of others.

Annual leave may be taken on an hourly basis or one-fourth (1/4), one-half (1/2), three-fourths (3/4) or full day basis. The bi-monthly certification form will account for annual leave and shall be submitted to the Superintendent's office by the principals five (5) work days prior to payday or in accordance to a time schedule/calendar provided by the Payroll Accounting Manager.

Twelve (12) month licensed administrators and nonlicensed administrators who are not eligible for overtime, may request annually of the School District through the Superintendent to buy back any earned annual leave days in excess of twenty-five (25) accrued days for payment in lieu of vacation up to a maximum of fifteen (15) days per school year, at their daily rate of pay.

Adopted: date of manual adoption

Professional Staff Schedules And Calendars (G-4600)

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

Licensed administrative work hours are specified in the regulation GDL-RB cross referenced below. Other licensed professional staff members are expected to be in their respective rooms or work areas as indicated below:

The regular school day for all instructional employees shall consist of a minimum of seven (7) hours on campus to include regular preparation time for planning, supervision duties, in-service training, school conferences, and faculty meetings requiring additional time. This includes a minimum of six (6) hours of contact teaching time for all elementary schools, middle schools and high school and excluding lunch period. In addition to other assigned duties required by the principal for example: being available to students on an individual basis, for preparation and planning, parent conferences, supervision duty, or as otherwise deemed necessary for the normal operation of the school.

The instructional contact hours for grades kindergarten (K) through twelve (12) shall exceed educational standards for the New Mexico Schools approved by the Public Education Department

In order to ensure the safety of students and the security of school campuses, teachers may be assigned supervisory duty during the teaching day. These duty assignments shall be considered a regular part of a teacher's duties and shall be fulfilled accordingly.

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

Adopted: date of manual adoption

CROSS REF.:

[GCMF](#) - Professional Staff Duties and Responsibilities

[GDL-RB](#) - Support Staff Workload

[JLIA](#)- Supervision of Students

Professional Staff Meeting (G-5000)

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

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

The Board and the administration recognize the value of and encourage grade-level staff meetings or departmental staff meetings. A minimum number of such meetings will be allowed during the regular

school day, as long as the minimum number of classroom minutes for the grade level has been met. Arrangements for such meetings shall be made with the Superintendent through the building principals.

Adopted: date of manual adoption
CROSS REF.:
[IKACA - Parent Conferences](#)

Professional Staff Extra Duty (G-5050)

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

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

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

Adopted: date of manual adoption

Professional Staff Duties and Responsibilities (G-5150)

Each licensed school employee shall:

- enforce all laws and rules applicable to the employee's public school;
- if teaching, teach the prescribed courses of instruction;
- exercise supervision over students on public school premises and while the students are under the control of the public school; and
- furnish reports as required.

A teacher shall not use sectarian or denominational books or teach any sectarian doctrines or conduct religious exercises.

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

Adopted: August 7, 2019
LEGAL REF.:
[22-10A-3 NMSA](#)
[22-10A-27 through 22-10A-31 NMSA \(1978\)](#)
[22-13-15 NMSA \(1978\)](#)

Evaluation of Professional Staff Members (G-5350)

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

[22-10A-19 NMSA \(1978\)](#)

[22-10A-21 NMSA \(1978\)](#)

[22-10A-22 NMSA \(1978\)](#)

[22-10A-23 NMSA \(1978\)](#)

[22-10A-24 NMSA \(1978\)](#)

[22-10A-25 NMSA \(1978\)](#)

[22-10A-26 NMSA \(1978\)](#)

[22-10A-27 NMSA \(1978\)](#)

[22-10A-28 NMSA \(1978\)](#)

[22-10A-29 NMSA \(1978\)](#)

[22-10A-30 NMSA \(1978\)](#)

[6.69.3.8 NMAC et seq.](#)

[6.69.2.8 NMAC](#)

[6.67.2.8 NMAC](#)

Evaluation of Professional Staff Members (G-5361)

REGULATION

EVALUATION OF PROFESSIONAL

STAFF MEMBERS

Purpose

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

The following statements give more specific purposes for evaluation:

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

Evaluators

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

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

Licensed Teacher Evaluation

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

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

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

Procedural steps in the process of evaluation:

- At the beginning of the school year, the principal shall assign a mentor for all Level one teachers whose responsibilities shall be defined in a program established by the District in accordance with statute and submitted to the Public Education Department as required.
- At the beginning of the school year, the principal shall meet with the school's faculty for the purpose of orienting the teachers to the total evaluation plan. A teachers use of personal leave and up to ten (10) days sick leave shall not affect that teachers performance evaluation if used in accord with District policy. A low attendance score may be reflected in the evaluation if the teacher is determined to have used sick leave inconsistently with District policy.
- A professional development plan shall be devised by each teacher and provided to the evaluator on a schedule as determined by the evaluator.
- Observations in the classroom shall be completed.
- An opportunity for a conference shall precede and follow each formal observation-visitation.
- A written record shall be made of each formal observation, with a copy to the observed.
- The official evaluation, consisting of a minimum of two (2) formal observations, shall be reduced to writing and signed by both the teacher and the evaluator. The teacher's signature shall not mean concurrence. The teacher shall be allowed ten (10) days to write and submit any comments, which shall be attached to the evaluation.
- A copy of the written evaluation shall be transmitted to the teacher within five (5) days after completion of the evaluation, and a copy shall be retained for the principal's file. A third copy shall be placed in the teacher's personnel file and made available to authorized District officers and employees.
- All evaluations shall remain confidential.

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

Evaluation schedule:

- Level one (1) licensing:
 - During the week of orientation, evaluation procedures shall be reviewed at each school. Any teacher who is hired after orientation week shall be individually oriented by the evaluator.
 - Prior to January 10, the first evaluation, including observations, written evaluation, and conference shall be completed. If unsatisfactory work performance is indicated pursuant

to the evaluation a conference will be conducted and a plan prepared to allow correction of the work performance. Such information will be recorded in writing, signed by all parties present and provided to the person evaluated. (see 6.69.2.8 (B)(2) for refusal to sign)

- Prior to April 15, a second evaluation shall be completed. If unsatisfactory work performance is indicated pursuant to the evaluation a conference will be conducted and a plan prepared specifying the areas for correction of the work performance, while noting any areas of improvement if improvement is required. An employee whose performance continues to be unsatisfactory shall be given a notice of unsatisfactory performance. The notice shall specify the nature of the inadequacy with such particularity as to furnish the teacher an opportunity to correct the inadequacies and overcome the grounds for the charge of inadequacy of work performance.
 - Prior to the last day of the school year, the Governing Authority shall authorize, as necessary, and send notice to employees who will be terminated. A copy of any evaluation(s) pertinent to the charges not to reemploy will be included in the written notice of intention not to reemploy.
 - This written notice of termination shall be delivered personally or sent by registered or certified mail with delivery by a time certain at least fourteen (14) days prior to the last day of the school year, to the teacher's place of residence, as recorded in the District's records. Within ten (10) days of a request from the employee, the Superintendent shall provide the reason(s) for the decision to terminate.
- Level two (2) and three (3) licensing:
 - Level two (2) and three (3) licensed employees shall be evaluated at least once each year. During the week of orientation, evaluation procedures shall be reviewed at each school. Any teacher who is hired after orientation week shall be individually oriented by the evaluator.
 - Prior to March 15, the evaluation shall be completed. If less than satisfactory work performance and competency is indicated pursuant to the evaluation a conference will be conducted and a plan prepared specifying the areas for correction of the work performance, while noting any areas of improvement if improvement is required. An employee whose performance continues to be unsatisfactory shall be given a notice of unsatisfactory performance. A second conference shall be held at the time the notice is given. The notice shall specify the nature of the inadequacy with such particularity as to furnish the teacher an opportunity to correct the inadequacies and overcome the grounds for the charge of inadequacy of work performance.
 - The principal shall establish a mentoring and peer intervention program as is seen necessary. Persons used for mentoring or intervention may be trained as evaluators. If the

employee is unable to demonstrate satisfactory performance and competency by the end of a period of sixty (60) calendar days, the peer interveners may make a recommendation to the supervising administrator which may be termination. If the teacher does not demonstrate essential competency in a given school year, the School District shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, the District may choose not to contract with the teacher to teach in the classroom (terminate).

- At least fourteen (14) days prior to the last day of the school year, the Governing Authority shall authorize, as necessary, and send notice to employees who will be terminated. A copy of any evaluation(s) pertinent to the charges not to reemploy will be included in the written notice of termination.
- This written notice of termination shall be delivered personally or sent by registered or certified mail with delivery by a time certain prior to the last day of the school year, to the teacher's place of residence, as recorded in the District's records.
- Subject to the provisions of New Mexico Statutes Annotated (NMSA), the Superintendent shall offer to each Level two (2) and Level three (3) teacher under contract of employment with the District for the current year a contract renewal for the next ensuing school year unless the Governing Authority gives notice to the teacher of the intent not to offer a contract and to terminate the teacher as provided in NMSA.
- All provisions of the New Mexico Revised Statutes shall be complied with in the dismissal of continuing teachers.

Evaluation program. The specific format for the teacher evaluation system will be developed in compliance with Policy GCO, this regulation, NMSA, and New Mexico Administrative Code (NMAC) under the leadership of the Superintendent.

Compliance with Public Education Department (PED) Regulation 6.69.4, Performance Evaluation System Requirements for Teachers, will be completed as specified in the teacher performance evaluation for three (3)-tiered licensure.

Evaluation of Licensed Administrators and Other Licensed Non-Teaching Employees

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

The following statements give more specific purposes for evaluation:

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

Procedural steps in the process of evaluation:

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

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

Professional Staff Termination of Employment (G-5750)

A notice of termination shall be a notice of intention not to reemploy for the ensuing school year. On or before fifteen (15) working days prior to the last day of the school year, the Superintendent shall serve written notice of termination if such notice is determined to be in the best interest of the District.

Adopted: August 7, 2019

LEGAL REF.:

[22-10A-22 NMSA](#) (1978)

[6.67.3.8 NMAC](#)

CROSS REF.:

[DKA](#) - Payroll Procedures/Schedules

[GCQF](#) - Discipline, Suspension, and Dismissal of Professional Staff Members

Professional Staff Reduction in Force (G-5800)

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

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

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

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

Adopted: date of manual adoption

LEGAL REF.:

[22-10A-22 NMSA](#) (1978)

[6.67.3.8 NMAC](#)

CROSS REF.:

[GCQF](#) - Discipline, Suspension, Termination and Discharge of Professional Staff

Resignation of Professional Staff Members (G-5900)

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

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

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

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

Adopted: August 7, 2019

LEGAL REF.:

[22-10A-22 NMSA](#) (1978)

[22-10A-23 NMSA](#) (1978)

[6.60.9.9 NMAC](#)

[6.66.2.8 NMAC](#)

[6.66.3.8 NMAC](#)

CROSS REF.:

[GCF](#) - Professional Staff Hiring

[GCQ](#) - Professional Staff Termination of Employment

Contract Abandonment (G-2100)

Pursuant to State Law, any public employee who accepts any other public or private employment (except military service) for compensation and who by reason of such other employment shall fail to devote for a period of thirty (30) successive days or more, his time to the usual and normal extent during ordinary working hours to the performance of the duties of public office and employment shall be deemed to have resigned from, and to have permanently abandoned his public office and employment. Employees may voluntarily sever their employment with the Española Public Schools by abandonment of their positions as provided by law or under other circumstances which reasonably support a factual determination of abandonment. Abandonment may also be grounds for an involuntary termination or discharge of an employee after adherence to any required procedures.

