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## Lopatcong Township Board of Education

Support Staff Members

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### **4111 – Creating Positions**

The Board of Education recognizes its authority to establish support staff positions that, when filled by qualified employees, will assist the district in the achievement of educational goals set by the Board.

The Board will create new positions as required, approve a job title appropriate to the position, and determine the number of persons required to staff adequately each such position.

The Superintendent shall recommend to the Board such new positions or additional staffing in existing positions as may be required by pupil enrollments and the operational needs of the district.

#### **Legal Regulations**

N.J.S.A. 18A:16-1; 18A:17-24; 18A:28-1

Adopted: August 18, 2009



### **4124 – Employment Contract**

The Board of Education requires that every non-tenured employee annually sign an employment contract for a term of not more than one year.

The employment contract will include the date; name of the employee; the beginning and ending dates of service (fixed term appointment); the salary to be paid and the manner of payment; an authorization for salary deductions as applicable; and such other terms and conditions as may be necessary to a complete statement of the employment relationship.

The contract may include a provision for a probationary employment period with a provision providing the Board the right to terminate the employment of the non-tenured support staff member at the completion of the probationary employment period. The contract will include a provision for the termination of the non-tenured support staff member's contract by either party on thirty (30) calendar day's written notice.

In the event that the salary entered on the written contract differs from that formally approved by the Board, the salary approved by the Board will be the salary paid.

Adopted: August 18, 2009  
Revised: November 12, 2013



### **4125 – Employment of Support Staff Members (M)**

The Board of Education believes it is vital to the successful operation of the school district that support staff member positions be filled with highly qualified and competent professionals.

In accordance with the provisions of N.J.S.A. 18A:27-4.1, the Board will appoint, transfer, remove, or renew a certificated or non-certificated officer or employee only upon the recommendation of the Superintendent and by a recorded roll call majority vote of the full membership of the Board. The Board will not withhold its approval for arbitrary and capricious reasons. The Board will approve the employment, fix the compensation, and establish the term of employment for every support staff member employed by this district.

The Board will employ substitutes for absent support staff members in order to ensure continuity in a program and will annually approve a list of substitutes and rate of pay. The Superintendent (or designee) will select substitutes from the list approved by the Board to serve in the place of an absent support staff member.

The Board may use a private contractor to secure a substitute support staff member.

The Board of Education will not employ for pay or contract for the paid services of any support staff member or any other person serving in a position which involves regular contact with students unless the Board has first determined consistent with the requirements and standards of N.J.S.A. 18A:6-7.1 et seq. that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify the individual from being employed or utilized in such capacity or position.

An individual employed by the Board or a school bus contractor holding a contract with the Board, in the capacity of a school bus driver, will be required to meet the criminal history record requirements as outlined in N.J.S.A. 18A:39-19.1.

The Board will employ paraprofessional school aides and/or classroom aides to assist in the supervision of student activities under the direction of a Principal, teacher, or other designated certified professional personnel. Aides will serve the needs of students by performing nonprofessional duties and may work only under the direct supervision of a teaching staff member(s).

In accordance with the requirements of No Child Left Behind Act of 2001, paraprofessionals hired after January 8, 2002, who work in a program supported with Title I, Part A funds, with certain exceptions, must meet one of the following criteria:

1. Completed at least two years of study at an institution of higher education;
2. Obtained an associate's (or higher) degree; or
3. Met a rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).



Paraprofessional staff working in a Title I school, and whose salary is paid for in whole or in part with Title I funds, must have met one of the criteria listed above by the end of the 2005-2006 school year. The Superintendent will ensure paraprofessionals working in a program supported with Title I funds meet the above stated requirements.

An individual employed by the Board in any substitute capacity or position will be required to undergo a criminal history record check in accordance with the provisions of N.J.S.A. 18A:6-7.1b.

An individual, except as provided in N.J.S.A. 18A:6-7.1g, will be permanently disqualified from employment or service in the school district if the criminal history record check reveals a record of conviction for any crime or offense as defined in N.J.S.A. 18A:6-7.1 et seq.

The Board or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal history record check if the Board or contracted service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment as prescribed in N.J.S.A. 18A:6-7.1c. In the event the criminal history record check is not completed for an emergent hired employee within three months, the Board or contracted service provider may petition the Commissioner for an extension of time, not to exceed two months, in order to retain the employee.

No criminal history record check will be performed unless the applicant will have furnished written consent to such a check. The applicant will bear the cost for the criminal history record check, including all costs for administering and processing the check. The district will deny employment to an applicant if the applicant is required and refuses to submit to a criminal history record check.

The Board of Education prohibits any relative of a Board member or the Superintendent from being employed in an office or position in the school district in accordance with the provisions of N.J.A.C. 6A:23A-6.2 and Board Policy #0142.01 – Nepotism.

A support staff member's misstatement of fact material to his/her qualifications for employment or the determination of his/her salary will be considered by the Board to constitute grounds for dismissal.

### Legal References

N.J.S.A. 18A:6-5; 18A:6-6; 18A:6-7.1; 18A:6-7.1b; 18A:6-7.1c; 18A:6-7.2;  
18A:16-1 et seq.; 18A:26-1 et seq.; 18A:27-1 et seq.; 18A:27-4.1;  
18A:27-7; 18A:27-8; 18A:39-19.1

Adopted: August 18, 2009  
Revised: July 22, 2014



### **4140 – Termination**

The Board of Education will enter a contract with each non-tenured support staff member providing, in part, for the termination of employment by either party. The Board may terminate the employment of an employee for incompetence, immorality, unfitness for service, insubordination, reduction in force, or other good cause. Any notification of termination for cause will include a full statement of the reasons for the dismissal on notice duly given a non-probationary employee.

The Board may terminate an employment contract with a non-tenured support staff member only upon the recommendation of the Superintendent and by a recorded roll call majority vote of the full membership of the Board. The Board will not withhold its approval for arbitrary and capricious reasons. N.J.S.A. 18A:27-4.1. The Board may with a majority vote of its full membership in public session and without the recommendation of the Superintendent, terminate an employment contract with a non-tenured support staff member.

The Board may temporarily suspend an employee with or without pay and without notice when his/her continued services may be inimical to the interests of pupils.

#### **Legal References**

N.J.S.A. 18A:6-10; 18A:17-2; 18A:17-3; 18A: 27-4.1

Adopted: August 18, 2009



### **4145 – Layoffs**

The Board of Education shall provide the support staff necessary for the operation of the district in a manner that is efficient and economical.

The Board reserves the right to abolish support staff positions and reduce district staff commensurately whenever reasons of economy, reorganization of the school district, reduction in the number of pupils, or other good cause so warrant. The Superintendent shall continually review the efficiency and effectiveness of district organization and recommend to the Board the creation and abolishment of support staff positions and the reallocation of duties and positions.

When two or more employees are employed in the same classification of employment in which a position is abolished, the employee shall be reemployed who has demonstrated greater competence.

When, as the result of the abolishment of a position, an employee is demoted in position, the employee shall receive the salary of the position to which he/she has been assigned.

### **Legal References**

N.J.S.A. 18A:6-10; 18A:17-4

Adopted: August 18, 2009





### **4146 – Non-Renewal of Non-Tenured Support Staff Member**

The Board will renew the employment contract of a non-tenured support staff member only upon the recommendation of the Superintendent and by a recorded roll call majority vote of the full membership of the Board. The Board will not withhold its approval for arbitrary and capricious reasons. A non-tenured support staff member who is not recommended for renewal by the Superintendent is deemed non-renewed.

When the non-tenured support staff member's performance does not meet the standards of the district, the Superintendent will recommend non-renewal of the support staff member's contract. Prior to notifying the non-tenured support staff member of the non-renewal, the Superintendent will notify the Board of the recommendation not to renew the support staff member's contract and the reasons for the recommendation. The Superintendent may notify the Board in a written notice or in executive session at a full Board meeting. In the event the Board is notified in Executive Session, the Superintendent will comply with the requirements of the Open Public Meetings Act and provide reasonable notice to the non-tenured support staff member their employment will be discussed in executive session in order for the support staff member to exercise their statutory right to request a public discussion.

The Superintendent will notify each non-tenured support staff member to whom reemployment will not be offered in writing in accordance with the terms of any applicable collective bargaining agreement, individual contract, or any other agreement between the parties. Paraprofessionals continuously employed since the preceding September 30<sup>th</sup> as a school aide or classroom aide in a school district that receives funding under Title I of the Federal Elementary and Secondary Education Act of 1965 will be notified of renewal or nonrenewal on or before May 15<sup>th</sup> in each year in accordance with the provisions of N.J.S.A. 18A:27-10.2.

A non-tenured support staff member whose contract is not renewed will have the right to a written statement of the reasons for non-renewal, provided the request for the statement of reasons is made within fifteen (15) calendar days of the Superintendent's written notification of non-renewal to the support staff member. The statement of reasons will be provided to a non-tenured support staff member within thirty (30) calendar days after the receipt of the request.

Whenever a non-tenured support staff member has requested in writing and received a written statement of reasons for not being reemployment, the non-tenured support staff member will have the right to an informal appearance before the Board to permit the support staff member an opportunity to convince the members of the Board to offer reemployment, provided that a request for such an appearance is received within ten (10) calendar days after the support staff member receives the statement of reasons provided by the Superintendent. The informal appearance before the Board will be held in accordance with the provisions of N.J.A.C. 6A:10-8.1.

The Board is not required to offer reemployment or vote on reemployment after an informal appearance with a non-tenured support staff member who was not recommended for reemployment by the Superintendent. The Board may, with a majority vote of its full membership in public session and



without the recommendation of the Superintendent, offer the non-tenured support staff member reemployment after the informal appearance before the Board. The support staff member will be notified of the Board's final determination within three (3) working days following the informal appearance before the Board.

The provisions as outlined in this Policy and its associated Regulation #R4146 may be revised or adjusted by the Superintendent to be in accordance with the terms and timelines of any applicable collective bargaining agreement, individual contract, or any other agreement between the parties provided the terms are not contrary to any statute, administrative code, or any management rights of the Board.

This policy does not apply to the contract renewal of the Treasurer of School Moneys, Board Auditor, Board Attorney, or Board Secretary, except a Board Secretary who performs business administration functions.

### Legal References

N.J.S.A. 18A:27-4.1

Adopted: August 18, 2009  
Revised: January 7, 2014



### **R4146 – Non-Renewal of Non-Tenured Support Staff Member**

#### **A. Evaluations**

1. Each non-tenured support staff member will be evaluated at least once each school year.
2. Evaluations will set forth both the strengths and weaknesses of the non-tenured support staff member to provide an accurate assessment of his/her performance and to encourage the improvement of that performance.
3. Supervisors will constructively point out performance deficiencies and offer assistance to non-tenured support staff members in the improvement of professional skills.

#### **B. Non-Renewal Recommendation**

1. When a non-tenured support staff member's performance does not meet the standards of the district, the support staff member's immediate supervisor will recommend to the Superintendent, no later than April 1st, that the support staff member should not be reemployed in the following school year.
2. The non-tenured support staff member will be informed by the Superintendent, in writing, that employment for the next succeeding school year will not be offered. This written notice will be provided to the non-tenured support staff member in accordance with the terms of any applicable collective bargaining agreement, individual contract, or any other agreement between the parties.
3. A recommendation by the Superintendent for non-renewal may be based on the non-tenured support staff member's evaluations, job performance, or any factor affecting his/her employment in this district.
4. A non-tenured support staff member contract can only be renewed upon the Superintendent's recommendation and a majority vote of the full Board. The Board may not withhold its approval for arbitrary and capricious reasons.