Any incumbent of any public office or employment of the state of New Mexico, or of any of its departments, agencies, counties, municipalities or political subdivisions whatsoever, who shall accept any public office or employment, whether within or without the state, other than service in the armed forces of the United States of America, for which a salary or compensation is authorized, or who shall accept private employment compensation and who by reason of such other public office or employment or private employment shall fail for a period of thirty (30) successive days or more to devote his time to the

usual and normal extent during ordinary working hours to the performance of the duties of such public office and employment, shall be deemed to have resigned from and to have permanently abandoned his public office and employment.

Adopted: September 3, 2008

LEGAL REF.:

[10-6-3 NMSA et seq.](#)

Discipline, Suspension, Termination and Discharge of Professional Staff Members (G-6100)

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

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

For purposes of this policy:

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

Categories of Misconduct

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

- Engaging in unprofessional conduct.
- Committing fraud in securing appointment.

- Exhibiting incompetency in their work.
- Exhibiting inefficiency in their work.
- Exhibiting improper attitudes.
- Neglecting their duties.
- Engaging in acts of insubordination.
- Engaging in acts of child abuse or child molestation.
- Engaging in acts of dishonesty.
- Being under the influence of alcohol while on duty.
- Engaging in the use, possession, or distribution of narcotics or habit-forming drugs.
- Being absent without leave.
- Engaging in discourteous treatment of the public.
- Engaging in improper political activity.
- Engaging in willful disobedience.
- Being involved in misuse or unauthorized use of school property.
- Being involved in excessive absenteeism.
- Possessing alcohol on school-owned property.
- Carrying or possessing a weapon on school grounds unless they have obtained specific authorization from the appropriate school administrator.
- Engaging in ethical misconduct by inappropriate touching, sexual harassment, discrimination or intended behavior to induce a child into engaging in illegal, immoral or other prohibited behavior.
- Racialized aggression defined as any aggressive act which can be characterized, categorized or which appears as such to be racial in nature. Such aggression is prohibited. A link to a state-wide hotline for reporting such incidents is provided on the District Website located at www.k12Española.org.

General Provisions for Discipline

General provisions for discipline are as follows:

- Informal consultation. Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with a licensed employee to discuss matters of concern related to the employee's performance, conduct, et cetera.
- Persons authorized to impose discipline. Any supervising licensed administrator who is the immediate or primary supervisor of a staff member is authorized to impose a penalty or penalties, short of termination.
- Administrative discretion. In adopting these policies/procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.
- Right not to impose discipline. The District reserves the right not to discipline a staff member for conduct that violates this policy.

- Additional reasons for discipline. A staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.
- Amendments. The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.
- Severability. If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Minor Discipline

Minor disciplinary action includes, without limitation thereto, removal from grounds, written warning, written reprimand, or suspension. Minor disciplinary action shall be imposed by the staff member's administrative supervisor upon informing the employee of any violations of state or federal statutes, policies, rules or the New Mexico code of ethics and offering a minimum due process hearing and opportunity to express the employee's side of the issue before implementing the disciplinary action. The disciplinary action shall be confirmed in writing to the employee. The discipline may only be appealed to the next level of administration. The hearing procedure shall be as follows.

Step 1 - Notice:

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

Step 2 - Hearing:

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

Step 3 - Decision (in writing):

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

Appeal of Minor Discipline

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

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

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

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

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

- A licensed school employee employed to fill the position of a licensed school employee entering military service;
- A licensed school employee who is employed as a licensed school administrator; or
- An unlicensed school employee employed to perform primarily District-wide management functions; or
- A person who does not hold a valid license or has not submitted a complete application for licensure within the first three (3) months from beginning employment duties.

Step 1 - Notice:

- Upon the Superintendent's determination of the existence of cause to terminate, and on or before fifteen (15) working days prior to the last day of the school year, the Superintendent shall notify

the staff member of intent to terminate. The notice shall be in writing and shall be delivered in person or by first-class mail to the last address provided for personnel records. The notice shall include the following:

- The statement that the employee has the right to request written reasons for the decision to terminate and such reasons shall be provided within ten (10) working days of such request.
- For a licensed employee who has not been offered and accepted a third-year contract for services and licensed educational assistants with less than one (1) year of employment the decision to terminate is not contestable under the School Personnel Act.
 - For licensed employees who have been offered and accepted a third-year contract for service and licensed educational assistants employed for more than one (1) year the following appeal procedure shall apply.

Step 2 - Appeal Requirements and Content:

- Termination may be appealed to the Governing Authority by a professional staff employee who has been employed for more than two (2) consecutive years and licensed educational assistants employed for more than one (1) year by making a request to the Superintendent within five (5) working days of the date of receipt of the notice of termination requesting a meeting with the Governing Authority.
 - The appeal shall be granted if the employee responds to the Superintendent in writing within ten (10) working days of receiving the reasons for termination with the following information:
 - A statement of contention that the employee believes the decision is without just cause.
 - A brief statement of the reason(s) why the staff member believes the decision is without just cause.
 - A statement of the facts that the employee believes support this contention.

Step 3 - Appeal Procedure:

- The Governing Authority shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after receipt of the statement.
- The hearing shall be conducted informally in accordance with the provisions of the Open Meeting Act.
 - Hearing Procedure:
 - The employee and the Superintendent may each be accompanied by a person of their choice.
 - The Superintendent shall present the factual basis for determination that just cause exists for the termination, limited to the reasons provided to the employee.
 - The employee shall present contentions, limited to the reason(s) why the licensed staff member believes the decision is without just cause.

- Rebuttal to the employee's presentation may be presented as deemed relevant by the Governing Authority.
 - Witnesses called may be questioned by the Governing Authority, the Superintendent or an appointed representative, and the employee or an appointed representative.
 - The Governing Authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
- The Governing Authority shall take such action as is necessary in accordance with the Open Meeting Act to uphold or deny the recommendation to terminate. The Governing Authority shall notify the employee and the Superintendent of its decision in writing within five (5) working days from the conclusion of the meeting.

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

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

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

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

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

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

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

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.

- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The Governing Authority shall be required to prove by a preponderance of the evidence that just cause to discharge the employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the Governing Authority may each be accompanied by counsel.
 - The Governing Authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Governing Authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - A record shall be made of the hearing and each party may order the record at the expense of the party.
- The arbitrator shall notify the employee and the Governing Authority of the decision in writing within ten (10) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the Governing Authority.

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

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

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

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

Notice:

- Upon the Superintendent's determination of the existence of cause to discharge, the Superintendent shall notify the licensed staff member of intent to recommend discharge. The notice shall state the cause for the recommendation and shall advise the employee of a right to a discharge hearing before the Governing Authority.

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

Employee's Request for Hearing:

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

Preliminary Information

- At least ten (10) days written notice of the date, time and place of the discharge hearing shall be provided to the employee with such notice in the same form as used in civil proceedings. The notice shall indicate the following:
 - Both the Superintendent and the licensed school employee may be accompanied by a person of their choice.
 - Each party is to complete and respond to discovery by deposition and production of documents prior to the hearing date established.
 - The Governing Authority may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths.
 - The Superintendent shall be required to prove by preponderance of the evidence that just cause to discharge the licensed school employee existed at the time of the notice of intent to discharge.
 - Procedure for the conduct of the hearing shall be as follows:
 - The Superintendent shall present the factual basis for determination that just cause exists for the termination based upon information available at the time the employee was given notice of the intent to discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Superintendent or an appointed representative, and the employee or an appointed representative.
 - The Governing Authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
 - A record shall be made of the hearing and each party may have one (1) copy of the record at the expense of the Governing Authority.

- The Governing Authority shall notify the employee and the Superintendent of its decision in writing within twenty (20) days from the conclusion of the hearing. The Governing Authority shall take such action as is necessary in accordance with the Open Meeting Act.

Discharge - Arbitration Appeal Pursuant to 22-10A-28 NMSA (1978)

An employee aggrieved by a decision of the Governing Authority to discharge may appeal the decision to an arbitrator by doing the following: Submitting a written appeal to the Governing Authority within ten (10) working days from receipt of the written decision of the Governing Authority.

The Governing Authority may delegate responsibility for the arbitration to the Superintendent.

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

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

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

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The Governing Authority shall be required to prove by preponderance of the evidence that just cause to discharge the certificated employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the Governing Authority may each be accompanied by counsel.
 - The Governing Authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Governing Authority or a representative, and the employee or a representative.

- Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
- Either party desiring a record of the arbitration proceedings may, at the party's own expense, record or otherwise provide for a transcript of the proceedings; provided, however, that the record so provided shall not imply any right of automatic appeal or review.
- The arbitrator shall notify the employee and the Governing Authority of the decision in writing within thirty (30) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the Governing Authority.

Each party shall bear its own costs and expenses.

Additional Provisions and Conditions

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

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

- Letters or memorandums directed to a licensed staff member containing directives or instructions for future conduct.
- Counseling of a licensed staff member concerning expectations of future conduct.
- Placing an employee on administrative leave with pay and assignment of the employee to home during work hours in order to conclude a review of the employee's actions or activities pending an administrative recommendation.

The Governing Authority shall file annually a record with the Secretary of Education of all terminations and discharges and all actions arising from terminations and discharges.

Adopted: May 20, 2021

LEGAL REF.:

[10-7E-1 to 10-7E-26 NMSA \(1978\) Public Employee](#)

[Bargaining Act](#)

[10-15-1 NMSA \(1978\) Open Meeting Act](#)

[22-5-4.3 NMSA](#)

[22-10A-5 NMSA \(1978\)](#)

[22-10A-24 NMSA \(1978\)](#)

[22-10A-25 NMSA \(1978\)](#)

[22-10A-26 NMSA \(1978\)](#)

[22-10A-27 NMSA \(1978\) Discharge hearing; procedures](#)

[22-10A-28 NMSA \(1978\) Appeals; independent arbitrator; qualifications; procedure; binding decision](#)

[22-10A-29 NMSA \(1978\) Compensation payments to discharged personnel](#)

[22-10A-30 NMSA \(1978\) Supervision and correction procedures](#)

[22-10A-31 NMSA \(1978\) Denial, suspension and revocation of licenses](#)

[22-10A-32 NMSA \(1978\) Licensed school employees; required training program](#)

[6.60.9.9 NMAC Standards of Professional Conduct](#)

6.60.9.12 NMAC Reporting Requirements
6.67.2.8 NMAC Notice of reemployment or termination of licensed personnel
School Personnel Act (new section 1&2)
CROSS REF.:
DKA - Payroll Procedures/Schedules
GBEB - Staff Conduct
GCA - Professional Staff Positions

Discipline, Suspension, Termination and Discharge of Staff Members (G-6131)

DISCIPLINE, SUSPENSION, TERMINATION AND DISCHARGE OF PROFESSIONAL STAFF MEMBERS

Reporting Requirements

Standards of Professional Conduct - Upon taking final action to discharge or terminate the employment of an employee on the basis of a violation of the standards of professional conduct, if that employee was authorized to be present by license or waiver to provide instructional services, the Superintendent shall provide written notification to the director of the state licensure unit.

Ethical Misconduct - If an employee is resigning, being discharged or terminated or otherwise leaves employment after an allegation of ethical misconduct, an investigation shall be conducted. Regardless of any non-disclosure agreement upon separation, if the result is wrongdoing, a report of the identity of the licensed school employee and attendant circumstances shall be made on a standardized form to the department and the licensed school employee within thirty (30) days following the separation from employment. Copies of that form shall not be maintained in the school or District.

Non-school Employment by Professional Staff Members (G-6150)

A regular, full-time employee's position in the District shall be given precedence over any type of outside work or self-employment. Employees are free to carry on individual work or self-employment projects as long as no District facilities, equipment, or school(s) are used, except as provided by policy, and the outside work or self-employment does not interfere with the employees' performance of District-assigned duties.

The outside work or self-employment by a staff member is of concern to the Board insofar as it may:

- Prevent the employee from performing assigned responsibilities in an effective manner.
- Be prejudicial to proper effectiveness in the position or compromise the District.
- Raise a question of conflict of interest - for example, where the employee's position in the District permits access to information or other advantage useful to the outside employer.

Therefore, an employee may not perform any duties related to outside work or self-employment during regular District working hours or during the additional time that is needed to fulfill the responsibilities of the District position. Employees who violate this policy are subject to reprimand, suspension, or termination.

Adopted: date of manual adoption
CROSS REF.:
EDB - Maintenance and Control of Materials and
Equipment
KF - Community Use of School Facilities

Non-school Employment by Support Staff Members (G-7650)

SUPPORT STAFF HIRING

It shall be the policy of the District to employ and retain the best qualified personnel. This will be accomplished by giving careful consideration to qualifications and by providing competitive salaries within the financial capabilities of the District, adequate facilities, and good working conditions. Volunteers are to have background checks in accord with this policy.

Recruitment of support staff personnel is the responsibility of the Superintendent. Other members of the administration and supervisory staff will assist as responsibilities are delegated by the Superintendent.

The Board adopts the following general criteria and procedures, which shall be utilized in the selection process for initial employment:

- There will be no discrimination in the hiring process due to race, color, religion, sex, sexual orientation, age, national origin, or disability of an otherwise qualified individual.
- Candidates for all positions shall be able to perform the duties of their position job descriptions.
- Each applicant shall be required to provide fingerprint cards or electronic fingerprints upon being offered employment for purposes of obtaining a criminal history background record before finalization of employment.
- Each candidate shall be requested to complete a consent-and-release form regarding conduct of a background investigation.
- A "background investigation" - consisting of communication with the applicant's (or employee's) former employer that concerns education, training, experience, qualifications, and job performance for the purpose of evaluation for employment - shall be conducted on each individual to be considered for a recommendation of employment. Forms developed for this purpose are to be used.

In addition to the requirements in this policy and those of the fingerprint policy which follows, the District shall follow 6.41.4.9 NMAC M through S for the purposes indicated below. That part of the New Mexico Administrative Code shall be incorporated in this policy by reference.

- Commercial Driver's License (CDL) pre-employment screening.
- Returning CDL pre-employment screening.
- School owned activity driver pre-employment screening.
- School bus assistant and substitute school bus assistant pre-employment screening.
- Continuing standards for drivers.
- Pre-employment documentation maintenance (records maintenance).

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

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

Adopted: August 7, 2019
LEGAL REF.:
[22-10A-5 NMSA](#) (1978)

28-1-2 NMSA et seq.
6.41.4.9 NMAC
CROSS REF.:
GBK - Staff Grievances
GBPDA - Drug and Alcohol Testing of Employees (Preemployment)
GDG - Part-Time and Substitute Support Staff Employment
IJOC - School Volunteers

Non-school Employment by Support Staff Members (G-7661)

SUPPORT STAFF HIRING

Definition

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

Background Investigation Requirements

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

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

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

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

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

The background investigator shall:

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

Support Staff Workload (G-8450)

The normal workweek for support staff personnel will not exceed forty (40) hours per week. Typically the week will be based on eight (8) hours per day, five (5) days per week; however, the Superintendent may designate other workweek structures to meet varying conditions and needs of the District. Employees will be notified at least one (1) week in advance of any modification to the workweek plan.

Individual employee work schedules will be based on the position held by the respective employees and on District needs as identified during the employment process.

For the purpose of calculating regular and overtime hours in accordance with wage and hour requirements, the District's designated workweek shall begin at 12:01 a.m. on Sunday and conclude at 12:00 midnight the following Saturday.

An employee may work overtime, provided that advance authorization is obtained from the supervisor in charge or, in the case of an emergency, authorization is obtained immediately upon completion of the work or as soon thereafter as practicable.

Adopted: date of manual adoption

LEGAL REF.:

[29 U.S.C. 207](#), Fair Labor Standards Act

[29 C.F.R. 516](#) et seq., Fair Labor Standards Act

CROSS REF.:

[GDBC](#) - Support Staff Supplementary Pay/Overtime

Support Staff Workload (G-8461)

SUPPORT STAFF WORKLOAD (Fair Labor Standards Act: Overtime Compensation)

Nonexempt employees, those noncertificated employees subject to the minimum wages and overtime provisions of the Fair Labor and Standard Acts, may be required to complete an individual time card showing the daily hours worked.

Time cards (reports) shall cover one (1) workweek and shall be completed at the close of each work day.

Employees shall record their starting time, time out for lunch, time in from lunch, quitting time, and total hours worked for each work day.

Employees are not permitted to clock in or commence work more than fifteen (15) minutes before their normal starting or to clock out or stop work later than fifteen (15) minutes after their normal quitting time without the prior approval of the building administrator/supervisor.

All employees are required to take a lunch or meal break. Exceptions may be made for lunch periods per a voluntarily signed and written agreement between the employee and administrator.

All employee time records shall be verified and signed by the building administrator/supervisor.

Reporting another employee's time or falsifying one's own time is prohibited and may be grounds for disciplinary action including termination.

Nonexempt employees who work more than forty (40) hours per week shall be awarded "compensatory time" at the rate of one and one-half (1 1/2) hours for each hour of overtime work. In cases of emergency, when the employee cannot be immediately released for this time and one-half compensation, the Superintendent will make the decision as to paying the employee at the rate of time and one-half or having the employee take the time off at a future date. The hours must be approved by the immediate supervisor before an employee works overtime or, in the case of an emergency, immediately upon completion of the work or as soon thereafter as possible.

Compensatory time off shall be taken during the following pay period or workweek in which it was earned unless the use of compensatory time off would unduly disrupt the operations of the District. In the event the supervisor determines compensatory time off during the week following the week it is earned would be unduly disruptive to the operations of the District, such compensatory time off may be taken as soon as is reasonably possible thereafter.

This overtime compensation plan does not apply to exempt employees or to volunteers.

Support Staff Workload (G-8462)

SUPPORT STAFF WORKLOAD

Normal Working Hours for Licensed Administrators/
Nonlicensed Administrators and Other Support Personnel

Licensed/non licensed administrators shall work a minimum of eight (8) hours per day, exclusive of thirty (30) or sixty (60) minutes of duty free – uninterrupted lunch period. The consistent lunch period at the work site shall be determined to be sometime at noon by the supervisor(s) based on the work schedule at each work site. The normal working duty hours are set to serve the needs of the School District, students, parents, school personnel and the public adequately. All employees are required to clock-in and clock-out for accountability purposes. Supervisors will certify working hours.

Each employee shall only clock in or out for themselves. Disciplinary measures will be taken out on employees or supervisors who clock in or out for another employee.

In compliance with Board Policy special assignments, projects or meetings shall not discourage employees from taking their thirty (30) minutes or sixty (60) minutes lunch break at the designated time. Early or late lunch breaks shall not be allowed unless approved by the Superintendent for special occasions due to extreme circumstances, luncheons, or as part of the approved District work schedule. Any abuse of the early and/or late lunch periods will result in a reprimand and possibly immediate curtailing such pre-approved benefit/practice.

Some secretaries for elementary principals work seven (7) hours, exclusive of thirty (30) or sixty (60) minutes duty free uninterrupted lunch period. The lunch period shall be determined by the supervisor, as follows:

- 8:00 a.m. through 3:30 p.m. with a thirty (30)-minute lunch break at noon.
- 8:00 a.m. through 4:00 p.m. with sixty (60)-minute lunch break at noon.

All other employees must follow the regular normal working hours for central office personnel. Exceptions will be made for the Transportation Department due to early or late bus routes.

Regular normal working duty hours for central office personnel, other administrative support personnel are to be consistent for availability and effective performance and determined by the Superintendent.

Licensed/non licensed administrators shall not schedule themselves to leave their assigned sites/units earlier than 4:00 p.m. or 4:30 p.m., as applicable, due to the fact that they have to make themselves available for parents/students and/or teacher conferences, meetings with employees and/or vendors. Supervisors may amend working hours if subordinates have conflicts or if performance level is unsatisfactory.

For the effectiveness of the educational organization, any amendments/adjustments to any of the employee's working hours and/or work schedule, either through a directive or request, shall be documented, justified and have the approval of the Superintendent. Amended/adjusted working hours

and/or work schedule shall not conflict with expected productivity level, duties, assignments, special projects nor time lines.

Licensed/non licensed administrators are exempt employees and are not classified as hourly wage employees. Provided they meet the requirement of the Federal Fair Labor Standards Act and are not entitled to claim compensatory/overtime. They work a minimum of eight (8) hours.

Instructional Support Staff

The regular school day for all instructional support employees shall consist of a minimum of seven (7) hours on campus to include regular preparation time for planning, supervision duties, in-service training, school conferences, and faculty meetings requiring additional time. This includes a minimum of six (6) hours of contact teaching time for all elementary schools, middle schools and high schools and excluding lunch periods. In addition to other assigned duties required by the principal for example: being available to students on an individual basis, for preparation and planning, parent conferences, supervision duty, or as otherwise deemed necessary for the normal operation of the school.

Meet and Confer (H-0259)

MEET - AND - CONFER PROCEDURES

Meetings held between representatives of the Board and the professional teaching staff to discuss meet-and-confer issues will be held in the boardroom in the District administration building unless another site is mutually agreed upon.