#### **C. Non-Renewal Action**

1. The Superintendent will notify the Board members of the recommendation not to renew the a non-tenured support staff member's contract before notifying the support staff member of the recommendation to not renew. The Superintendent may notify the Board members of the recommendation not to renew the non-tenured support staff member's contract and the reasons for the recommendation in a written notice to the Board. In the alternative, the Superintendent may notify the Board members of the recommendation not to renew non-tenured support staff members in Executive Session. Using this option, the Board will meet in Executive Session to review the Superintendent's recommendation(s) for non-renewal of non-tenured support staff members. Notice of the Executive Session will be given in accordance with N.J.S.A. 10:4-13 and individual notice will be given, not less than forty-eight (48) hours in advance of the



meeting, to those non-tenured support staff members whose possible non-renewal will be discussed at the meeting. If any such employee requests the discussion take place in public, the recommendation for his/her non-renewal will be severed from any other non-renewal recommendation and will be scheduled for discussion at a public meeting.

2. A non-tenured support staff member not recommended for renewal by the Superintendent is deemed not renewed. A Board vote is not required on the Superintendent's recommendation(s) to not renew a non-tenured support staff member's contract.

#### **D. Notice of Non-Renewal**

1. Notice of the Superintendent's decision not to renew will be given to each non-tenured support staff member not recommended for renewal in accordance with the terms of any applicable collective bargaining agreement, individual contract, or any other agreement between the parties. The Board may delegate the Superintendent or the Board Secretary to give the written notice of non-renewal.
2. The non-renewal notice will be in writing and provided to the non-tenured teaching staff member not recommended for renewal in accordance with the terms of any applicable collective bargaining agreement, individual contract, or any other agreement between the parties. If hand delivered, a record will be made of the date on which delivery was made. If sent by mail, the notice will be sent registered mail, return receipt requested, to the non-tenured support staff member's address of record.

#### **E. Request for Statement of Reasons**

1. A non-renewed support staff member will be given a written statement of the reasons for which he/she was not renewed provided the support staff member's request for a statement of reasons has been received by the Superintendent within fifteen (15) calendar days after the support staff member has received written notice of his/her non-renewal.
2. The statement of reasons for a non-renewal will set forth, with as much particularity as possible, the precise reasons for the non-renewal. Where the non-renewal is based on performance deficiencies recorded in the employee's evaluations and the employee has been given a copy of those evaluations, the statement of reasons may incorporate the evaluations by reference.
3. The statement of reasons may be prepared by the Superintendent or the Board Secretary and will be delivered to the employee who requested it within thirty (30) calendar days after the receipt of the employee's request.

#### **F. Non-Renewal Appearance**

1. A support staff member who has requested a statement of reasons for his/her non-renewal will be granted an informal appearance before the Board to discuss those reasons, provided that he/she had submitted to the Superintendent a written request for such an appearance no later



than ten (10) calendar days after the support staff member's receipt of the written statement of reasons.

2. A date for the informal appearance will be scheduled within thirty (30) calendar days from the support staff member's receipt of the Board's statement of reasons. The appearance will be conducted at an executive session for which notice has been given in accordance with N.J.S.A. 10:4-13. The Board will determine a reasonable length of time to be devoted to the appearance, depending on the each instance's specific circumstances. The proceeding of an informal appearance before the Board may be conducted pursuant to N.J.A.C. 10:4-12(b)(8).
3. The support staff member requesting the appearance will be given written notice, no later than forty-eight (48) hours in advance of the meeting at which it is scheduled, of the date, time, place, and duration of the appearance.
4. The purpose of the appearance will be to permit the non-renewed support staff member to convince the members of the Board to offer reemployment. To those ends, the appearance will be informally conducted. This appearance provides a mechanism by which the non-tenured support staff member, whose renewal has not been recommended by the Superintendent, can appeal to the Board, on which the Superintendent sits as a non-voting member pursuant to N.J.S.A. 18A:17-20. The proceeding of an informal appearance before the Board will be conducted with the President of the Board presiding and the appearance will not be an adversary proceeding.
5. The support staff member may be represented by an attorney or by one individual of his/her choosing. He/she may present witnesses to testify on his/her behalf. Witnesses do not need to present testimony under oath, and their statements may be recorded. The Board will hear witnesses and will not cross-examine them. Witnesses will be called into the meeting to address the Board one at a time and will be excused from the meeting after making their statements.

### **G. Final Determination**

1. A non-tenured support staff member not recommended for renewal by the Superintendent is deemed not renewed. A Board vote is not required on the Superintendent's recommendation(s) to not renew a non-tenured support staff member. However, after an informal appearance before the Board, the Superintendent may make a recommendation for reemployment to the voting members of the Board. The voting members of the Board, by a majority vote of the full Board in public session, must approve the reemployment based on the Superintendent's recommendation.
2. The Board may, with a majority vote of its full membership in public session and without the recommendation of the Superintendent, offer the non-tenured support staff member reemployment after the informal appearance before the Board.



3. The final determination will be delivered to the non-tenured support staff member, in writing, no later than three (3) working days following the informal appearance. The Board may delegate the Superintendent or the Board Secretary to deliver the final determination.

Adopted: August 18, 2009  
Revised: January 7, 2014



### **4150 – Discipline**

The Board of Education directs all support staff members to observe statutes, rules of the State Board of Education, policies of this Board, and duly promulgated administrative rules and regulations governing staff conduct. Violations of those statutes, rules, policies, and regulations will be subject to discipline.

The staff member's immediate supervisor shall deal with disciplinary matters on a case by case basis. Discipline may include, as appropriate, verbal and written warnings, transfer, suspension, freezing wages, and dismissal; discipline will provide, wherever possible, for progressive penalties for repeated violations.

In the event disciplinary action is contemplated, notice will be given to the employee in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based; the text of the statute, policy, rule, or regulation that the employee is alleged to have violated; a date when the employee may be heard and the administrator who will hear the matter; and the penalty that may be imposed. The Superintendent will inform the Board about any disciplinary action taken.

#### **Legal References**

N.J.S.A. 18A:25-7; 18A:27-4

N.J.S.A. 34-13A-1 et seq.; 34:19-1

Adopted: August 18, 2009



### **4154 – Increment Withholding**

The Board of Education recognizes that any increase on a salary schedule, including annual increments and raises, is not automatic but rests within the discretion of the Board.

Advancement in any salary shall require favorable reports covering the employee's competence and thoroughness in the performance of assigned duties as well as the employee's record of attendance and compliance with district regulations.

The Superintendent shall base a recommendation for increment withholding on evaluations of the employee's performance and conduct. The Superintendent must also show to the satisfaction of the Board that the standards by which an employee has been evaluated are not exceptional or unusual and are expected of all employees in a similar classification.

#### **Legal References**

N.J.S.A. 18A:29-14

Adopted: August 18, 2009





### **4159 – Support Staff Member/School District Reporting Responsibilities**

All support staff members will be required to report their arrest or indictment for any crime or offense to the Superintendent within fourteen calendar days of the arrest or indictment. For purposes of this policy, “support staff members” will include all school district employees who hold a position in the school district for which no certificate issued by the New Jersey State Board of Examiners is required.

The report submitted to the Superintendent will include the date of arrest or indictment and charge(s) lodged against the support staff member. Such support staff members will also report to the Superintendent the disposition of any charges within seven calendar days of the disposition. Failure to comply with these reporting requirements may be deemed “just cause” for disciplinary action, which may include termination or non-renewal of employment in accordance with law.

Teaching staff members are required to report their arrest or indictment for any crime or offense in accordance with Board Policy #3159 – Teaching Staff Member/School District Reporting Responsibilities and N.J.A.C. 6A:9B-4.3.

The school district will make these reporting requirements known to all new support staff members upon initial employment and to all employees on an annual basis.

Adopted: November 9, 2010

Revised: August 9, 2016



### **4160 – Physical Examination (M)**

The Board of Education requires each candidate for employment who receives a conditional offer of employment to member undergo a physical examination(s) to determine whether the candidate is able to perform with reasonable accommodation job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990 (ADA).

If upon completing an examination(s) it is determined a candidate for employment who received a conditional offer of employment is unable to perform with reasonable accommodation job-related functions pursuant to the provisions of the ADA, the conditional offer of employment will be rescinded either by the Superintendent, if the Board has not yet approved the appointment, or by the Board, if the Board had approved the appointment at a Board meeting.

The physical examination will include, but is not limited to, a health history to include past serious illnesses and injuries; current health problems; allergies; and a record of immunizations. The physical examination will also include a health screening to include, but not limited to: height and weight; blood pressure; pulse and respiratory rate; vision screening; and hearing screening.

Pursuant to N.J.S.A. 18A:16-3, the Board will bear the cost of physical examinations required by this Policy performed by a physician or institution designated by the Board. However, the candidate will bear the cost if the examination is performed by a physician or institution designated by the candidate with approval of the Board. In the event the Board approves the physician or institution designated by the candidate to complete an examination required by this Policy, the candidate will be provided with the detailed requirements of the examination.

School employee physicals, examinations, and/or annual medical updates do not require screening or disclosure of HIV status.

A Mantoux tuberculosis test will be given to all student teachers, school bus drivers on contract with the district, and contractors or volunteers who have contact with students.

All staff members' medical and health records, including computerized records, will be secured, stored, and maintained separately from other personnel files. The information contained in medical records will be kept confidential. Only the staff member, the Superintendent, the school nurse, and the school physician will have access to medical information regarding an individual employee. Health records may be shared only with authorized individuals in accordance with N.J.S.A. 18A:16-5. The staff member may provide health-status information, including medications that may be of value to medical personnel in the event of an emergency requiring treatment. In such instances, the staff member may also choose to share with the staff member's Building Principal and, with the certified school nurse, information regarding current health status to assure ready access in a medical emergency.

Additional individual psychiatric or physical examinations of any staff member may be required by the Board whenever, in the judgment of the Board, a staff member shows evidence of deviation from normal physical or mental health. Any additional individual examinations will be pursuant to the requirements of N.J.A.C. 6A:32-6.3. Additional examinations and/or certifications may be required to



verify fitness in accordance with [Board Policy #4161 – Examination for Cause](#) or disability in accordance with [Board Policy #4425 – Work-Related Disability](#) and [Board Policy #4435 – Anticipated Disability](#).

### Legal References

42 U.S.C.A. 12101

N.J.S.A. 18A:16-2

N.J.A.C. 6A:32-6.1; 6A:32-6.2; 6A:32-6.3

Adopted: August 18, 2009

Revised: April 25, 2017



### **R4160 – Physical Examination**

#### A. Definitions

1. “Employee” or “staff member” means the holder of any full-time or part-time position of employment.
2. “Health history” means the record of a person’s past health events obtained in writing, completed by the individual or their physician.
3. “Health screening” means the use of one or more diagnostic tools to test a person for the presence or precursors of a particular disease.
4. “Physical examination” means the assessment of an individual’s health by a professional licensed to practice medicine or osteopathy, or by an advanced practice nurse or physician assistant.
5. “Physician assistant” means a health care professional licensed to practice medicine with physician supervision.

#### B. Physical Examinations – Candidates for Employment Who Have Received a Conditional Offer of Employment

Candidates for employment who have received a conditional offer of employment will be required to undergo a physical examination. The physical examination will include, but is not limited to a health history and health screenings to determine whether the candidate is able to perform with reasonable accommodation job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990 (ADA). The candidate for employment will be provided the Board’s requirements for the physical examination.

- a. A health history will include, but not be limited to, the candidate’s:
  - (1) Past serious illnesses and injuries;
  - (2) Current health problems;
  - (3) Allergies; and
  - (4) A record of immunizations.
- b. A health screening will include, but is not limited to:
  - (1) Height;
  - (2) Weight;
  - (3) Blood pressure;
  - (4) Pulse and respiratory rate;
  - (5) Vision screening; and
  - (6) Hearing screening.