The first meeting of the school year will be at a time agreed upon by the Board and the teachers' organization.

Any proposal(s) to be submitted by the teachers and the administrator who is the meet-and-confer spokesman for discussion must be presented to the Superintendent in writing at least ten (10) working days before the first meeting.

Procedures, including a calendar of meetings, caucus breaks, and other items, will be discussed at an organizational meeting.

Meet and Confer (H-0450)

EMPLOYEE MEET - AND - CONFER ORGANIZATIONS

Professional Staff

If more than one (1) teachers' organization exists, and the organizations reach an agreement on the composition of a committee to represent the teachers, the Board will recognize such committee for that purpose.

Upon written request by at least twenty percent (20%) of the professional staff members, the Board will arrange for a referendum to determine which organization shall represent the professional staff in meet-and-confer sessions with the Board. The vote will be by secret ballot open to all members of the professional staff who are defined by New Mexico law as teachers. The organization receiving a majority

of the votes cast will be recognized by the Board as the organization that shall represent the professional staff in meet-and-confer procedures with the Board. The referendum result will be in force for a period of not less than two (2) years, after which, upon written request as noted above, another referendum may be held.

Petitions for a referendum will be received by the Board only during the period of October 1 through 15 of any school year in which they are eligible for presentation.

Support Staff

If more than one (1) employee organization exists, and the organizations reach an agreement on the composition of a committee to represent the employees, the Board will recognize such committee for that purpose.

Upon written request by at least twenty percent (20%) of the staff members in any employment group, the Board will arrange for a referendum to determine which organization shall represent the staff in meet-and-confer sessions with the Board. The vote will be by secret ballot open to all members of the employment group. The organization receiving a majority of the votes cast will be recognized by the Board as the organization that shall represent the employment group in meet-and-confer procedures with the Board. The referendum result will be in force for a period of not less than two (2) years, after which, upon written request as noted above, another referendum may be held.

Petitions for a referendum will be received by the Board only during the period of October 1 through 15 of any school year in which they are eligible for presentation.

Time Clock for Staff (CBA Article 27)

FOR CERTIFIED EMPLOYEES

A. As a fundamental recognition of the professionalism and expertise of certified (salaried) employees who normally work at one site, those certified employees shall perform their duties without electronic monitoring of arriving and/or departing. Certified staff will swipe their identification card on the time clock to document attendance when they first arrive: this is not to document arrival or departure times. Employees will receive two warnings prior to any disciplinary measures being imposed. The first disciplinary action shall not be more severe than a letter of concern. The District may require employees who leave their worksite during the normal workday to check in and out (not including lunch).

B. Certified salaried, employees who normally work at more than one site may be required to use electronic monitoring of arriving and/or departing.

FOR ESP EMPLOYEES

C. Educational Support Personnel shall utilize the time clock for recording time worked.

FOR ALL EMPLOYEES: Card Replacement

D. Employees will pay \$25.00 for the first replacement of a lost identification card. Employees will pay \$50.00 for the subsequent replacement of lost identification cards.

Hours of Work & Overtime (G-8461)

SUPPORT STAFF WORKLOAD (Fair Labor Standards Act: Overtime Compensation)

Nonexempt employees, those non certificated employees subject to the minimum wages and overtime provisions of the Fair Labor and Standard Acts, may be required to complete an individual time card showing the daily hours worked.

Time cards (reports) shall cover one (1) workweek and shall be completed at the close of each work day.

Employees shall record their starting time, time out for lunch, time in from lunch, quitting time, and total hours worked for each work day.

Employees are not permitted to clock in or commence work more than fifteen (15) minutes before their normal starting or to clock out or stop work later than fifteen (15) minutes after their normal quitting time without the prior approval of the building administrator/supervisor.

All employees are required to take a lunch or meal break. Exceptions may be made for lunch periods per a voluntarily signed and written agreement between the employee and administrator.

All employee time records shall be verified and signed by the building administrator/supervisor.

Reporting another employee's time or falsifying one's own time is prohibited and may be grounds for disciplinary action including termination.

Nonexempt employees who work more than forty (40) hours per week shall be awarded "compensatory time" at the rate of one and one-half (1 1/2) hours for each hour of overtime work. In cases of emergency, when the employee cannot be immediately released for this time and one-half compensation, the Superintendent will make the decision as to paying the employee at the rate of time and one-half or having the employee take the time off at a future date. The hours must be approved by the immediate supervisor before an employee works overtime or, in the case of an emergency, immediately upon completion of the work or as soon thereafter as possible.

Compensatory time off shall be taken during the following pay period or workweek in which it was earned unless the use of compensatory time off would unduly disrupt the operations of the District. In the event the supervisor determines compensatory time off during the week following the week it is earned would be unduly disruptive to the operations of the District, such compensatory time off may be taken as soon as is reasonably possible thereafter.

This overtime compensation plan does not apply to exempt employees or to volunteers.

Hours of Work & Overtime (G-8462)

SUPPORT STAFF WORKLOAD (Normal Working Hours for Licensed Administrators/ Nonlicensed Administrators and Other Support Personnel)

Licensed/nonlicensed administrators shall work a minimum of eight (8) hours per day, exclusive of thirty (30) or sixty (60) minutes of duty free – uninterrupted lunch period. The consistent lunch period at the work site shall be determined to be sometime at noon by the supervisor(s) based on the work schedule at each work site. The normal working duty hours are set to serve the needs of the School District, students, parents, school personnel and the public adequately. All employees are required to clock-in and clock-out for accountability purposes. Supervisors will certify working hours.

Each employee shall only clock in or out for themselves. Disciplinary measures will be taken out on employees or supervisors who clock in or out for another employee.

In compliance with Board Policy special assignments, projects or meetings shall not discourage employees from taking their thirty (30) minutes or sixty (60) minutes lunch break at the designated time. Early or late lunch breaks shall not be allowed unless approved by the Superintendent for special occasions due to extreme circumstances, luncheons, or as part of the approved District work schedule. Any abuse of the early and/or late lunch periods will result in a reprimand and possibly immediate curtailing such pre-approved benefit/practice.

Some secretaries for elementary principals work seven (7) hours, exclusive of thirty (30) or sixty (60) minutes duty free uninterrupted lunch period. The lunch period shall be determined by the supervisor, as follows:

- 8:00 a.m. through 3:30 p.m. with thirty (30)-minute lunch break at noon.
- 8:00 a.m. through 4:00 p.m. with sixty (60)-minute lunch break at noon.

All other employees must follow the regular normal working hours for central office personnel. Exception will be made for the Transportation Department due to early or late bus routes.

Regular normal working duty hours for central office personnel, other administrative support personnel are to be consistent for availability and effective performance and determined by the Superintendent.

Licensed/nonlicensed administrators shall not schedule themselves to leave their assigned sites/units earlier than 4:00 p.m. or 4:30 p.m., as applicable, due to the fact that they have to make themselves available for parents/students and/or teacher conferences, meetings with employees and/or vendors. Supervisors may amend working hours if subordinates have conflicts or if performance level is unsatisfactory.

For the effectiveness of the educational organization, any amendments/adjustments to any of the employee's working hours and/or work schedule, either through a directive or request, shall be documented, justified and have the approval of the Superintendent. Amended/adjusted working hours

and/or work schedule shall not conflict with expected productivity level, duties, assignments, special projects nor time lines.

Licensed/nonlicensed administrators are exempt employees and are not classified as hourly wage employees. Provided they meet the requirement of the Federal Fair Labor Standards Act and are not entitled to claim compensatory/overtime. They work a minimum of eight (8) hours.

Instructional Support Staff

The regular school day for all instructional support employees shall consist of a minimum of seven (7) hours on campus to include regular preparation time for planning, supervision duties, in-service training, school conferences, and faculty meetings requiring additional time. This includes a minimum of six (6) hours of contact teaching time for all elementary schools, middle schools and high school and excluding lunch period. In addition to other assigned duties required by the principal for example: being available to students on an individual basis, for preparation and planning, parent conferences, supervision duty, or as otherwise deemed necessary for the normal operation of the school.

Staff Duties and Responsibilities Related to Sectarian Doctrine in a Public School (G-5150)

PROFESSIONAL STAFF DUTIES AND RESPONSIBILITIES

Each licensed school employee shall:

- enforce all laws and rules applicable to the employee's public school;
- if teaching, teach the prescribed courses of instruction;
- exercise supervision over students on public school premises and while the students are under the control of the public school; and
- furnish reports as required.

A teacher shall not use sectarian or denominational books or teach any sectarian doctrines or conduct religious exercises.

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

Adopted: August 7, 2019

LEGAL REF.:

[22-10A-3 NMSA](#)

[22-10A-27](#) through [22-10A-31 NMSA](#) (1978)

[22-13-15 NMSA](#) (1978)

Tutoring for Pay (G-6300)

School buildings are not to be used for private tutoring or classes for which students pay a fee to staff members unless a rental contract has been entered into with the District.

Staff members are not permitted to provide tutoring for pay to any students who attend or are registered in any of their own classes except in organized tutorial programs which are publicly funded.

Professional Research and Publishing (G-6350)

The Board has proprietary rights to publications, instructional materials, and devices prepared by employees unless prepared by such employees on their own time and without use of school facilities and/or equipment.

- The Board authorizes the Superintendent to review material prepared by staff members prior to copyright or patent for subsequent publication or distribution, and to recommend waiving all or part of the Board's proprietary rights in favor of the employees preparing such materials.
- Any staff member who submits professional materials for publication in which the District is mentioned will submit all such material to the Superintendent prior to release for publication, including materials developed on the employee's own time.

Adopted: date of manual adoption

Appropriate use of Electronic Information Services (I-6400)

USE OF TECHNOLOGY RESOURCES IN INSTRUCTION Appropriate use of Electronic Information Services

The District may provide electronic information services (EIS) to qualified students, teachers, and other personnel who attend or who are employed by the District. Electronic information services include networks (e.g., LAN, WAN, Internet), databases, and any computer-accessible source of information, whether from hard drives, tapes, compact disks (CDs), floppy disks, or other electronic sources. The use of the services shall be in support of education, research, and the educational goals of the District. To assure that the EIS is used in an appropriate manner and for the educational purposes intended, the District will require anyone who uses the EIS to follow its guidelines and procedures for appropriate use. Anyone who misuses, abuses, or chooses not to follow the EIS guidelines and procedures will be denied access to the District's EIS and may be subject to disciplinary action.

Each user will be required to sign an EIS user's agreement. The District may log the use of all systems and monitor all system utilization. Accounts may be closed and files may be deleted at any time. The District is not responsible for any service interruptions, changes, or consequences. The District reserves the right to establish rules and regulations as necessary for the efficient operation of the electronic information services.

The District does not assume liability for information retrieved via EIS, nor does it assume any liability for any information lost, damaged, or unavailable due to technical or other difficulties.