### C. Medical Requirements Upon Employment

1. A Mantoux tuberculosis test will be given upon employment of all newly hired staff members (full-time and part-time), and to all student teachers, school bus drivers on contract with the district, and to contractors or volunteers who have contact with students. Tuberculosis testing is not required for volunteers working with students less than twenty hours per month.
  - a. Tuberculosis testing is not required:
    - (1) For new staff members, student teachers, and contractors of the school district with a documented negative tuberculosis test result in the last six months or a documented positive tuberculosis test, regardless of when this test was done; or
    - (2) For a school district staff member transferring between school districts or from a non-public school within New Jersey with a documented tuberculosis test result upon his/her initial employment by a New Jersey school.
  - b. Staff members, student teachers, contractors or volunteers who have contact with students and claim a religious exemption cannot be compelled to submit to tuberculosis testing. In these instances, a symptom assessment must be done (TB-8 Form). If TB-like symptoms are reported, a physician must document that the staff member, student teacher, contractor, or volunteer does not have an active disease.
    - (1) The school district will determine the criteria essential to document a valid religious exemption.
  - c. Procedures for the administration of the Mantoux tuberculosis test, interpretation of reactions, follow-up procedures, and reporting will be conducted in accordance with the guidelines and requirements of the New Jersey Department of Health.
2. An individual support staff member may provide health status information, including medications, that may be of value to medical personnel in the event of an emergency requiring treatment. In such instances, the staff member may also choose to share with the Building Principal, information regarding current health status to assure ready access in a medical emergency.

### D. Health Records

1. All health records of candidates for employment who have received a conditional offer of employment and of current employees, including computerized records, will be secured, stored, and maintained separately from other personnel files.
2. Health records may be shared only with authorized individuals in accordance with N.J.S.A. 18A:16-5.

### E. Employees' Physical Examination and Medical Updates

1. School employee physicals, examinations and/or annual medical updates will not require disclosure of HIV status.



### F. Review of Examinations and Assessments

1. The results of the physical examination of a candidate for employment who has received a conditional offer of employment will be reviewed by the school physician, who, in consultation with the Superintendent, will determine the candidate's physical and mental fitness to function with reasonable accommodation in the position for which he/she has made application. That determination will be made a part of the candidate's application.

### G. Rescinding a Conditional Offer of Employment – Notice to Candidates for Employment Who Receive a Conditional Offer of Employment

1. All candidates for employment who receive a conditional offer of employment will be informed by the district that:
  - a. An offer of employment by the Superintendent of Schools or designee is conditional upon completion of the Board's required physical examinations and assessments;
  - b. The required examinations and assessments will be used to determine the candidate's ability to perform with reasonable accommodations job-related functions pursuant to ADA; and
  - c. If it is determined upon completing the examination(s) or assessment(s) the candidate is unable to perform with reasonable accommodations job-related functions pursuant to the provisions of the ADA, the conditional offer of employment will be rescinded either by the Superintendent if the Board has not yet approved the appointment or by the Board, if the Board had approved the appointment at a Board meeting.

Adopted: August 18, 2009  
Revised: April 25, 2017



### A. Definitions

1. “Employee assurance statement” means a statement signed by the employee certifying that information supplied by the employee is true to the best of the employee’s knowledge.
2. “Employee” or “staff member” means the holder of any full-time or part-time position of employment.
3. “Health history” means the record of a person’s past health events obtained in writing, completed by the individual or their physician.
4. “Health screening” means the testing of people, using one or more diagnostic tools, to determine the presence or precursors of a particular disease.
5. “Medical evaluation” means the examination of the body by the school medical inspector or by any physician licensed to practice medicine.
6. “Physical examination” means the assessment of an individual’s health.
7. “Psychiatric examination” means an examination for the purpose of diagnosis and treatment of mental disorders.

### B. Employees’ Initial Physical Examination

Each newly employed support staff member shall be required to undergo a physical examination. The physical examination shall include, but is not limited to a health history, health screenings, and medical evaluation.

1. A health history shall be completed by the employee or by his/her physician which shall include the employee’s:
  - a. Past serious illnesses and injuries;
  - b. Current health problems;
  - c. Allergies; and
  - d. Record of immunizations.
2. The employee shall submit to health screenings which shall include his/her:
  - a. Height and weight;
  - b. Blood pressure;
  - c. Pulse and respiration rate;
  - d. Vision screening; and
  - e. Hearing screening.
3. Health screening shall also include the conduct of a Mantoux test for the presence of tuberculosis infection.



- a. A newly employed member will be exempt from the Mantoux test if he/she presents satisfactory documentation of a test
    - (1) Administered in a New Jersey school district from which the member has transferred, or
    - (2) Administered in any place within the six months previous to the member's initial employment in this district.
  - b. Procedures for the administration of the Mantoux test, interpretation of reactions, follow-up procedures, and reporting shall be conducted in accordance with the guidelines issued by the State Department of Health and titled School Tuberculin Testing in New Jersey.
  - c. If the results of the Mantoux test so indicate, the employee shall be referred for a chest X-ray and medical evaluation to determine the presence of tuberculosis at the employee's expense. The employee shall submit the report of the X-ray and evaluation to the school medical inspector. If the school medical inspector does not receive the report within four weeks of the referral or is unwilling to accept the findings of the report, he/she may direct the employee to submit to a chest X-ray examination at Board expense, the results of which will be reported directly to the school medical inspector.
  - d. An employee who presents a physician's or nurse practitioner's documentation, acceptable to the school medical inspector, showing significant tuberculin reaction and a subsequent negative chest X-ray will be exempt from the Mantoux test.
4. A medical evaluation that shall be limited to those assessments or information necessary to determine the employee's physical and mental fitness to perform with reasonable accommodation in the position which the employee seeks or currently holds and to detect any health risks to pupils and other employees. The employee's medical evaluation shall include, but not be limited to, a record of immunizations. Guidance regarding immunizations for adults may be found in "Adult Immunization: Recommendations of the Immunization Practices Advisory Committee (ACIP)", available from the Immunization Program, Centers for Disease Control, Public Health, U.S. Department of Health and Human Services, Atlanta GA 30333.
  5. A support staff member may provide health status information, including medications, which may be of value to medical personnel in the event of an emergency requiring treatment. The staff member may also choose to share with the Principal, information regarding current health status to assure ready access in a medical emergency.

### C. Health Records

1. All employee medical records, including computerized records, shall be secured, and shall be stored and maintained separate from other personnel files.
2. Only the employee, the Superintendent, the school nurse, and the district physician shall have access to the medical information in that individual's file.
3. The portion of the employee's medical record containing a health history may be shared with the Principal with the consent of the employee, as provided in paragraph B.5. above.





### D. Examination of School Bus Drivers

School bus drivers employed by a contractor supplying transportation services to this district shall be tested for tuberculosis in accordance with paragraph B3 of this regulation.

### E. Employees' Physical Examination and Medical Updates

School employee physicals, examinations and/or annual medical updates shall not require disclosure of HIV status.

### F. Candidates Records

1. All records regarding pre-employment physicals and drug tests will be maintained in separate medical files and treated as confidential medical records. These records will be:
  - a. Kept separate from a candidate's personnel file;
  - b. Kept in a locked cabinet in a central school district location; and
  - c. Accessible only to the Superintendent and/or designee.
2. The records of a candidate's physical examination will be submitted to the school medical inspector, who will determine the candidate's physical and mental fitness to function with reasonable accommodation in the position for which he/she has made application. That determination will be made a part of the candidate's application.
3. A candidate's medical records will be maintained separately from his/her application and will be kept confidential in accordance with paragraph D.
  - a. If and when the candidate is employed by this district, the records will be kept in the person's medical file.
  - b. If the candidate is not employed by this district within three years the records will be destroyed.

Adopted: August 18, 2009



### **4161 – Examination for Cause**

The Board of Education may, in accordance with law, require the psychiatric or physical examination of any support staff member who shows evidence of deviation from normal physical or mental health.

The Superintendent shall recommend to the Board the examination of any support staff member whose physical or mental condition so departs from normal health as to adversely affect the performance of the member's duties. Any such recommendation must be accompanied by competent evidence. If the Board determines that deviation from normal health has been demonstrated, it may require that the member submit to a physical or mental examination. A Rice notice to the employee is required if the Superintendent discusses this matter with the Board in executive session.

A requirement for physical or mental examination shall be made known to the employee by written notice setting forth the nature of the examination required, the reasons for the requirement, and a statement offering the member the opportunity to appear before the Board to explain or refute those reasons, provided any such hearing is requested in writing within five working days of the receipt of the notice.

A support staff member who fails to request an appearance before the Board within the time permitted or, having appeared before the Board, fails to persuade the Board that he/she should not be required to submit to the required examination shall be ordered to submit to an appropriate examination by a physician or institution designated by the Board and at the Board's expense.

The support staff member may, at his/her option, submit names of physicians or institutions to the Board for consideration to complete the appropriate examination(s). The Board is not required to designate a physician or institution submitted for consideration by the support staff member, but the Board will not act unreasonably in withholding its approval of a physician or institution submitted by a support staff member. The cost of the examination will be borne by the Board if the Board designates a physician or institution from the names submitted from the support staff member.

If the support staff member's request is denied, or if the support staff member does not request the Board to consider a physician or institution, the staff member may elect to submit to an appropriate examination conducted by a physician or institution of the support staff member's own choosing and at his/her expense, provided the physician or institution so chosen is approved by the Board, pursuant to N.J.S.A. 18A:16-3, and is authorized and directed by the member to report the results of the examination to the Board.

If the results of the examination show mental abnormality or communicable disease, the support staff member shall be placed on sick leave and compensated in accordance with his/her sick leave entitlement, if any, until proof of recovery, satisfactory to the Board, is furnished. No leave of absence granted under this policy shall exceed the term of the contract of a non-tenured support staff member or a period of two years in the case of a tenured support staff member.



A support staff member who refuses to submit to the examination required by the Board and has exhausted the hearing procedures established by law and this policy shall be subject to discipline, which may include the certification of tenure charges to the Commissioner of Education.

### Legal References

42 U.S.C.A. 12101

N.J.S.A. 18A:6-10; 18A:16-2; 18A:16-4; 18A:30-1 et seq.

N.J.A.C. 6A:32-6.3

Adopted: August 18, 2009



### **4211.03 – Consulting Outside the District**

The Board of Education recognizes that support staff members will have expertise and knowledge in areas that other school districts, agencies, and other entities may desire. Recognizing that the school district will request the expertise from support staff members from other school districts, agencies and other entities, the Board supports sharing of its support staff members with other school districts, agencies, and other entities to the extent it does not interfere with the efficient operation of the school district.

The Superintendent may approve a support staff member's attendance in another school district, agency or other entity without additional remuneration to the support staff member or school district, upon a written request from the agency or from the support staff member. The Board will be informed of any unpaid "consulting" that is done at the discretion of the Superintendent.

The Board of Education recognizes support staff members will have expertise and knowledge in areas that other school districts, public and private agencies, and private business organizations may desire to compensate as a paid consultant. When a support staff member serves as a paid consultant, the support staff member is not permitted to use normal work hours for any paid consulting activities. The support staff member must complete any paid consulting activities on their own time to include vacation days, evenings, weekends, and/or school holidays. Support staff members may not use school district facilities and/or equipment for paid consulting activities.

The support staff member must comply with the New Jersey School Ethics Act N.J.S.A. 18A:12-21 et seq. and, if required, must comply with financial disclosure requirements of N.J.S.A. 18A:12-24 and 12-25.

#### **Legal References**

N.J.S.A. 18A:12-21 et seq.

Adopted: August 18, 2009



### **R4211.03 – Consulting Outside the District**

The Board of Education recognizes that support staff members will have expertise and knowledge in areas that other school districts, agencies, private business organizations and other entities may desire. Recognizing that the school district will request the expertise from support staff members from other school districts, agencies, private business organizations and other entities the Board supports sharing of its support staff members with other school districts and agencies to the extent it does not interfere with the efficient operation of the school district.

#### **A. Definitions**

1. Agency – A public or private agency requesting the services of the school district’s support staff member.
2. Other school districts – A school district other than the school district that employs the support staff member, including all supervisory and administrative personnel.
3. Out-of-pocket expenses – Expenses that provide reimbursement for such items as travel, lodging, meal expenses, parking, copy costs, and supply costs.
4. Remuneration – Any compensation, including, but not limited to, a paid stipend, an hourly fee, a per day fee, and/or any benefit conferred upon the support staff member, except out-of-pocket expenses.
5. Staff member – A contracted member of the school district’s support staff, including all supervisory and administrative personnel.