Filtering and Internet Safety

The District shall provide for technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by students, harmful to students. The protective measures shall also include monitoring the online activities of students.

Limits, controls, and prohibitions shall be placed on student:

- Access to inappropriate matter.
- Safety and security in direct electronic communications.
- Unauthorized online access or activities.
- Unauthorized disclosure, use and dissemination of personal information.

The Superintendent is responsible for establishing and enforcing the District's electronic information services guidelines and procedures for appropriate technology protection measures (filters), monitoring, and use.

Adopted: date of manual adoption

LEGAL REF.:

[20 U.S.C. 9134](#), The Children's Internet Protection Act

[47 U.S.C. 254](#), Communications Act of 1934 (The Children's Internet Protection Act)

Safety and use of Electronic Information Services (I-6411)

USE OF TECHNOLOGY RESOURCES IN INSTRUCTION (Safety and use of Electronic Information Services)

Use of the electronic information services (EIS) requires that the use of the resources be in accordance with the following guidelines and support the education, research, and educational goals of the District. Filtering, monitoring, and access controls shall be established to:

- Limit access by minors to inappropriate matter on the Internet and World Wide Web.
- Monitor the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications.
- Monitor for unauthorized access, including so-called "hacking", and other unlawful activities by minors online.
- Restrict access by minors to materials harmful to minors.

Content Filtering

A content filtering program or similar technology shall be used on the networked electronic information system (EIS) as well as on standalone computers capable of District authorized access to the Internet. The technology shall at a minimum limit access to obscene, profane, sexually oriented, harmful, or illegal materials. Should a District adult employee have a legitimate need to obtain information from an access-limited site, the Superintendent may authorize, on a limited basis, access for the necessary purpose specified by the employee's request to be granted access.

Monitoring

As a means of providing safety and security in direct electronic communications and to prevent abuses to the appropriate use of electronic equipment, all computer access to the Internet through the District electronic information systems (EIS) or standalone connection shall be monitored periodically or randomly through in-use monitoring or review of usage logs.

Access Control

Individual access to the EIS shall be by authorization only. Designated personnel may provide authorization to students and staff who have completed and returned an electronic information services user agreement. The Superintendent may give authorization to other persons to use the EIS.

Acceptable Use

Each user of the EIS shall:

- Use the EIS to support personal educational objectives consistent with the educational goals and objectives of the School District.
- Agree not to submit, publish, display, or retrieve any defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, or illegal material.
- Abide by all copyright and trademark laws and regulations.
- Not reveal home addresses, personal phone numbers or personally identifiable data unless authorized to do so by designated school authorities.
- Understand that electronic mail or direct electronic communication is not private and may be read and monitored by school employed persons.
- Not use the network in any way that would disrupt the use of the network by others.
- Not use the EIS for commercial purposes.
- Follow the District's code of conduct.
- Not attempt to harm, modify, add, or destroy software or hardware nor interfere with system security.
- Understand that inappropriate use may result in cancellation of permission to use the educational information services (EIS) and appropriate disciplinary action up to and including expulsion for students.

In addition, acceptable use for District employees is extended to include requirements to:

- Maintain supervision of students using the EIS.
- Agree to directly log on and supervise the account activity when allowing others to use District accounts.
- Take responsibility for assigned personal and District accounts, including password protection.
- Take all responsible precautions, including password maintenance and file and directory protection measures, to prevent the use of personal and District accounts and files by unauthorized persons.

Each user will be required to sign an EIS user agreement. A user who violates the provisions of the agreement will be denied access to the information services and may be subject to disciplinary action. Accounts may be closed and files may be deleted at any time. The District is not responsible for any service interruptions, changes, or consequences.

Details of the user agreement shall be discussed with each potential user of the electronic information services. When the signed agreement is returned to the school, the user may be permitted use of EIS resources through school equipment.

School Volunteers (I-6600)

Volunteers can make many valuable contributions to the students and educational programs of the District. A volunteer program is approved subject to suitable rules, safeguards, and regulations as developed by the Superintendent.

In order to protect the safety and security of children and school staff, any volunteer given access to students without the presence (line of site view) of a licensed staff member shall have a background and criminal history check, with the results received prior to allowing the volunteer such access. The volunteer may be required to pay the cost of obtaining criminal history records. Volunteer applicants must submit to a background investigation by completing an application form and background consent form in accord with current District policy. If a background check conducted from these criteria fails to return all necessary information, a background check using fingerprints may be conducted.

Volunteers are to be made aware of and comply with all District policies and procedures relevant to the performance of volunteer duties including but not limited to conduct, privacy, discipline, supervision and ethics. Each volunteer will be provided with a job description of duties, time requirements and qualifications, and be provided training, supervision and evaluation.

This policy shall not apply to:

- adults who visit a school but have no ongoing individualized interaction with a student or students, including, but not limited to, adults who have been invited to speak to a class or assembly, to judge academic competitions, to give a musical performance, or to participate in a sponsored program;
- a parent or legal guardian who is accompanying his or her child's class on a one (1)-day field trip or on another type of occasional extra-curricular activity that does not involve an overnight stay.

Adopted: August 7, 2019
LEGAL REF.:
[22-10A-5 NMSA](#) (1978)
[6.50.18 NMAC](#)
CROSS REF.:
[GBEB](#) - Staff Conduct
[GCF](#) - Professional Staff Hiring
[GCFC](#) - Professional Staff Certification and Credentialing
Requirements (fingerprinting requirements)
[GDF](#) - Support Staff Hiring
[GDFA](#) - Support Staff Certification and Credentialing
Requirements (fingerprinting requirements)

Video Surveillance Policy

VIDEO SURVEILLANCE

Purpose

The Española Public Schools District ("District") is committed to providing a safe and secure educational environment for its students, faculty, and staff. The District seeks to deter the destruction of District property and other conduct prohibited by law and District policies, as well as aid the investigation process when disciplinary infractions are reported. The Superintendent designates the District's Safety and Security Coordinator (SSC) as its law enforcement unit responsible for the physical safety and security for purposes of FERPA compliance. The SSC is authorized to create and maintain records for law enforcement purposes, including but not limited to the creation and preservation of evidence through digital surveillance for use in potential criminal prosecutions, student and employee disciplinary proceedings, worker's compensation and/or insurance claims. The SSC is authorized to install and maintain a video surveillance system (VSS) on school campuses throughout the District. The VSS will monitor and record activity and District property and such information may be used for law enforcement purposes.

Definitions

District property means all property owned or under the direct control of the District.

Video surveillance means digital video, videotape or any other tape, computer hard-drive, compact disk (CD), disk, or other device or medium used to store information from a video surveillance system.

Video surveillance system means a closed circuit television camera, video, physical or other mechanical, electronic, or digital surveillance system or device that enables continuous or periodic video recording, observing, or monitoring of personal information about individuals in open, public spaces on District property.

Scope of Surveillance

The VSS shall be designed and operated so as to minimize intrusions on personal property.

The VSS shall monitor only those areas on District property where individuals do not have a reasonable expectation of privacy. For example, video surveillance may monitor hallways, classrooms, parking lots, and plazas, but not washrooms or changing rooms.

The VSS shall not be directed towards property or windows of property adjacent to District property.

Notice

Students and employees shall receive copies of this policy at the beginning of the school year or within fifteen (15) days upon enrolling in or gaining employment with the District. Reception of this policy shall constitute adequate notice to students, their parents, and District employees that the District uses a VSS to monitor activity and District property.

Each District campus that uses a VSS shall post signs in public areas that video surveillance devices are used on the premises to monitor activity and District property. These postings shall constitute adequate notice to all individuals who enter onto District property.

Records

The information collected and recorded by the VSS shall be used by the District to maintain a safe and secure educational environment, and may be used for law enforcement purposes, student and employee disciplinary proceedings, worker's compensation and/or insurance claims.

Maintenance and Viewing of Recorded Information

Each District campus shall maintain its VSS in a locked, secure location, accessible only to the SSC and the school's principal or principal's designee (including School Resource Officer and/or Security Guard/security contractor).

The Superintendent, or Superintendent's designee (i.e., Assistant Superintendent, SSC, Site Administrator) may arrange to disclose the records and information collected by the VSS for purposes of investigation and referral to other law enforcement officers or for disciplinary action. The Superintendent or designee may authorize the disclosure of records and information in the possession of the SSC to other individuals in connection with a health or safety emergency and/or to third (3rd) party administrators related to worker's compensation and insurance claims.

Records and information including all data downloaded, copied, and/or saved from the VSS are available for viewing by school administrators with law enforcement officers, School Resource Officers, District Security Guards, including security contractors. To protect the privacy of student/employee identification, records and information collected by the VSS are not available for viewing by anybody else including students, employees, and members of the news media. Requests by parents of students to view surveillance footage of their children must be made in writing and will only be approved by express written consent given by the Superintendent. Requests will be reviewed on a case-by-case basis where it has been determined that the identification of other students will not be compromised and that FERPA regulations are adhered to.

The SSC may arrange for the records and information collected by the VSS to be disclosed to the appropriate law enforcement authorities or third (3rd) parties pursuant to a search warrant or court order in compliance with FERPA.

The amount of information disclosed shall be limited to the time period reasonably related to the incident, alleged crime or potential policy violation.

Retention of Recorded Information

All data downloaded, copied, and/or saved from the VSS must be stored securely in a locked container, such as a cabinet, closet, or safe located in the SSC's Office and under the control of the SSC.

All data that has been saved, copied, and/or downloaded onto a CD or other medium must be dated and labeled with a unique, sequential number and the name of the school from where the data was recorded.

A written log shall be kept of all access to and use of CDs, video storage devices, or other medium on which data is saved, copied, and/or downloaded. The log shall include the date and time of viewing and the names and signatures of person(s) to whom the material is disclosed. The written log shall also include the date on which the information is destroyed.

Surveillance footage of an incident or event that may lead to a formal law enforcement investigation, worker's compensation investigation, and/or tort claim shall be copied and saved at the earliest practical time in anticipation that its contents may be used as evidence and to avoid the automatic and periodic erasing/deleting that takes place with the system.

Any downloaded, copied, and/or saved information that has been disclosed for investigative, disciplinary, safety, or law enforcement purposes shall be retained for twelve (12) months from the date of disclosure, or until the date of the resolution of the incident, whichever comes later.

Other information maintained on the VSS shall be retained for a minimum of fourteen (14) days from the date of recording.

Disposal of Recorded Information

After the retention period for saved, downloaded, and/or copied information has expired, the information contained on CD or other medium shall be disposed of in a manner that prevents the retrieval or reconstruction of the information contained thereon. Shredding and/or magnetically erasing the recorded information are examples of acceptable methods of disposal.

After the information is destroyed, the date of disposal shall be recorded on the written log.

Access to Personal Information

The information recorded by the VSS will be disclosed only in compliance with FERPA and applicable state law.