#### **B. Procedure – Consulting For No Additional Remuneration**

1. The support staff member or the agency requesting the expertise and knowledge of the support staff member must submit a written request to the Superintendent or designee. The written request must include the following:
  - a. The date(s) the support staff member will be away from the district;
  - b. The time of day the support staff member will be away from the school district;
  - c. Any out-of-pocket costs to the school district;
  - d. Any reimbursements that the support staff member is entitled to from the other school district or agency;
  - e. The specific services requested of the support staff member; and
  - f. The location where the services will be provided.
2. The Superintendent or designee will evaluate the request to be approved based on the criteria above along with any existing or potential relationships with the other school district for reciprocal services, a reduction in the future or existing cost of services to the school district, the support staff member’s attendance record and the impact of the support staff member being out of the school district for the requested time.



3. The Superintendent or designee will determine and recommend each request on a case by case basis and the decision is final. The Superintendent may require the other district or agency to pay the cost of any substitute personnel related to the request.
4. If deemed to be in the best interest of the school district, the Superintendent may approve the request.
5. The Superintendent's approval will permit the support staff member's consulting activity attendance and the support staff member will receive credit as a regular workday. There shall be no overtime, extra-pay or additional time-off granted to the support staff member.
6. The support staff member must normally complete any paid consulting activities on his/her own time which would include vacation days, evenings, weekends, and/or school holidays; but not personal days. The support staff member may be granted an unpaid leave of absence to perform the consulting activity when such leave is recommended by the Superintendent and approved by the Board.
7. The Superintendent will inform the Board of all approved consulting activities, including the costs and benefits.

### **C. Reporting Activities**

The support staff member must comply with the New Jersey School Ethics Act N.J.S.A. 18A:12-21 et seq. and, if required, must comply with financial disclosure requirements of N.J.S.A. 18A:12-24 and 12-25.

Issued: August 18, 2009



### **4212 – Attendance**

The regular and prompt attendance of support staff members is an essential element in the efficient operation of the school district and the effective conduct of the educational program. Staff member absenteeism disrupts the educational program and the Board of Education considers attendance an important component of a support staff member's job performance.

A support staff member who fails to give prompt notice of an absence, misuses sick leave, fails to verify an absence in accordance with Board policy, falsifies the reason for an absence, is absent without authorization, is repeatedly tardy, or accumulates an excessive number of absences may be subject to appropriate consequences, which may include the withholding of a salary increment, dismissal, and/or certification of tenure charges.

In accordance with N.J.S.A. 18A:30-1, sick leave is defined to mean the absence from work because of a personal disability due to injury or illness or because the support staff member has been excluded from school by the school medical authorities on account of contagious disease or of being quarantined for such a disease in the staff member's immediate household. No support staff member will be discouraged from the prudent, necessary use of sick leave and any other leave provided for in the collective bargaining agreement negotiated with the member's majority representative, in an individual employment contract, or provided in the policies of the Board. In accordance with N.J.S.A. 18A:30-4, the Superintendent or Board of Education may require a physician's certificate to be filed with the Secretary of the Board to obtain sick leave.

The Superintendent, in consultation with administrative staff members, will review the rate of absence among the staff members. The review will include the collection and analysis of attendance data, the training of support staff members in their attendance responsibilities, and the counseling of support staff members for whom regular and prompt attendance is a problem.

### **Legal References**

N.J.S.A. 18A:30-1 et seq.

Adopted: August 18, 2009

Revised: June 9, 2015



### **R4212 – Support Staff Attendance**

#### **A. Reporting Intended Absence**

1. A support staff member who anticipates absence from work will call the sub caller between the hours of 6:00 and 9:00 p.m. the evening before or between 5:30 and 6:30 a.m. the morning of or one and a half hours before the intended absence, whenever possible.
2. The following information will be given by the caller:
  - a. The employee's name, job title, assigned school, and shift (if applicable);
  - b. The day and date of the intended absence; and
  - c. The reason for the absence.
3. Employees must call in daily each intended absence unless absence for more than one day has been approved in advance by the employee's immediate supervisor.

#### **B. Analysis of Absence**

1. Each intended absence of a support staff member shall be reported to his/her immediate supervisor, who shall determine whether or not a replacement is required for the period of absence.
2. The immediate supervisor shall determine whether the absence is acceptable or requires further verification. Reasons for verification include, but are not limited to the following:
  - a. A pattern of absences on the same day(s) of the week;
  - b. A pattern of absences before or after nonworking days;
  - c. The exhaustion or near exhaustion of accumulated sick leave; and
  - d. The habitual exhaustion of personal leave.

#### **C. Review of Absence**

1. If the immediate supervisor deems any reason for absence to be unacceptable or if a staff member has been absent on sick leave more than three consecutive school days or absent an aggregate of more than five working days in any one month for any reason, the immediate supervisor shall conduct an informal discussion with the employee to help the employee improve his/her performance. The supervisor shall keep no record of this conference.
2. If the abuse of absence continues the immediate supervisor shall:
  - a. Notify the employee in writing of the date and time for a formal conference and the reason for the conference,
  - b. Confer with the employee and, if the employee so chooses, his/her representative as well,
  - c. Document the reasons for the absences and offer the employee the opportunity to verify or rebut the documentation, and
  - d. Prepare a report of the conference to be placed in the employee's file and provide the employee with the opportunity to attach written comments and documents thereto.





### D. Record of Attendance

1. A record shall be kept of the attendance of each support staff member, including administrators. Any absence, for part or all of a school day, shall be recorded along with the reason for the absence. An employee's attendance record shall be part of the employee's personnel file.
2. The record will distinguish paid leave, such as sick leave, personal days, family illness, jury duty, and vacation (if applicable), from unpaid leave, such as excessive sick or personal leave. The employee's attendance record will include notation of verification of an absence where such verification is required by [Board Policy #4432 – Sick Leave](#).
3. The record will include each employee's rate of absence as calculated annually, excluding vacation.
4. At the end of each fiscal year, a cumulative attendance record shall be assembled for each school and for the district. An attendance summary shall be prepared from the cumulative attendance record excluding vacation. The attendance summary shall show:
  - a. The rate of absence for the district and each school in the district,
  - b. The rate of absence for each employee in rate order showing highest rate first and average rate for the district,
  - c. Reasons for absence in the case of employees whose rate is more than 1.5 percent above the average for the district, and
  - d. The appointment of substitutes for absent employees and the wages paid to substitutes.

### E. Attendance Improvement Plan

1. The attendance summary shall be analyzed for patterns of absence, such as excessive absenteeism in a given school or work place, among certain groups of employees, for certain specific causes, or on certain days of the week, month, or year.
2. Specific strategies for reducing the rate of absence shall be developed and submitted to the Building Principal.
3. The Building Principal shall be responsible for implementing the approved plan for the improvement of staff member attendance in his/her school building.

### F. In-service Training

The Building Principal or immediate supervisor shall meet with the support staff members assigned to his/her building at the beginning of each school year to:

1. Inform employees of Board policy and district regulations on attendance;
2. Familiarize employees with the procedures to be used in reporting and verifying absences;
3. Review with employees the cost of absenteeism to the district and the value of accumulated sick leave to the employee; and
4. Acquaint employees with the degree to which attendance will affect evaluation reports.



### G. Discipline

1. The record of a conference(s) dealing with excessive absenteeism may serve as an element in the evaluation of any employee's performance and may contribute to a salary recommendation.
2. Employees absent more than six times in a period of three months shall be disciplined by layoff for a period of two days without pay.
3. Employees disciplined under G2 who do not improve their record of attendance shall be recommended to the Superintendent for discharge.

Adopted: August 18, 2009



### **4214 – Conflict of Interest**

No support staff member of the Board of Education shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity which is in conflict with the proper discharge of the support staff member's duties.

No support staff member shall use or attempt to use his/her position to secure unwarranted privileges or advantages.

No support staff member of the Board shall act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest.

No support staff member of the Board shall accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing the support staff member in the discharge of his/her duties.

The Board of Education discourages the presentation of gifts to support staff members by pupils and their parent(s) or legal guardian(s), because it may embarrass pupils with limited means and give the appearance of currying favor.

The Board directs that support staff members instruct pupils to express their appreciation by means other than gifts.

Support staff members may receive gifts of only nominal value from pupils or their parent(s) or legal guardian(s).

### **Legal References**

N.J.S.A. 18A:6-8; 18A:11-1

Adopted: August 18, 2009



### **4215 – Code of Ethics**

All support staff employees will:

1. Represent themselves honestly in the application and selection procedure;
2. Report to work as scheduled;
3. Discuss complaints with their immediate superior, or through approved channels;
4. Not advise or counsel pupils except in special cases with the knowledge and consent of the Building Principal;
5. Complete thoroughly their assigned tasks;
6. Endeavor to establish good working relationships with other employees, professional as well as non-professional;
7. Commit themselves to providing the best possible services for pupils;
8. Uphold all rules and regulations as set by the Board, the Superintendent, and the Building Principals;
9. Keep the trust under which confidential information may be given;
10. Adhere to all the conditions of a contract;
11. Give prompt notice of any change in availability for continued employment; and
12. Protect and care for district property.

Adopted: August 18, 2009



### **4216 – Dress and Grooming**

The Board of Education believes that the appearance and dress of administrative support staff members is an important component in maintaining the professionalism of this school district. The attitude of administrative staff members about their professional responsibilities and the importance of education in the lives of pupils and parents with whom they interface are reflected in their dress and appearance. Accordingly, to create an atmosphere of respect and professionalism for administrative support staff members working with pupils and parents, the Board establishes the following rules for the dress of administrative support staff members in the performance of their professional duties:

1. Female administrative support staff members may wear dresses, skirt or pant suits, or skirts (but no jean/denim skirts or jackets) or pants with blouses or sweaters (during warmer weather golf/polo-type shirts may be worn);
2. Male administrative support staff members may wear suits or slacks with or without jackets; male in-class and administrative staff members must wear a dress shirt with necktie or a turtleneck shirt or sweater with a jacket (during warmer weather golf/polo-type shirts may be worn), jeans are not permitted;
3. Administrative support staff members should not wear sneakers, running shoes, hiking boots, or any footwear prohibited in the pupil dress code (Board Policy #5511 – Dress and Grooming).
4. The clothing and appearance of all administrative support staff members shall be clean and neat;
5. No clothing may be worn that constitutes a danger to health or safety to the wearer or to others;
6. Because they are held to a higher standard, administrative support staff members must also adhere to the pupil dress code (Board Policy #5511 – Dress and Grooming).
7. An administrative support staff member may request a waiver of this dress code for the performance of particular duties or for medical reasons; such waivers may be granted by the Building Principal;
8. The Building Principal or the administrative support staff member's supervisor, as appropriate, shall determine whether a violation of this dress code has occurred and shall discuss the violation with the administrative staff member concerned. Where a single violation so warrants or violations recur, the Principal or supervisor may enter a reprimand in the administrative support staff member's file and may recommend more stringent disciplinary measures.

#### **Legal References**

N.J.S.A. 18A:27-4

Adopted:      October 13, 2009



### **4218 – Substance Abuse (M)**

The Board of Education recognizes a support staff member who reports to work under the influence of drugs or alcohol poses a significant threat to their health, safety, and welfare and the health, safety, and welfare of others, including students and other staff members. The Board strongly advises any support staff member that has a dependency on a substance as defined in this Policy to seek appropriate treatment. The Board has an obligation and the right to maintain a safe and healthy work environment and adopts this Policy as an important component toward maintaining a safe environment in the school district. A support staff member is prohibited from possession, use, distribution, or being under the influence of any substance during work hours.

For the purposes of this Policy, “substance” or “substances” means alcoholic beverages, any controlled dangerous substances, including anabolic steroids as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2, or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in N.J.S.A. 2C:35-10.4, and over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

Any support staff member who reports to work under the influence of or in possession of any substance will be subject to appropriate discipline, which may include termination or the filing of tenure charges for a tenured support staff member in accordance with law.