Adopted: August 4, 2010

Procedure on Inclement Weather/Utility Outages

Inclement Weather and School Closure Procedures

The Española Public School District has an obligation to conduct education, business, and support activities on a regular basis despite occasional inconveniences caused by inclement weather or utility outages. At the same time, the District has a responsibility for the safety and well-being of its students, teachers and staff.

The District will not close during periods of inclement weather unless conditions are so severe as to endanger the school community. The Superintendent will determine if the District's Schools will close. The decisions will be made as early as possible, generally about 5:00 a.m. Media outlets will be notified no later than 5:30 a.m. The Superintendent or designee will notify and post notice to local radio, news stations and district website. Parents and families will also be notified via the school auto dialer not later than 6:30 a.m.

Delay Types and Start Times

Delayed Opening: If the Superintendent decided to delay the opening of school, proper notification procedures will be followed.

- **Students** will be on a 2 (two) hour delay schedule. Students will report as follows:

Elementary Schools (ALL) Arrival: 9:50 a.m. - 10:20 a.m. Classes begin at 10:20 a.m.	Secondary Schools (CFVMS & EVHS) Arrival 9:15 a.m. – 9:50 a.m. First Bell – 9:50 a.m./Tardy Bell -9:55 a.m.
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- **School Administration, Teachers, School Staff, School Office Staff and Central Office Staff** will be on a 1 (one) hour delay schedule. Staff should report no later than 1 (one) hour after their regularly assigned start time. It is important that staff be available at each school site and Central Office to respond to parent inquiries and coordinate their maintenance and custodial services. Staff should take reasonable and safe measures in attempting to meet their employment obligations. Appropriate leave from your Supervisor may be requested by the employee to avoid hazardous conditions.
 - **All School Based Staff** shall assist in the supervision of students during arrival times to ensure student safety. School administration will coordinate and assign duty safety posts for all staff.
- **All Custodial Staff** will report no later than 7:00 a.m. or as assigned by Custodial/Maintenance Supervisor/Director. All custodial staff will assist in immediate snow removal. Critical walking areas should be cleared first to ensure staff and students have safe

walking conditions upon arrival. Thereafter, custodians will be directed by the head custodian, maintenance supervisor and/or school administrator as to the ongoing snow removal and coordinated efforts necessary to maintain a safe school environment for staff and students. [Custodial Staff are pre-approved to work 2 additional extra duty hours on delay days with a 1 hour staggered lunch]

School Closing: If the Superintendent decides to close school, proper notification procedures will be followed.

- **School Administration, School Office Staff and Central Office Staff** will be on a 1 hour delay.

Staff should report no later than one (1) hour after their regularly assigned start time. It is important that staff be available at each school site to respond to parent inquiries and coordinate their maintenance and custodial services.

- **All Custodial Staff** will report no later than 7:00 a.m., or as assigned by Custodial/Maintenance Supervisor/Director. All custodial staff will assist in immediate snow removal. Critical walking areas should be cleared first to ensure staff and students have safe walking conditions upon arrival. Thereafter, custodians will be directed by the head custodian, maintenance supervisor and/or school administrator as to the ongoing snow removal and coordinated efforts necessary to maintain a safe school environment for staff and students.
- **All Other Staff** will NOT report and follow school CLOSURE guidelines.

Early Dismissal: If the Superintendent decides to dismiss school early, the procedure shown below will be followed for early dismissal of students.

- **Students** will be released from school only after the principal has ascertained that appropriate notice has been given to parents or guardians. Proper sign out and safety procedures for elementary students should be implemented to ensure students sent home on school buses are safely returned home during a non-scheduled early dismissal. Staff members should accompany students on the bus to ensure adult supervision is available and document safer release to an authorized adult. Elementary students should not be left unaccompanied and shall be returned to the school site to be picked up by an authorized adult.
- **All School Site Staff** may be released by the school Principal when they are no longer needed to supervise students.
 - **The Principal and Office Support Staff** will remain at the school until all students have departed and all school buses have cleared their routes.
- **All Central Office Staff** may be released by the Superintendent when they are no longer needed to maintain daily operations and respond to school and public needs. **Local Media**
- **Resources:**
 - District Website: www.k12Española.org
 - KDCE Radio: 100.7 FM or 950 AM
 - KOB 4: <http://www.kob.com/closing/index/shtml>
 - KOAT 7: <http://www.koat.com/weather/closings>

Compensation (G-2200)**PROFESSIONAL STAFF SALARY SYSTEMS**

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

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

Other Provisions

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

Adopted: date of manual adoption

LEGAL REF.:

[22-5-11 NMSA \(1978\)](#)

[22-5-14 NMSA \(1978\)](#)

All salary schedules are E-NEA and Board approved and available on the district website. https://cdn5-ss9.sharpschool.com/UserFiles/Servers/Server_760534/File/Departments/Human%20Resources/SY%202022-2023/NEA%20Salary%20Schedules%202022%202023_0001.pdf

Insurance (CBA: Article 38)

A. The District administration will provide the following insurance for bargaining unit employees through the New Mexico Public Schools Insurance Authority.

B. Benefits: The District will continue to provide eligible full-time employees with group medical, dental, and vision insurance through the New Mexico Public Schools Insurance Authority (NMPSIA). Approved insurance plans will be available to bargaining unit employees as per the offerings of NMPSIA. Domestic Partners and their dependents are provided the same insurance coverage as spouses and their dependents subject to the requirements of NMSPIA. Española–NEA and Española Public Schools

1. In response to unintended consequence from wage increases that may move employees into higher Insurance Contribution Categories, resulting in a higher cost for their medical premiums offered through NMPSIA (NM Public School Insurance 4 Authority), EPS is increasing Insurance Contribution Categories as follows:

SY2022-23 Categories:

<\$23,199 annual income Employee pays 20% district pays -80%
\$23,200-33,800 annual income Employee pays 25% district pays -75%
\$33,801 –over annual income Employee pays 35% district pays -65%

This guarantees that the percentages employees are expected to contribute will remain the same. This will apply to individuals who stayed in the same job class as the prior year and whose salary increase was directly related to these 2022 legislative-mandated increases. Any salary increases from an employee being promoted to a new, higher position are not addressed by this article and may result in an increase in the percentage, depending on what category they would fall under with the new salary. The District will continue to provide eligible full-time employees access to long term disability and life insurance benefits available through NMPSIA, including the \$50,000 non-contributory life insurance coverage.

1. Participants in these insurance programs will have their premiums deducted through payroll deductions and will be provided a copy of the plan information as provided by 29 NMPSIA.
2. The District will continue to offer eligible full-time employees open enrollment periods as offered by NMPSIA. Employees will be notified of any such open enrollment periods.
3. If an employee experiences any change in employment or marital status which creates a need for the employee to enroll or change enrollment in any of the approved plans, the employee may do so only if permitted by law, NMPSIA regulations, or provisions of the contract between NMPSIA and the respective insurance carrier.
4. The District will continue to provide professional liability and Worker's Compensation coverage for employees in accordance with state law.
5. Subject to applicable laws and regulations, the district will continue to provide access to the Internal Revenue Code Section 125 "Cafeteria Plan" benefits as offered at the inception of this Agreement. Any changes to said offerings shall be reviewed by the parties, which in turn, will make recommendations to the Superintendent and the Board for approval.
6. Employees shall be entitled to invest in tax-sheltered annuities and deferred compensation programs available through the business office by payroll deduction. Tax-sheltered annuities, deferred compensation programs, and supplemental insurance programs Española-NEA and Española Public Schools Collective Bargaining Agreement 2022-2023 p. 47 offered through the Union are eligible for payroll deduction. Deductions shall be made and forwarded to the investment company.
7. Upon separation, termination, or leave-without-pay, employees may continue their insurance benefits through COBRA.
8. The Española-NEA President may request a meeting to discuss issues related to insurance benefits. Such meetings shall be scheduled at a mutually acceptable time and place during non-duty time.
9. Upon employment with the district, each employee will be provided an explanation of the 9 insurance benefits and options, including those available through the Union for members.
10. These adjustments will be implemented effective the first full pay period of the employee's school year.

Professional / Support Staff Voluntary Transfer Of Accrued Sick Leave (G-3100)

Purpose

The purpose of the Sick Leave Bank (SLB) is to provide participating employees paid leave in the event of a catastrophic illness or accident that requires hospitalization and/or home confinement beyond accumulated sick, personal and/or vacation leave.

Definitions

Sick Leave Bank - a pool of sick leave days contributed voluntarily by employees who wish to participate in the SLB. Participating employees may apply to the SLB for paid leave days in accordance with the policy guidelines.

Catastrophic Illness - major surgeries, life-threatening illness/disease (i.e., cancer, heart attack, stroke)

Serious Accident - an accident requiring extensive hospitalization and/or home confinement.

Eligibility

All employees of the Española Public Schools are eligible.

A participating employee who has applied for SLB days will have experienced a catastrophic illness or accident and be hospitalized and/or confined at home.

All accrued sick, personal, and vacation leave must be used before a participating employee is eligible to receive days from the SLB.

The participating employee cannot receive SLB days while receiving Workmen's Compensation and/or employer-matched disability.

Participating employees will donate one (1) day of accrued sick leave upon enrollment into the SLB. The first thirty (30) days of a new school year is designated as an open enrollment period. If a newly hired employee wishes to join the SLB they must enroll within the first thirty (30) days of employment and the first day of accumulated sick leave must be donated.

In the event that the SLB falls below fifty (50) days, all participating employees of the SLB will donate one (1) day to the SLB to maintain eligibility.

If, when the SLB committee calls for another donation due to bank days less than fifty (50), and a participating employee has no sick day to contribute, then, the next accrued sick day will be donated.

Part time employees are eligible for SLB compensation on a pro-rated status based on their FTE's.

Any employee hired as a substitute employee is not eligible for participation in the SLB.

Ongoing participation in the SLB will remain unless a participating employee states, in writing, that they wish to withdraw from the SLB.

Should a participating employee elect to withdraw from the SLB, all donated days will remain as part of the SLB.

Upon separation of service from the Española Public Schools, all donated days will remain as part of the SLB.

A list of employees participating in the SLB is available upon request.

Exclusions:

- Routine pregnancy with no prenatal or postnatal complications.
- Chronic or congenital conditions which lead to an employees inability to fulfill their contractual obligations on a continuous basis.
- Leave of absence.

Administration

The Sick Leave Bank Committee shall administer the SLB. This committee will consist of five (5) members. The Board of Education will appoint two (2) support staff employees and two (2) teachers for a term of two (2) years. One (1) teacher will be from an elementary school and the other teacher will be from a secondary school (Mid-High or High School). The head nurse is a permanent member. Members of the SLB Committee will be selected from the list of participating employees.

Upon receiving a complete application packet from a participating employee, the SLB Committee will have ten (10) working days in which to review and respond in writing to the request.

A minimum of three (3) members of the SLB Committee will review each claim and vote on a recommendation (approval/denial). The majority rules.

Recommendations are sent to the Superintendent of Schools for approval/denial.

All decisions are final; there is no appeal process.