A support staff member will be required to submit to an immediate medical examination to include a substance test if the support staff member’s supervisor has reasonable suspicion to believe a support staff member is under the influence of a substance during work hours. Refusal of a support staff member to consent to the medical examination and substance test will be determined to be a positive result.

In the event a support staff member’s medical examination and substance test results are negative for a substance, any documents or records pertaining to the requirement for the examination and test and results will not be maintained by the school district. Any required examination and testing will be paid for by the Board. The support staff member will be afforded the opportunity to have any test results confirmed using acceptable test confirmation practices. This confirming test will be paid for by the support staff member.

In accordance with the requirements of N.J.A.C. 6A:16-6.3(a), any support staff member who, in the course of their employment, has reason to believe a school staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia will report the matter as soon as possible to the Building Principal, or in the absence of the Building Principal, to the staff member responsible at the time of the alleged violation. Either the Building Principal or the staff member will notify the Superintendent who will notify, as soon as possible, the County Prosecutor or other law enforcement official designated by the



County Prosecutor to receive such information. The Superintendent (or designee) will provide to the County Prosecutor (or designee) all known information concerning the matter, including the identity of the staff member involved.

In accordance with the provisions of N.J.A.C. 6A:16-6.3(a)3, the Superintendent (or designee) will not disclose the identity of a support staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or drug abuse problem, provided the support staff member is not reasonably believed to be involved or implicated in drug-distribution activities. An admission by a support staff member in response to questioning initiated by the Building Principal (or designee) or following the discovery by the Building Principal (or designee) of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, will not constitute a voluntary, self-initiated request for counseling and treatment.

### Legal References

42 CFR Part 2

N.J.A.C. 6A:16-6.3; 6A:32-6.3

Adopted: August 18, 2009

Revised: June 9, 2015



### **R4218 – Substance Abuse (M)**

#### A. Definition

1. “Substance” or “substances” means alcoholic beverages, any controlled dangerous substances, including anabolic steroids as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2, or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in N.J.S.A. 2C:35-10.4, and over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.
2. “Substance test” means a test conducted by a State-licensed clinical laboratory using accepted substance use practices, accepted chain of custody procedures, and testing methodology recommended by the laboratory instrument’s manufacturer.
3. “Support staff member’s supervisor” or “supervisor” means the building or district administrative staff member who is responsible for supervising the support staff member. For the purposes of this Policy and Regulation, the support staff member’s supervisor will be the support staff member’s Building Principal, School Business Administrator/Board Secretary, or Supervisor, or any other administrative staff member designated by the Superintendent.
4. “Under the influence” means the presence of a substance as defined in Board Policy #4218 – Substance Abuse and this Regulation as confirmed in a medical examination and substance test.

#### B. Procedures to be Followed When a Support Staff Member is Suspected to be Under the Influence of a Substance

1. The following procedures will be used when a support staff member is suspected of being under the influence of a substance during work hours.
  - a. The support staff member’s supervisor, upon receiving a report or information a support staff member may be under the influence of a substance during work hours will:
    - (1) Immediately notify the Superintendent;
    - (2) Immediately meet with the support staff member;
      - (a) The support staff member’s supervisor may include another staff member in this meeting; and
      - (b) The support staff member suspected of being under the influence may include another staff member or a representative of their choice in this meeting.
  - b. The support staff member’s supervisor will present to the support staff member the report or information supporting the suspicion the support staff member may be under the influence of a substance.





- c. The support staff member will be provided an opportunity to respond to the report or information presented by the supervisor.
  - d. In the event the supervisor (or designee) believes the support staff member may be under the influence of a substance after meeting with the support staff member, the supervisor will arrange for an immediate medical examination to include a substance test.
  - e. The support staff member will be transported to the examination and testing location by means of transportation approved by the Superintendent (or designee) and will be accompanied by the support staff member's supervisor or designee.
  - f. The support staff member, prior to the medical examination and substance test, will be informed by the physician or the physician's designee on the type of testing to be completed and the substances that will be tested.
  - g. The support staff member may, prior to being examined and tested, disclose to the physician any prescription medicine, over-the-counter medicine or supplements, or any other reason why the support staff member's test results may be positive.
  - h. A support staff member's refusal to be examined or tested in accordance with the provisions of Board Policy #4218 – Substance Abuse and this Regulation will be deemed as a positive test for substances.
2. The medical examination and substance test will be used by the physician to determine if the support staff member is under the influence of any substance as defined in Board Policy #4218 – Substance Abuse and this Regulation. The substance test procedures will provide for a confirming test using acceptable confirmation test procedures.
  3. The physician will receive the results of the substance test within twenty-four hours of the test being administered. If the results of the substance test are not available within twenty-four hours, the physician will report the results to the Superintendent and the support staff member as soon as the test results are available.
  4. If the physician determines, based upon the medical examination and the results of the substance test, that the support staff member was not under the influence of a substance during work hours, the physician will notify the Superintendent of such results and the support staff member will return to their position in the school district. Any records or documentation related to the incident will not be included in the support staff member's personnel file.
  5. If the physician determines, based upon the medical examination and the results of the substance test, that the support staff member was under the influence of a substance during work hours, the physician will:
    - a. Discuss the results of the examination and substance test with the support staff member and provide the support staff member an opportunity to present any medical or other reasons for the physician's determination.
    - b. Provide the support staff member an opportunity to have the substance test results confirmed by a State-licensed clinical laboratory selected by the staff member and approved by the physician.



- (1) The physician will schedule and coordinate the confirming test procedures, including the acceptable time period for the confirming test to be conducted based on the existing test results, and the time in which a confirming test result would be valid.
  - (2) The confirming substance test results must be provided to the physician within the time period required by the physician.
  - (3) Any confirming test results provided to the physician not within the time period required by the physician will not be accepted and the support staff member will be determined to have waived their right to have a confirming substance test considered by the physician.
- c. After completing the requirements in a. and b. above the physician will make a final determination whether the support staff member was under the influence of a substance during the work hours.
- (1) If the physician makes a final determination the support staff member was not under the influence during work hours, the physician will report these results to the Superintendent and the support staff member will return to their position in the school district and any records or documentation related to the incident will not be included in the support staff member's personnel file.
  - (2) If the physician makes a final determination the support staff member was under the influence during work hours, the physician will report these results to the Superintendent of Schools and the support staff member will be required to meet with the Superintendent.
- C. Procedures to be Followed When a Support Staff Member is Determined to be Under the Influence of a Substance
1. Any support staff member who has been determined by the physician to be under the influence of a substance during work hours will be required to meet with the Superintendent.
    - a. The support staff member may include a staff member or a representative of their choice in this meeting.
  2. The Superintendent will provide the support staff member an opportunity to respond to the physician's determination.
  3. A support staff member who has been determined to have been under the influence of a substance during work hours will be subject to appropriate discipline which may include termination of or the filing of tenure charges for a tenured support staff member.

Adopted: August 18, 2009  
Revised: June 9, 2015



### **4219 – Commercial Driver Controlled Substance and Alcohol Use Testing (M)**

The Board of Education is committed to a safe, efficient, alcohol and drug-free workplace, that protects the district's students as well as the health and safety of its employees and the general public. The Board requires all employees and contractors of the Board performing any safety-sensitive function to be free of drugs and alcohol and will test those employees who operate a commercial motor vehicle in accordance with 49 CFR 382 et seq. and 49 CFR 40 et seq. For the purpose of this Policy "employee" means a person required to have a Commercial Driver's License (CDL) in the performance of their job responsibilities. A "contractor" is an employee of a company ("contractor's employer") hired by the Board to provide services, such as bus transportation, that employs individuals who are required to have a CDL to provide those services to the school district. "Safety-sensitive function" means any on duty function, as defined by 49 CFR 382.107, performed any time from the time an employee or contractor begins to work or is required to be in readiness to work until the time the employee or contractor is relieved from work and all responsibility for performing work. Safety-sensitive function will include:

1. All time at the terminal facility, other property, or on any public property waiting to be dispatched unless relieved from duty;
2. All time inspecting equipment as required by Federal law or otherwise inspecting, servicing, or conditioning any commercial motor vehicle, at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time other than driving time in or upon the commercial motor vehicle except time spent resting in an area defined as a sleeping berth;
5. All time loading and unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded and unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance with a disabled vehicle.

The Omnibus Transportation Employee Testing Act requires all operators of commercial motor vehicles subject to the Commercial Drivers License requirements to be tested for controlled substances and alcohol. Federal regulations of the U. S. Department of Transportation require that any employee or contractor using a CDL be required to submit to alcohol and controlled substance testing in accordance with 49 CFR 40.

The Board designates the School Business Administrator/Board Secretary as the Designated Employer Representative (DER) of the Board of Education; the contractor's employer is expected to designate a similar representative. The Board or contractor's employer may contract with a service agent to provide the testing services as required by Federal law. In the event the Board contracts with a service provider for transportation, the Board designee will ensure all transportation contractors comply with



the drug and alcohol testing requirements of this Policy pursuant to 49 CFR 382 et seq. and 49 CFR 40 et seq.

No employee or contractor at any work site will possess, manufacture, use, sell, or distribute any quantity of any controlled substance, lawful or unlawful, which in sufficient quantity could result in impaired performance, with the exception of substances administered by or under the instructions of a physician. No employee or contractor will perform safety-sensitive functions within four hours after using alcohol and the district will not permit an employee or contractor that used alcohol within four hours of performing safety-sensitive functions to perform such functions if the district has actual knowledge of the use, in accordance with 49 CFR 392.5.

### **Violations**

Any violation of this Policy may result in discipline, up to and including termination for a school district employee; or, termination of the contract with the contractor's employer.

### **Prohibited Substances**

The presence of any of the controlled substances, listed in 49 CFR 40.87, in the body, as evidenced by the results of the initial screening and subsequent confirmatory analysis provided in this Policy, is prohibited for any employee or contractor assigned to a classification covered by this Policy. All cutoff concentrations will be in accordance with 49 CFR 40.87. All test results will be measured against the cutoff concentrations outlined in 49 CFR 40.87.

### **Testing Procedures**

All testing for controlled substances will be conducted in accordance with 49 CFR 40, Subparts A, B, C, D, E, F, G, H and I. The district will only test for the above stated five drugs or classes of drugs in accordance with 49 CFR 40.85. Testing for alcohol will be conducted in accordance with 49 CFR 40, Subparts J, K, L, M and N.

### **Definitions**

“Alcohol use” means the drinking or swallowing of any beverage, liquid mixture or preparation (including medication) containing alcohol.

“Aliquot” means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

“Confirmatory drug test” means a second analytical procedure performed on an aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

“Confirmed drug test” means a confirmation drug test received by a Medical Review Officer (MRO) from a certified laboratory.

“Controlled substances” means those substances identified in 49 CFR 40.85.

“CCF” means the Federal Drug Testing Custody and Control Form.



“Designated Employer Representative (DER)” is an employee of the district authorized to take immediate action (s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER will receive test results and other communications for the employer, consistent with the requirements of this Policy and 49 CFR 40. Service agents cannot act as a DER. Employers contracted to provide services to the school district must have a similarly designated representative.

“FMCSA” means Federal Motor Carrier Safety Administration.

“Initial drug test (also known as a “Screening drug test”)” means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

“Initial specimen validity test” means the first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.

“Medical Review Officer (MRO)” is a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s or the contractor’s employer’s drug testing program and evaluating medical explanations for certain drug test results.

“Possess” includes, but is not limited to, either in or on the employee’s person, personal effects, motor vehicle or areas substantially entrusted to the control of the employee.

“Service agent” is any person or entity, other than an employee of the Board, who provides the services specified under 49 CFR 40 to the Board.

“Substance Abuse Professional (SAP)” is a person who evaluates employees who have violated a Federal or State drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. An individual permitted to act as an SAP must possess the credentials as outlined in 49 CFR 40 281.

“Work Site” means any motor vehicle, office, building, yard or other location at which the employee is to perform work or any other school district property or at any school-sponsored trip or event.

The following sections are applicable to school district employees; a contractor’s employer must have a similar process, rules, and requirements.