All members of the SLB Committee must sign a statement of confidentiality. Breaches of confidentiality will result in immediate dismissal from the SLB Committee and further administrative action may result.

The SLB Committee shall base its recommendation on the following information:

- All eligible leave must be used prior to the application for SLB days.
- The application letter must be submitted to the chairperson of the SLB Committee.
- A physician's statement verifying severe or life threatening medical condition must accompany the application.

No other criteria will be considered in the SLB Committee's decision-making process. Should the SLB be dissolved, the days remaining in the bank shall be distributed equally among those currently participating in the SLB.

Application

An employee must submit an official Initial Sick Leave Bank Request and an official Sick leave Bank Physician's Statement. All costs for medical services related to the employee's request for SLB days shall be assumed by the employee. Incomplete applications will not be considered for review. The initial SLB days shall not exceed ten (10) days. Upon completion of the initial days, a participating employee may request an additional increment of ten (10) days. This request is submitted on the official Additional Sick Leave Bank Request. An updated Sick Leave Bank Physician's Statement must accompany the Additional Sick Leave Bank Request. All medical costs related to the employee's request for additional SLB days shall be assumed by the employee. The official forms can be obtained from the District's Human Resource Office. A participating employee will be limited to a maximum of twenty (20) SLB days per school year. Extension of SLB days will be considered in very special cases. SLB days granted to a participating employee and not utilized by the last day of the contract year will be returned to the SLB. Committee members will report to the Superintendent any person who attempts to intervene on behalf of any applicant. Intervention on behalf of an applicant could result in the elimination of the applicant from the review process. The SLB Committee will review all applications for SLB days and render its decision in writing within ten (10) working days.

The Superintendent's decision is final. There is no appeal process. All decisions are confidential. Leave that accumulates into sick leave shall only be taken for the purposes of illness, physical disability, or health maintenance of the employee and/or immediate family. Immediate family shall be defined as spouse, children, parents, grandparents, brothers, sisters, grandchildren, in-laws, aunts and uncles of the employee. A doctor's certificate is required after the third (3rd) consecutive day of absence.

Social Media Policy

Social Networking Website Use Policy

1. Purpose. The policy enacted herein is intended to establish guidelines for Española Public School District employee use of Internet social networking websites, including but not limited to Facebook, Instagram, Twitter, YouTube or similar Internet-based websites, whose functions may include sharing personal information and directly communicating with other members or participants in a web-based format (collectively, Social Networking Websites).
2. Official Policy. This Social Networking Website Use Policy (Policy) supersedes and rescinds all previous Social Networking Website use policies, statements, or practices and is the official Española Public School District Social Networking Website Use Policy. This Policy is intended to supplement existing policy and guidelines relating to acceptable use of the School District computer system, computer network and all electronic resources made available to School District employees and students for us in performing employment-related duties or academic functions. It is also intended to establish an appropriate standard of conduct for school employees in their contacts and communications with students outside of school hours or school programs.
3. Use of Social Networking Websites. Since a School District employee's interactions or dialogue with students or staff on a Social Networking Website could be viewed as a representation of the School District by viewers and since communications on such websites are not subject to the same levels of supervision, structure or formality as the school or classroom environment, the

School District strongly discourages its employee's use of Social Networking Websites as a means of conducting School District business or communicating with students, except as permitted by Paragraph 6 below.

4. Interactions with Students, Staff and the Community-at-Large. State statutes and regulations and School Board-adopted ethical and professional policies and standards require that professional educators and School District employees establish strict, appropriate and professional boundaries in their conduct and communications with students. To that end, School District employees shall not use Social Networking Websites as a means of communication with any School District student for purposes unrelated to the school curriculum or school programs, and in the absence of approval as specified in Paragraph 6 below.
5. Class Activities/Assignments. School District employees shall limit any Internet-based classroom activities or assignments to School District-sanctioned on-line tools which are based upon or directly related to the School District's adopted and approved curriculum and are monitored by the School District's Administration.
6. No Posting of School District Material without Consent. School District employees shall not use Social Networking Websites to distribute or publish pictures, videos, or any other School-District curriculum-related material as an element of a classroom instruction, activities or assignments, without the Superintendent's prior written approval.
7. Employees of the Española Public School District are hired for the purpose of taking a sincere professional interest in students. Professional ethics require that staff members avoid social situations through which they could exploit their positions of authority over students, and as specifically addressed in this Policy, through the use of Social Networking Websites. Use of Social Networking Websites to initiate, develop, generate or solicit a romantic or sexual relationship with a student, or an unwelcome romantic or sexual relationship with a coworker of the Española Public Schools is strictly forbidden and shall be subject to discipline, up to and including suspension, termination or discharge from employment.

The intent of this Policy is to limit the communications between staff, colleagues and students to that which is school-related and consistent with the ethical standards required of education professionals and that employees utilize the extensive policies and procedures already existing to communicate with the School District's Administration on matters affecting their employment or the education of students whom they serve.

8. Professional Ethics and Behavior. The district expects that all staff will use the highest standards of professionalism and good sense when using Social Networking Websites or media, either through district or personal software and hardware.

Any use of Social Networking Websites or media that disrupts or interferes with the educational process, learning environment, or positive district and school culture may result in disciplinary action, up to and including suspension, termination or discharge from employment.

9. Disciplinary Action. School District employees who violate this Policy shall be subject to discipline, up to and including suspension, termination, or discharge, in accordance with Board policy, negotiated agreements, and applicable law.

Nondiscrimination/Equal Opportunity Policy (A-0250)

The Board is committed to a policy of nondiscrimination and equal opportunity in relation to race, color, religion, sex, sexual orientation, age, national origin, and disability. This policy will prevail in all matters concerning staff members, students, the public, educational programs and services, and individuals with whom the Board does business. The Superintendent will appoint the compliance officers and/or Title IX Coordinators.

All reports or grievances regarding discrimination in employment other than those regarding discrimination on the basis of sex should be directed to the Superintendent's office of compliance. All complaints or reports of discrimination on the basis of sex shall be directed to the Title IX Coordinator per Policy ACA.

Adopted: May 20, 2021

LEGAL REF.:

[22-5-4.3 NMSA](#)

[22-31-1 NMSA](#) et seq., School Athletic Equity Act

[28-1-2 NMSA](#) et seq. 20 U.S.C. 1092(f)(6)(A)(v), Sexual Assault

[20 U.S.C. 1400](#) et seq., Individuals with Disabilities Education Act

[20 U.S.C. 1681](#), Education Amendments of 1972, Title IX

[20 U.S.C. 1703](#), Equal Employment Opportunity Act of 1972

[29 U.S.C. 794](#), Rehabilitation Act of 1973, (Section 504) 34 CFR Part 106, Nondiscrimination on the basis of Sex in Education 34 U.S.C.

12291(a)(8), (10), (30) Domestic Violence, Dating Violence, Stalking

[42 U.S.C. 2000](#), Civil Rights Act of 1964, Titles VI and VII

[42 U.S.C. 12101](#) et seq., Americans with Disabilities Act

Nondiscrimination/Equal Opportunity Regulation (A-0261)

NONDISCRIMINATION / EQUAL OPPORTUNITY

Compliance Officer

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

Complaint Procedure

The District is committed to investigating each complaint and to taking appropriate action on all confirmed violations of policy. The compliance officer shall contact the complainant and gather information to complete the grievance report. Following completion of the District-provided forms, the compliance officer shall have investigated, and documented grievances reported pursuant to this regulation as soon as reasonable. In investigating the grievance, confidentiality will be maintained to the extent reasonably possible. The compliance officer shall also have investigated incidents of policy violation that are raised by the Board, even though no grievance has been made.

If, after the initial investigation, there is reason to believe that a violation of policy has occurred, the compliance officer shall have remedial steps instituted and have the steps reported to the complainant.

If responsibility is found, the compliance officer may determine whether or not to recommend institution of procedures in accord with due process, conduct and disciplinary policies.

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

If a support staff employee is alleged to have violated policy, the compliance officer may refer the matter for the purpose of due process and discipline under Policy GDQD if the evidence so warrants.

If the person alleged to have violated policy is a student, discipline may be imposed in accordance with Policies JK and JKD.

If the investigation reveals no reasonable cause to believe policy has been violated, the compliance officer shall have the complaining party informed in writing.

Timelines

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

Once the grievance report has been filed or reported and the forms provided by the District filled in, so far as is possible, the compliance officer shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within ten (10) working days.

Title IX-Nondiscrimination on the Basis Of Sex Policy (A-0300)

The following is to comply with Title IX regulations found in 34 CFR Part 106 as revised in April of 2020 which is said to be designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving federal financial assistance. An "education program or activity" includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

The District shall notify applicants for employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District (persons entitled to notification), of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Title: Title IX Coordinator
Address: 405 Hunter Street; Española, NM 87532
Phone: (505) 367-3351 / (505) 901-2549
e-mail: titleixcomplaints@k12Española.org

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report (such as reporting to any District employee).

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Any employee of the District is required to inform the Title IX Coordinator, Superintendent or the Supervising Administrator of their work site of any report made to them or any instance they observed regarding sexual discrimination or sexual harassment as soon as possible. Failure to do so may result in their being subject to disciplinary action.

Policy on Nondiscrimination on the Basis of Sex. This School District does not discriminate on the basis of sex in the education programs or activities that it operates, and per Title IX and 34 CFR Part 106 will not discriminate in such a manner. The requirement not to discriminate in the education programs or activities extends to employment. Inquiries about the application of Title IX and 34 CFR Part 106 may be referred to the District's Title IX Coordinator, to the Assistant Secretary of the Office for Civil Rights, Department of Education, or both.

Publications. The District will prominently display the contact information required for the Title IX Coordinator and the policy found herein on its website and in each handbook or catalog that it makes available to persons entitled to notification. The District will not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX or 34 CFR Part 106.

Grievance procedure and process adoption. The District shall adopt, publish and provide notice of grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 CFR Part 106 and a grievance process that complies with § 106.45 for a report of sex discrimination or a formal complaint. As defined in §106.30(a), a "Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment." At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District in which a formal complaint is filed.

The District must provide to persons entitled to a notification, notice of the grievance procedures and grievance process, including:

- how to report or file a grievance of sex discrimination,
- how to report or file a formal complaint of sexual harassment, and
- how recipient will respond.

For purposes of this policy and by citation, the definitions in 34 CFR 106.30(a), are adopted (see citations below under LEGAL REF.) For purposes of this policy and in accord with the definitions in 106.30(a), "sexual harassment" means conduct on the basis of sex that satisfies one (1) or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

(3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30)."

Upon receiving a report regarding sex discrimination or sexual harassment with or without a formal complaint, the Title IX Coordinator shall provide a response to complainant and respondent of non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge which provide supportive measures and which shall include, discussion of supportive measures and informing them of what is available without a formal complaint. The Title IX Coordinator is responsible for the implementation of supportive measures.