### **Categories of Testing**

For the purpose of this Policy, the occurrence of the following circumstances/instances require an employee to submit to a controlled substance and alcohol screening:

#### **1. Pre-Employment Testing**

An individual who has applied for and has been selected to operate a Board vehicle used for the transportation of students will, before beginning employment with the Board, submit to a controlled substance screening in conjunction with any required physical examination as per [Board Policy #4160 – Physical Examination](#). Such screening will be conducted in accordance



with the procedures set forth in this Policy and 49 CFR 40. No individual receiving a positive confirmed test result will be employed by the Board.

An employer is not required to administer a controlled substances test required by 49 CFR 382.301(a) if:

- a. The employee has participated in a controlled substance testing program that met the requirements of 49 CFR 382 et seq. within the previous thirty days and
- b. The employee while participating in that program either:
  - (1) Was tested for controlled substances within the past six months (from the date of application to the school district), or
  - (2) Participated in the random controlled substances testing program for the previous twelve months (from the date of application to the school district).
- c. The DER must ensure that no prior employer, to the DER's knowledge, has records of a violation of a controlled substance testing program within the previous six months.

If an individual is so exempted, the DER will contact the controlled substances testing program in which the individual participated and will obtain and retain from the testing program(s) the following information in accordance with 49 CFR 382.301(c):

- a. Name and address of the program;
- b. Verification of the individual's participation;
- c. Verification that the program conforms to federal guidelines;
- d. Verification the individual qualified under the law and did not refuse to be tested for controlled substances;
- e. The date the individual was last tested for controlled substances; and
- f. The results of any tests taken within the last six months and any other violations.

An employee who has applied for and has been selected to operate a Board vehicle used for transporting students or any existing employee transferring into a new position now required to operate a Board vehicle used for transporting students, will submit a written consent authorizing the school district to obtain the following information from other employers who have employed the employee during any period during the two years before the date of the employee's application or transfer into the new position. The written consent from the individual will permit the DER to obtain the following information from previous Division of Transportation DOT-regulated employers:

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



- e. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If this information is not available from the previous employer, the DER must seek to obtain this information from the employee.

The DER will obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, the DER will not permit the employee to work after thirty days from the date the employee first performed safety-sensitive functions, unless the DER has obtained or made and documented a good faith effort to obtain this information.

### 2. Random Testing

Every employee will submit to random alcohol and controlled substance testing on an unannounced and random basis resulting from the selection by a random generation methodology in accordance with 49 CFR 383.305(i). Random testing will be spread reasonable throughout any given calendar year.

The minimum annual percentage rate for random alcohol testing will be ten (10) percent of the average number of employees. The minimum annual percentage rate for random controlled substances testing will be twenty-five (25) percent of the average number of driver positions. The minimum annual percentage rates may be adjusted as determined by the FMCSA Administrator in accordance with 49 CFR 382.305.

Employees will only be random tested when performing safety-sensitive functions or immediately prior to or immediately following the performance of safety-sensitive functions.

### 3. Post-Accident Testing

The involvement by an employee in a motor vehicle collision while operating a Board vehicle when such accident results in property damage or personal injury, may trigger a post-accident drug and alcohol test.

As soon as practical following an occurrence, the DER will require post-accident alcohol screening for each of the surviving drivers:

- a. Who was performing safety-sensitive functions with respect to a vehicle, if the accident involves the loss of human life; or
- b. Who receives a citation within eight hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - (1) Bodily injury to any person, who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or
  - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.



- c. If the alcohol test is not administered within two hours following the accident, the DER will prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours following the accident, the DER will cease attempts to administer the alcohol test and will prepare and maintain the same record. Records will be submitted to the FMCSA upon request.

As soon as possible following an occurrence, the district will require post-accident controlled substance screening for each of the surviving drivers:

- a. Who was performing safety-sensitive functions with respect to a vehicle, if the accident involves the loss of human life; or
- b. Who receives a citation with thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - (1) Bodily injury to any person, who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or
  - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- c. If the controlled substance test is not administered within thirty-two hours following the accident, the DER will cease attempts to administer the controlled substance test and will prepare and maintain on file a record stating the reasons the test was not promptly administered. Records will be submitted to the FMCSA upon request.

As employee who is subject to post-accident testing will remain readily available for such testing or may be deemed by the employer to have refused to submit for testing. (An employee who is injured in an accident and requires medical care, will submit to post-accident drug and controlled substance testing by the medical care facility providing the treatment or a designee of the Board if the facility is unable to provide the testing.) Nothing herein will be construed to prevent the employee from leaving the scene of the accident for the period required to obtain necessary assistance or to obtain emergency medical care.

#### 4. Reasonable Suspicion Testing

The DER will require an employee to submit to an alcohol and/or controlled substance test when the employee is observed by a supervisor or school official who is trained in accordance with 49 CFR 382.603 and causes the observer to have reasonable suspicion to believe the employee has violated 49 CFR 382 et seq. Reasonable suspicion must exist to require the employee to undergo a test and must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.





Reasonable suspicion alcohol testing is authorized only if the required observations are made during, just preceding, or just after the period of the work day the employee is required to be in compliance with the testing requirements of 49 CFR 382 et seq.

Reasonable suspicion testing may be required of an employee while the employee is performing, just before the employee will perform or just after the employee has ceased performing safety-sensitive functions.

If the alcohol test is not administered within two hours following the determination a reasonable suspicion test is required, the DER will prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours following the determination, the DER will cease attempts to administer the alcohol test and will state in the record the reasons for not administering the test.

No employee will report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. The employee will also not be able to perform or continue to perform safety-sensitive functions until an alcohol test is administered and the employee's concentration measures less than 0.02 or twenty-four hours have elapsed following the determination that reasonable suspicion existed to require an alcohol test.

A written record of the observations leading to a reasonable suspicion test will be made and signed by the supervisor and/or school official that made the observations. This record will be made within twenty-four hours of the observed behavior or before the results of the test are released, whichever is earlier.

### 5. Return to Duty Testing

The school district is not required to return an employee to a safety-sensitive position upon receipt of a confirmed drug and/or alcohol test. The DER may recommend to the Superintendent the employee's employment be terminated depending on the circumstances.

The DER will ensure that before a employee returns to duty requiring the performance of a safety-sensitive function, the employee will undergo a return to duty alcohol test indicating a breath alcohol concentration of less than 0.02 and a controlled-substances test with a result indicating a verified negative result for controlled-substances use as required in 49 CFR 40.305.

Employees permitted to return to duty are required to take return-to-duty tests and will be evaluated by a SAP. These employees must participate in an assistance program prescribed by the SAP and as required in 49 CFR 40 Subpart O.

The SAP will determine a written follow-up testing plan for any employee who has been permitted to return to work and has successfully complied with the SAP's recommendations for education and/or treatment. Such employees are subject to a minimum of six (6) unannounced, follow-up drug screening and alcohol tests over the following twelve (12) months. The testing



will not exceed forty-eight (48) additional months. Alcohol follow-up testing will be performed only when the employee is performing safety-sensitive functions or immediately prior to performing or immediately after performing safety-sensitive functions. All follow-up testing will be completed in accordance with 49 CFR 40.311.

The Board will make the ultimate determination to return or not return an employee to a safety-sensitive position subject to any collective bargaining agreements, if any, or other legal requirements.

### **Medical Review Officer (MRO) Notifications**

The Board will employ or contract with a Medical Review Officer (MRO) who is a licensed physician (M.D. or D.O.) and will designate the MRO as the individual responsible for receiving laboratory results generated by the testing program. The MRO will have knowledge of controlled substances abuse disorders and have appropriate medical training to interpret and evaluate the employees confirmed drug test results together with his/her medical history and other biomedical data. The MRO will perform all functions and responsibilities as required in 49 CFR 40.121.

### **Employer Notification**

The MRO may report controlled substances test results to the DER by any means of communication; however, a signed, written notification must be forwarded within three business days of the completion of the MRO's evaluation. The Medical Review Officer must report all drug test results to the employer. The MRO may use a signed or stamped and dated legible photocopy of Copy 2 of the CCF t report test results or a written report that must include, at a minimum, the information required in 49 CFR 40.163.

### **Split Specimen Tests**

Split specimen testing will be conducted in accordance with 49 CFR 40 Subpart H. The MRO will notify the Superintendent (or designee) if split specimen testing is requested by the employee.

### **Designated Collection Facility**

The Board will designate the facility to be used for the collection of the specimen; provided, however, that the designated facility will possess all required licenses and permits. The collection site will take place in a facility meeting the requirements of 49 CFR 40 Subpart D. The DER will ensure the collection site meets the security requirements of 49 CFR 40.43.

### **Designated Screening Laboratory**

The Board will designate the laboratory to which collected fluid samples will be forwarded for drug/alcohol screening. Drug testing laboratories must be certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP) for all testing required under 49 CFR 40. The laboratory will perform all responsibilities as required in accordance with 49 CFR 40 Subpart F.



### Specimens

The normal screening methodology for controlled substances will be urinalysis, collected by a trained representative of the Board with appropriate documentation at a site designated and approved by the Board. The presence of alcohol will be determined by an Alcohol Screening Device (ASD) or an Evidential Breath Testing Device administered by an individual certified in accordance with 49 CFR 40.211 and 49 CFR 40.213.

### Refusal to Submit

An employee will be deemed as refusing to take a drug test as described in with 49 CFR 40.191. As per 49 CFR 40.191, an employee refuses to take a drug test if he/she:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the DER, consistent with applicable DOT agency regulations, after being directed to do so by the DER;
2. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any drug test required by this Policy. An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
4. Fails to permit the observation or monitoring of providing a specimen. In the case of a directly observed or monitored collection in a drug test;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take an additional test the DER or collector has directed the employee to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, with appropriate documentation at a site designated and approved by the Board);
9. Fails to follow the collection observer(s) instructions of which could be used to interfere with the collection process;
10. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or



11. Admits to the collector or MRO he/she has adulterated or substituted the specimen.

If the MRO reports the employee had a verified adulterated or substituted test result, the result will be deemed refusal to take a drug test.

If an employee refuses to participate in a part of the testing process, the collector or MRO, must terminate the portion of the testing process, document the refusal on the CCF (including in the case of the collector, printing the employee's name on Copy 2 of the CCF), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures that the refusal notification is immediately received. A referral physician (e.g., physician evaluating a "shy bladder" condition or a claim of a legitimate medical explanation in a validity testing situation), must notify the MRO, who in turn will notify the DER. In addition, the collector must note the refusal in the "Remarks" line (Step 2), and sign and date the CCF. The MRO must note the refusal by checking the "Refusal to Test" box (Step 6) on Copy 2 of the CCF, and add the reason on the "Remarks" line. The MRO must then sign and date the CCF. When the employee refuses to take a non-DOT test or to sign a non-DOT form, the employee has not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test.

### **Record of Negative Screening**

An employee required to submit to an alcohol and/or controlled substance screening as provided in this Policy and whose screening results are negative may, at their option, have their personnel file documented to reflect the negative result.

### **Prescription Drugs**

All bus drivers will notify the DER of the use of any prescription drugs. The Board may require certification from the prescribing physician that the use of the prescription drug will not have an adverse affect on the driver's ability to properly perform safety-sensitive functions.

### **Consequences to Employees Engaging in Prohibited Conduct**

An employee whose screening produces a positive result for a prohibited substance:

1. Will not be permitted to perform safety-sensitive functions;
2. Will be advised by the DER of resources available to them in evaluating and resolving problems associated with the misuse of alcohol or the use of controlled substances;
3. Will be evaluated by a SAP who will determine what assistance, if any, is needed to resolve problems with alcohol or controlled substance use;
4. Undergo, before returning to duty, a return to duty alcohol test indicating a breath level of less than 0.02 if the conduct involved alcohol or a controlled substance test with a verified negative result;
5. If assistance was required, the employee must be evaluated by a SAP to determine that the employee has followed the rehabilitation program prescribed;



6. Be subject to unannounced follow up alcohol and/or controlled substance abuse testing;
7. Be subject to the disciplinary policy and regulations of the Board.

### **Return-to-Work Agreement**

An employee who has been permitted return to work and who fails to comply with any of the terms of a Return to Work Agreement, if provided at the employer's discretion, will be subject to disciplinary action which may include termination.

### **Maintenance and Retention of Records**

The DER will maintain and retain all records as required by federal regulation. Records will include at least the following:

1. Records Related to the Collection Process:
  - a. Collection logbooks (if used);
  - b. Documents related to the random selection process;
  - c. Calibration documentation for Evidential Breath Testing Devices (EBT's);
  - d. Documentation of Breath Alcohol Technician (BAT) training;
  - e. Documentation of reasoning for reasonable suspicion testing;
  - f. Documentation of reasoning for post-accident testing;
  - g. Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing; and
  - h. Consolidated annual calendar year summaries.
2. Records related to the Employee's Test Results:
  - a. Employer's copy of the alcohol test form, including results;
  - b. Employer's copy of the controlled substance test chain of custody and control form;
  - c. Documents sent to the employer by the MRO;
  - d. Documentation of any employee's refusal to submit to a required alcohol or controlled substance test; and
  - e. Documents provided by an employee to dispute results of test.
3. Documentation of any other Violations of Controlled Substance Use or Alcohol Misuse Policies.
4. Records Related to Evaluations and Training:
  - a. Records pertaining to the SAP's determination of an employee's need for assistance;
  - b. Records concerning an employee's compliance with the SAP's recommendations, and records related to education and training;
  - c. Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol misuse;



- d. Documentation of compliance with the requirement to provide employees with educational material, including an employee's signed receipt of materials;
  - e. Documentation of supervisor training; and
  - f. Certification that training conducted under this Policy complies with all requirements of the Policy.
5. Records Related to Drug Testing
- a. Agreements with collection site facilities, laboratories, MROs and consortia;
  - b. Names and positions of officials and their role in the employer's alcohol and controlled substance testing program;
  - c. Monthly statistical summaries of urinalysis; and
  - d. The employer's drug testing policy and procedures.
6. Required Period of Retention:

<b>Document to be maintained</b>	<b>Period required to be maintained</b>
Alcohol test results indicating a breath alcohol concentration of 0.02 or greater	5 Years
Verified positive controlled substance test results	5 Years
Documentation of refusals to submit to required alcohol or controlled substance tests	5 Years
Calibration documentation	5 Years
Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations	5 Years
Driver evaluations and referrals	5 Years
A copy of each calendar year summary	5 Years
Records obtained from previous employers concerning alcohol and drug testing	3 Years
Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and required training	2 Years
Records related to negative and canceled controlled substance test results	1 Year
Alcohol test results indicating a breath alcohol concentration less than 0.02	1 Year



Document to be maintained	Period required to be maintained
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Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the employer while the individual performs the functions which require the training and for two years after ceasing to perform those functions

Indefinite time period

Other specific types of records shall be maintained in accordance with 49 CFR 382.401.

### 7. Location of Records

All required records will be maintained in accordance with Board Policy #8320 - Personnel Records. Records will be made available for inspection at the Board Offices within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

### 8. Annual Calendar Year Summary

The DER shall prepare and maintain an annual calendar year summary of the results of its alcohol and substance abuse testing programs. The summary shall be completed no later than March 15 of each year covering the previous calendar year. The DER upon request of the FMCSA will provide the annual summary to that agency in the required format.

### 9. Employee Information Program

The Board will provide an employee information program. The DER will be responsible for implementing the program and shall insure that each employee receives information in the manner specified below:

- a. By receiving a copy of this Policy and any subsequent revisions.
- b. The DER will provide written notice to employees of the following information:
  - (1) The identity of the person designated by the employer to answer employee questions about the materials;
  - (2) Which employees are subject to the alcohol misuse and controlled substance requirements;
  - (3) Explanation of what constitutes a safety-sensitive function, so as to make clear what period of the work day the employee is required to be in compliance;
  - (4) Specific information concerning employee conduct that is prohibited;
  - (5) The circumstances under which a employee will be tested for alcohol and/or controlled substances;
  - (6) The procedures that will be used to test for the presence of alcohol and controlled substances;



- (7) The requirement that a employee submit to alcohol and controlled substance tests;
- (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substance test;
- (9) The consequences for employees found to have violated the prohibitions of this rule, including the immediate removal of the employee from safety-sensitive functions;
- (10) The consequences for employees found to have an alcohol concentration level of 0.02 or greater but less than 0.04;
- (11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life. Signs and symptoms of an alcohol or controlled substances problem, and available methods of intervening when an alcohol or a control substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.

### Legal References

Omnibus Transportation Employee Testing Act of 1991

49 CFR 40 et seq.

49 CFR 382 et seq.

49 CFR 395.2

Adopted: August 18, 2009

Revised: March 12, 2019





### **4220 – Employee Evaluation**

The Board of Education recognizes the importance of employee evaluations in the reinforcement of performance strengths and the remediation of weaknesses.

The Superintendent shall develop a plan for the evaluation of support staff members. He/she shall invite the participation of employees in the development of the plan and shall assess and modify the plan as necessary.

Employees shall be grouped into position classifications based upon similarities of duties, responsibilities, and qualifications. The evaluation process shall be similar for all employees in a single classification.

The evaluation process shall provide for the recognition and commendation of effective performance, the identification and remediation of performance deficiencies, and the recommendation of discipline or dismissal when an employee fails to improve his/her performance. Evaluation procedures shall provide that each employee is informed of the specific objectives of his/her position and the standards that will be used to assess the employee's performance against those objectives. Employees will be evaluated by qualified supervisors every year. Any records created in the evaluation process will become part of the employee's file and subject to Board policy on personnel records.

Adopted: August 18, 2009



### **R4220 – Evaluation of Support Staff Members**

#### A. Evaluator

The observation and evaluation of support staff members will be conducted by the employee's immediate supervisor or the Principal, as agreed to by the Superintendent.

#### B. Evaluation Criteria

1. Evaluation criteria for each position will derive from the job description for the position and relate directly to each of the tasks described. Wherever possible each set of evaluation criteria will be:
  - a. Briefly stated and focused on major responsibilities of the position as well as the employee's attitude towards the job and his/her interpersonal relations on the job;
  - b. Based on observable information rather than on factors requiring subjective judgment;
  - c. Generic, covering a number of specific positions;
  - d. Designed to make note of an employee's strengths as well as weaknesses; and
  - e. Written in the same format and in a direct, simple style.
2. Maintenance of job evaluation criteria will be the responsibility of the immediate supervisor. Evaluation criteria will be reviewed, and
  - a. Whenever the corresponding job description is revised, or
  - b. On the request of a majority of persons holding a particular job.
3. Each support staff member will be sent a copy of the current evaluation criteria for his/her position by the immediate supervisor. Any revisions will be provided to each holder of that job within thirty working days of its adoption.
4. Suggested revisions to evaluation criteria by job holders will be referred initially to the job holder's immediate supervisor for review.

#### C. Collection of Evaluation Data

Data will be gathered by any one or more of the following evaluation methods:

1. Direct observation of the support staff member in the course of performing an assigned duty;
2. Review of a product from the support staff member that results from the performance of his/her assigned duties;
3. Interviews of the support staff member regarding his/her knowledge of assigned duties;
4. Paper and pencil instruments such as competency tests;
5. Audio visual monitoring of the support staff member in the performance of his/her assigned duties; and
6. Reference to previous performance reports.



### D. Observation Frequency

1. Support staff members will be evaluated at least one time per year.

### E. Evaluation Procedures

1. Each observation will total not less than fifteen minutes. The evaluator shall record each separate instance of observation and the activity observed.
2. Each observation will be recorded on a separate form in triplicate.
3. A written evaluation of each support staff member will be prepared by the observer and will be based, at least in part, on the observation(s) conducted.
4. A copy of the evaluation will be sent to the employee at least seventy-two hours prior to the evaluation conference.
5. The employee and the evaluator shall hold a conference to discuss the evaluation report during which the evaluator shall point out both the weaknesses and strengths of the employee.
6. Both the evaluator and the employee shall sign two copies of the evaluation report and each will retain a copy. By signing the evaluation report the employee implies only that he/she has read and understands the document.
7. The employee may prepare a written disclaimer to the evaluation report which will be appended to the report provided it is received by the evaluator not more than ten working days following the conference.
8. The evaluator shall distribute copies of the evaluation report to the Superintendent.

### F. Individual Performance Development Plan

1. An Individual Performance Development Plan will be prepared for each support staff member to correct deficiencies and to encourage improvement.
2. Performance development plans will derive from the applicable evaluation criteria and focus on weaknesses identified in the evaluation report.
3. The Individual Performance Development Plan will be prepared in cooperation with the employee whenever possible and shall include:
  - a. Areas of required growth,
  - b. Methods of achieving that growth,
  - c. A schedule for implementation of those methods, and
  - d. The responsibility of the support staff member and the district for implementing the plan.
4. At the time a Performance Development Plan is prepared, a review will also be made of the effort by the staff member to achieve the prior year's plan. The degree to which the employee achieved the requirements of the previous plan will be a measure of his/her performance.



5. Copies of the Individual Performance Development Plan will be attached to the employee's evaluation report, given to the support staff member, and filed with the Superintendent.
6. It is the duty of the support staff member to implement the plan as prepared; his/her failure to do so may result in disciplinary action, including, where appropriate, dismissal.

Adopted: August 18, 2009



### **4230 – Outside Activities**

The Board of Education recognizes that support staff members enjoy a private life outside their job responsibilities in the school district. The Board believes that school employees exert a continuing influence away from the school district. Accordingly, the Board reserves the right to determine if activities outside the support staff member's job responsibilities interfere with their performance and the discharge of the support staff member's responsibilities to this school district.

All support staff members are advised to be governed in their activities outside the school by the following guidelines:

1. Support staff members will not devote time during their work day to an outside private enterprise, business or business association, or for personal gain. They will not solicit or accept customers for a private enterprise, business and/or business organization on school grounds during their work day without the express permission of the Superintendent;
2. The Board does not endorse, support, or assume liability in any way for any support staff member of this school district who conducts a private activity in which students or employees of this district participate;
3. Support staff members will not send campaign literature home with students, or request, direct, or have students distribute campaign literature; campaign using school district resources (e.g., copy machines, email, telephones) on behalf of any candidate for local (including the Board of Education), state, or national office or for any bond issue, proposal, or any public question submitted at any general, municipal, or school election; no student will be requested or directed by any support staff member to engage in any activity which tends to promote, favor, or oppose any such candidacy, bond issue, proposal, or public question; and
4. Copyrights and patents to materials or equipment developed, written, prepared, processed, or tested by support staff members in the performance of their school district duties reside with and may be claimed by the Board.

#### **Legal References**

N.J.S.A. 18A:42-4

N.J.S.A. 19:1.1 et seq.

Adopted: August 18, 2009

Revised: July 22, 2014



### **R4230 – Outside Activities**

#### **A. Outside Employment**

1. A full-time employee may engage in outside employment only when such employment does not:
  - a. Constitute a conflict of interest;
  - b. Violate New Jersey School Ethics Act; or
  - c. Occur at a time when the employee has assigned district duties and responsibilities.
2. A full-time employee who engages in employment outside the school district shall report that employment to the Superintendent only if the outside employment may require any type of accommodation by the school district or if the outside employment would require the staff member to not perform or limit the staff member's ability to perform all the responsibilities of their school district employment.

#### **B. Private Enterprise, Business or Business Organization, or Personal Gain**

1. An employee shall not conduct activities on school district grounds that may advance a private enterprise, business or business organization, or for personal gain without the express permission of the Superintendent. Permission will not be given for solicitations or collections on behalf of a private enterprise, business or business organization, or for personal gain.
2. An employee shall not, on school grounds, solicit pupils for trips other than those expressly approved by the Board or Superintendent with permission of the Superintendent. School grounds shall not be used as the point of departure or arrival for any such privately arranged activity.