Upon the making of a report regarding sex discrimination or sexual harassment the Title IX Coordinator shall promptly contact the complainant to:

- discuss the availability of supportive measures as defined in § 106.30,
- 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 formal complaint, and
- explain to the complainant the process for filing a formal complaint.

Supportive measures as indicated above may include:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- administrative leave while a grievance is pending,
- emergency removal (following an individualized safety and risk analysis), and
- other similar measures.

In responding to a report or formal complaint the District must treat complainant and respondent equitably by offering both supportive measures.

The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Retaliation prohibition. No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or § 106, or because the individual has made a report or grievance, testified, assisted, or participated in or

refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or grievance of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

Corrective measures. A finding of responsibility will be a determination that the District or a person in the District has violated policy and actions to correct the discriminatory practice or change the behavior of those involved will be instituted. Remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District, if appropriate.

A substantiated report of sex discrimination or formal complaint finding responsibility against a staff member in the District shall subject such staff member to disciplinary action in accord with GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members or GDQD - Discipline, Suspension, and Dismissal of Support Staff Members.

A substantiated report of sex discrimination or formal complaint finding responsibility against a student in the District shall subject that student to disciplinary action, which may include the permissible penalties of JK - Student Discipline and/or JKD - Student Suspension/Expulsion.

Nondiscrimination on the Basis Of Sex Regulation (A-0311)

The procedures that follow are specified in 34 C.F.R. Part 106 at 106.45 as required by 106.44a and though listed as a regulation are federal regulations implementing Title IX of the Education Amendments of 1972 as amended. Therefore, this regulation is considered the same as policy.

The following procedures apply to all reports and formal complaints of sexual harassment that may be received with the following exceptions for reports of sex discrimination that are not formal complaints:

- notice of the allegations,
- consolidation of formal complaints,
- dismissal of formal complaints,
- investigation of formal complaints, and
- any part of a noted procedure that is specified for a formal complaint.

Discrimination on the Basis of Sex

A District's treatment of a complainant or a respondent in response to a report or formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX. For the purpose of addressing formal complaints of sexual harassment, the grievance process must comply with the following requirements. Any provisions, rules, or practices other than those required by § 106.45 as part of this grievance process for handling formal complaints of sexual harassment as defined in § 106.30, must apply equally to both parties.

Basic Requirements

A district's grievance process will:

- Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent. Remedies will be designed to restore or preserve equal access to the District's education program or activity. Such remedies will include the same individualized services described in § 106.30 as "supportive measures;" however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;
- Require an objective evaluation of all relevant evidence - including both inculpatory and exculpatory evidence - and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
- Any individual designated by a District as a Title IX Coordinator, investigator, decision-maker, or any person designated by a District to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The District will ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The District will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of § 106.45. The District also will ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of § 106.45. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and shall promote impartial investigations and adjudications of formal complaints of sexual harassment;
- It is to be presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the District offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;
- Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the District may implement following any determination of responsibility;
- Use the preponderance of the evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;
- Include the procedures and permissible bases for the complainant and respondent to appeal;
- Describe the range of supportive measures available to complainants and respondents; and
- Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Notice of Allegations

The following is required upon receipt of a formal complaint

- The District must provide the following written notice to the parties who are known:
 - Notice of the District's grievance process that complies with § 106.45, including any informal resolution process.
 - Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in § 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include if known:
 - the identities of parties involved in the incident,
 - the conduct allegedly constituting sexual harassment under § 106.30, and
 - the date and location of the alleged incident.
 - The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 - The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of § 106.45, and may request to inspect and review evidence under paragraph (b)(5)(vi) of § 106.45.
 - The written notice must inform the parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. That information may be found at;
 - GBEB Standard II, GBEBB last sentence and GCQF Misconduct for Professional staff,
 - GDQD Categories of Misconduct for Support Staff,
 - JK for students.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to paragraph (b)(2)(i)(B) of § 106.45, the District must provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a formal complaint:

- The District must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or § 106. Such a dismissal does not preclude action under another provision of the District's code of conduct.
- The District may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or the respondent is no longer enrolled or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- Upon a dismissal required or permitted pursuant to paragraph (b)(3)(i) or (b)(3)(ii) of § 106.45, the District must promptly send written notice of the dismissal and reasons therefor simultaneously to the parties.

Consolidation of Formal Complaints

The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one (1) complainant against one (1) or more respondents, or by one (1) party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one (1) complainant or more than one (1) respondent, references in § 106.45 to the singular "party," "complainant," or "respondent" include the plural, as applicable.

Investigation of Formal Complaints

When investigating a formal complaint and throughout the grievance process, the District must:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties provided that the District cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a grievance process under § 106.45 (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the District must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate;
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

- Prior to completion of the investigative report, the District must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- The District must make all such evidence available for the parties' inspection and review and at any hearing, give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing (if a hearing is required under § 106.45 or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

Alternative to Hearings

The District's grievance process will not provide for a hearing.

- After the District has sent the investigative report to the parties pursuant to paragraph (b)(5)(vii) of § 106.45 and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Determination Regarding Responsibility

The decision-maker(s), who cannot be the same persons as the Title IX Coordinator or the investigators, must issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the standard of evidence described herein.

The written determination must include:

- Identification of the allegations potentially constituting sexual harassment as defined in § 106.30;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the District's code of conduct to the facts;

- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and
- The District's procedures and permissible bases for the complainant and respondent to appeal if the District offers an appeal.

The District must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for ensuring the implementation of any remedies.

Appeal

The District must offer both parties an appeal from a determination regarding responsibility, and from the District's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigators, or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The District may offer an appeal equally to both parties on additional bases.

As to all appeals, the District must:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- Ensure that the decision-maker(s) for the appeal complies with the standards set forth in paragraph (b)(1)(iii) of § 106.45;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

Informal Resolution

The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with § 106.45. Similarly, the District may not require the parties to participate in an informal resolution process under § 106.45 and may not offer an informal resolution process unless a formal complaint is filed.

At any time prior to reaching a determination regarding responsibility the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District:

- Provides to the parties a written notice disclosing, the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- Obtains the parties' voluntary, written consent to the informal resolution process; and
- Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

At any time prior to agreeing to a resolution:

- Any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Recordkeeping

The District must maintain for a period of seven (7) years records of:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under paragraph (b)(6)(i) of § 106.45, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
- Any informal resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District must make these training materials publicly available on its website, or if the District does not maintain a website the District must make these materials available upon request for inspection by members of the public; and
- For each response required under § 106.44, the District must create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity.

If the District does not provide a Complainant Supportive Measures

If the District does not provide a complainant with supportive measures, then the District must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

Nondiscrimination on the Basis Of Sex Regulation (A-0312)

Compliance Officer

The Title IX Coordinator shall be the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination by an agent or employee of the District or who knows of such discrimination against another person on the basis of sex should file a complaint with the Title IX Coordinator's Office using the following information.

Title: Title IX Coordinator
Address: 405 Hunter Street; Española, NM 87532
Phone: (505) 367-3351 / (505) 901-2549
e-mail: titleixcompliant@k12Española.org

Grievance Procedure

Any student or employee of the School District who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any School District education program or activity on the basis of sex in violation of Board of Education Policy, may file a report of sex discrimination or a formal complaint with the Title IX Coordinator.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment). Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. A report may be made to any District employee and that employee shall make the report to the Title IX Coordinator within one (1) school day of receipt. Failure to make such a report upon its receipt shall expose the employee to disciplinary action in accord with District policies.

The District is committed to investigating each report and to taking appropriate action on all confirmed violations of policy. The Title IX Coordinator shall have reports investigated and document those filed pursuant to this regulation as soon as reasonable. In investigating the report, confidentiality will be maintained to the extent reasonably possible.

Upon receiving of a report regarding sex discrimination, which may include sexual harassment, with or without a formal complaint, the Title IX Coordinator shall have a response provided to complainant and respondent of non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge which provide supportive measures and which shall include, discussion of supportive measures and inform them of what is available without a formal complaint.

The Title IX Coordinator is responsible for implementation of supportive measures.

Upon the receipt of a report regarding sex discrimination or sexual harassment the Title IX Coordinator shall promptly contact the 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 formal complaint, and
- explain to the complainant the process for filing a formal complaint (See ACA-E).

Supportive measures may include:

- counseling,
- extensions of deadlines or other course-related adjustments,

- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- administrative leave while a grievance is pending,
- emergency removal (following an individualized safety and risk analysis), and
- other similar measures.

The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator shall contact the complainant and gather information to complete the grievance report. Following completion of the forms, the Title IX Coordinator shall cause an investigation and documentation of complaints filed pursuant to Policy ACA and Regulation ACA-RA in so far as it applies and as soon as is reasonable. In investigating the grievance, confidentiality will be maintained to the extent reasonably possible.

The Title IX Coordinator shall, upon the investigations drawing to a close and prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy

The parties shall have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report.

After the District has sent the investigative report to the parties and before reaching a determination regarding responsibility, the Superintendent or decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

The Superintendent or decision-maker shall upon having the investigative report completed, and if there is reason to believe that a violation of policy has occurred:

- provide a written determination which must include;
 - identification of the allegations potentially constituting sexual harassment,
 - a description of the procedural steps taken from the receipt of the formal complaint through the determination, including
 - any notifications to the parties.
 - interviews with parties and witnesses.
 - site visits.
 - methods used to gather other evidence, and
 - hearings held.

- o findings of fact supporting the determination.
- o conclusions regarding the application of the District's code of conduct to the facts.
- o a statement of, and rationale for, the result as to each allegation, including
 - a determination regarding responsibility.
 - any disciplinary sanctions the District imposes on the respondent.
 - whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant.
- o the District's procedures and permissible bases for the complainant and respondent to appeal if the District offers an appeal.

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

If the person alleged to have violated policy is a support staff employee, due process and discipline under Policy GDQD may apply if the evidence so warrants.

If the person alleged to have violated policy is a student, the discipline may be imposed in accordance with Policies JK and JKD.

Appeals

The District shall offer both parties an appeal from a determination regarding responsibility, and from the District's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Timelines (following the procedures found in ACA-RA)

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

Once the grievance report has been received, the grievance form provided by the District is to be completed within one (1) working day, if possible. The Title IX Coordinator shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within ten (10) working days of obtaining the information in the form ACA-E, so far as was possible.

If the complainant is not satisfied with the actions taken by the administration as indicated in the response and efforts to alleviate the discrimination alleged, the complainant will have ten (10) days within which

to submit a written objection, including a statement of the reason for their objection, to the Superintendent.

The Superintendent will have ten (10) additional working days to respond in writing to the complaining party regarding the objection.

If the complainant or respondent is not satisfied with the Superintendent's response and efforts to alleviate the discrimination alleged, establish responsibility or dismiss any allegations, the complainant or respondent will have ten (10) days within which to submit a written objection to the Board based on one of the following:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Board will then review the record of the investigation and have thirty (30) days to respond to the complaining party in writing.

Extension or Delay request

Either the person who reported or the District may request a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

Española Public Schools Map