Approved: August 18, 2009  
Revised: March 5, 2013



### **4233 – Political Activities**

The Board of Education recognizes and encourages the right of all citizens, including school employees, to engage in political activity. However, the Board prohibits the use of school premises and school time for partisan political purposes.

The Board establishes the following guidelines to govern all support staff members in their political activities:

1. An employee shall not engage in political activity on school premises unless permitted in accordance with Board Policy #7510 – Use of School Facilities and/or applicable Federal and State laws;
2. An employee shall not post political circulars or petitions on school premises nor distribute such circulars or petitions to pupils nor solicit campaign funds or campaign workers on school premises;
3. An employee shall not display any material that would tend to promote any candidate for office on an election day in a school facility that is used as a polling place;
4. An employee shall not engage in any activity in the presence of pupils while on school property, which activity is intended and/or designed to promote, further or assert a position(s) on labor relations issues.

The provisions of this policy do not apply to the conduct of employee representative elections.

Nothing in this Policy shall be interpreted to impose a burden on the constitutionally protected speech or conduct of a staff member or pupil.

### **Legal References**

N.J.S.A. 18A:42-4

Green Township v. Rowe, Superior Court of New Jersey - Appellate Division A-2528-98T5

Adopted: August 18, 2009



### **R4233 – Political Activities**

#### **A. Prohibited Activities**

The following political activities are prohibited on school district premises:

1. Posting of political circulars or petitions on bulletin boards that are not sponsored by the school and included as part of the school curriculum and/or program;
2. Distribution to employees, whether by placing in their school mailboxes or otherwise, of political circulars or petitions, except as delivered by the U.S. Postal Service;
3. Collection of and solicitation for campaign funds;
4. Solicitation for campaign workers;
5. Use of pupils for writing or addressing political materials or the distribution of such materials to or by pupils;
6. Display of any materials that promote the candidacy of any candidate for office by a person working on an election day in a district facility used on election day as a polling place; and
7. Any activity in the presence of pupils while on school property, which activity is intended and/or designed to promote, further or assert a position(s) on labor relations issues.

#### **B. Permitted Activities**

The conduct of employee elections and any campaigning connected with those elections is permitted on school premises.

Nothing in this Regulation shall be interpreted to impose a burden on the constitutionally protected speech or conduct of a staff member or pupil.

Issued: August 18, 2009





### **4240 – Employee Training**

The Board of Education believes that continuing training and study is essential to the improvement of employee performance and the acquisition of technological skills. The Board encourages all employees to participate in appropriate training programs.

The Building Principal, School Business Administrator/Board Secretary and/or Superintendent shall prepare rules for employee participation in programs of job skill improvement. The rules will include methods of reporting and verifying claims for participation in such activities.

The Board will reimburse employee requests for attendance at training programs provided participation has been approved in advance by the Building Principal, or School Business Administrator/Board Secretary, the Superintendent and a majority of the full voting membership of the board. Reimbursement will be consistent with N.J.S.A. 18A:11-12.15a.

Adopted: August 18, 2009



### **R4240 – Employee Training**

#### A. Programs of Job Skills Improvement

1. The purpose of job skills improvement programs is to increase the knowledge, proficiency, ability, and skills of support staff employees.
2. Training programs will be structured to meet the immediate needs of the district as well as the personal goals of the employees.
3. Training programs for support staff members shall be developed and implemented by the immediate supervisor of the class of employee that requires training.

#### B. Determination of Training Needs

1. Principals and supervisors shall annually inventory the training needs of the employees under their supervision by determining whether:
  - a. Assignments are being carried out in a systematic and effective manner,
  - b. Policies of the Board and regulations of the district are being properly implemented,
  - c. Employee evaluations indicate a need for improvement,
  - d. Excessive waste or damage is occurring or safety methods are not being followed,
  - e. Employees have an opportunity to express their views on the manner in which assignments are performed, and
  - f. Career advancement training opportunities are available to employees.
2. The immediate supervisor shall prepare a report of the training needs for the review of the Superintendent that shows:
  - a. Identified needs determined from the inventory;
  - b. Current programs that meet identified needs and areas in which current programs do not meet identified needs;
  - c. Recommendations for on-the-job training procedures in areas in which a need is identified and no current program is available, and
  - d. Recommendations for the use of off-the-job training programs known to meet district needs.

#### C. On-the-Job Training

1. On-the-job training is that given to employees while they are at their assigned work stations.
2. On-the-job training shall be directed primarily to new employees and those whose job responsibilities have been changed.
3. On-the-job training programs shall be developed by the Supervisor; the assistance of experts is encouraged with approval of the School Business Administrator or Superintendent.
4. Scheduling of training on the job will be the responsibility of the Supervisor.



5. The outcome of training on the job should be a higher level of performance by each affected employee.

### D. Off-the-Job Training

1. Off-the-job training is that attended by employees during or after their regular job assignments but away from their assigned work stations.
2. Training off the job should generally be directed to those employees who have specialized workplace needs.
3. Suitable training programs shall be identified for support staff employees by the employee's immediate supervisor with approval of costs by the School Business Administrator.
4. Scheduling of off-the-job training will be the responsibility of the employee.
5. Allowable fees for attendance at off-the-job training programs shall be reimbursed upon the submission of an expense voucher to the Board office in accordance with Board Policy #6471 – School District Travel.
6. Employees who are recompensed for costs of off-the-job training are expected to continue in their employment for at least three years. Prorated reimbursement will be required for shorter periods of employment.

### E. Training Effectiveness

1. Employees assigned to training off the job shall complete a district form designed to evaluate the effectiveness of the program.
2. The Supervisor shall review the performance of each employee assigned training either on or off the job thirty to forty-five days following the completion of the program.
3. The Supervisor shall report to the Building Principal on the effectiveness and cost of the training programs. He/she shall recommend continuation and discontinuance of programs as appropriate.

Issued: August 18, 2009



### **4281 – Inappropriate Staff Conduct**

The Board of Education recognizes its responsibility to protect the health, safety and welfare of all pupils within this school district. Furthermore, the Board recognizes there exists a professional responsibility for all support staff members to protect a pupil's health, safety and welfare. The Board strongly believes that support staff members have the public's trust and confidence to protect the well-being of all pupils attending the school district.

In support of this Board's strong commitment to the public's trust and confidence of support staff members, the Board of Education holds all support staff members to the highest level of professional responsibility in their conduct with all pupils. Inappropriate conduct and conduct unbecoming a support staff member will not be tolerated in this school district.

The Board recognizes and appreciates the staff-pupil professional relationship that exists in a school district's educational environment. This Policy has been developed and adopted by this Board to provide guidance and direction to avoid actual and/or the appearance of inappropriate staff conduct and conduct unbecoming a support staff member toward pupils.

Support staff member's conduct in completing their professional responsibilities shall be appropriate at all times. Support staff members shall not make inappropriate comments to pupils or about pupils and shall not engage in inappropriate language or expression in the presence of pupils. Support staff member shall not engage in inappropriate conduct toward or with pupils. Support staff members shall not engage or seek to be in the presence of a pupil beyond the staff member's professional responsibilities. Support staff members shall not provide transportation to a pupil in their private vehicle or permit a pupil to enter their private vehicle. In case of an emergency, an administrator and at least one other staff member may transport the pupil, per Board Policy #8660 – Transportation by Private Vehicle.

Inappropriate conduct by a support staff member outside their professional responsibilities may be considered conduct unbecoming a staff member. Therefore, support staff members are advised to be concerned with such conduct which may include, but are not limited to, communications and/or publications using e-mails, text-messaging, social networking sites, or any other medium that is directed and/or available to pupils or for public display.

A support staff member is always expected to maintain a professional relationship with pupils and support staff members shall protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a support staff member.

School personnel, compensated and uncompensated (volunteers), are required to report to their immediate supervisor or Building Principal any possible violations of this Policy. In the event the



report alleges inappropriate conduct by the Building Principal or the immediate supervisor, the school staff member may report directly to the Superintendent. In addition, school personnel having reasonable cause to believe a pupil has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.10 are required to immediately report to the New Jersey Department of Children and Families in accordance with N.J.A.C. 6A:16-11.1 and inform the Building Principal or immediate supervisor after making such report. However, notice to the Building Principal need not be given when the school staff member believes such notice would likely endanger the referrer or child(ren) involved or when the staff member believes that such disclosure would likely result in retaliation against the child or in discrimination against the referrer with respect to his/her employment.

Reports may be made in writing or with verbal notification. The immediate supervisor or Building Principal will notify the Superintendent of all reports, including anonymous reports. The Building Principal will investigate all reports with a written final report to the Superintendent; if the possible violation involves the Building Principal, the Superintendent will investigate and prepare a written report. Any possible violation by the Superintendent should be reported to the President of the Board of Education. The Building Principal or the Superintendent, at any time after receiving the report, may take such appropriate action as necessary and as provided for in the law. This may include, but is not limited to, notifying law enforcement, notifying the New Jersey Department of Children and Families in accordance with N.J.A.C. 6A:16-11.1, and/or any other measure provided for in the law. The Superintendent will inform the Board of the findings in the final report and of what, if any, action was taken.

This Policy and its associated Regulation will be distributed to all school staff members and provided to staff members at anytime, upon request.

### Legal References

N.J.S.A. 18A:28-5 et seq.

N.J.A.C. 6A:16-11.1

Adopted: August 18, 2009

Revised: March 5, 2013



### **R4281 – Inappropriate Staff Conduct**

Inappropriate conduct by a support staff member will not be tolerated by the Board of Education. [Board Policy #4281 – Inappropriate Staff Conduct](#) and this Regulation have been developed and adopted by this Board to provide guidance and direction to avoid actual and/or the appearance of inappropriate conduct and conduct unbecoming a support staff member to pupils.

#### **A. Definitions**

1. “Building Principal” is the Principal of the building where the staff member is assigned.
2. “Grievance Procedure” is the grievance procedure that provides for prompt and equitable resolution of inappropriate conduct or conduct unbecoming a support staff member.
3. “Hostile Environment Sexual Harassment” is sexual harassing conduct, which can include sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive to limit a pupil’s ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment.
4. The “immediate supervisor” for support staff members may be a Building Principal, a member of the school district’s non-instructional supervisory staff and/or the School Business Administrator/Board Secretary.
5. “Inappropriate comments” includes, but is not limited to, comments of a sexual nature, sexually oriented humor or language, inappropriate comments about a pupil’s clothing or physical appearance, comments with sexual overtones, comments regarding a pupil’s dating partner or comments about the staff member’s personal life that are not relevant to the professional responsibility of the support staff member.
6. “Inappropriate conduct” includes, but is not limited to: sexual misconduct, a request by a support staff member to a pupil for a social relationship outside the school staff/pupil relationship; sexually harassing conduct; inappropriate touching by the staff member to a pupil or permitting a pupil to inappropriately touch a staff member; corporal punishment; requesting a pupil to expose private parts of their body, other than for school medical purposes by the school nurse; and a staff member exposing their own private parts of their body to a pupil. Inappropriate conduct also includes physical contact between a staff member and pupil that is beyond the staff member/pupil professional relationship. This contact includes, but is not limited to, kissing, touching or feeling private parts of the body, holding hands or arms, and other contact that typically shows a sign of affection beyond the staff member/pupil professional relationship. “Inappropriate conduct” does not include a spontaneous hug initiated by a pupil as a sign of the pupil’s appreciation to a support staff member at a school sponsored activity such as school banquets, school recognition programs, graduations, etc.



7. “Inappropriate language or expression” includes, but is not limited to: the use of any profanity; obscene language; public lewdness or the use of public lewdness; comments with sexual overtones or display distribution and/or discussion of any pornography.
8. “Inappropriate staff conduct” is any conduct prohibited by this Policy and corresponding Regulation including any other conduct deemed by the Commissioner of Education, the State Board of Education, statute, administrative code, and/or the judicial case law to be inappropriate conduct and/or conduct unbecoming a support staff member.
9. “Quid Pro Quo Sexual Harassment” is when a school employee explicitly or implicitly conditions a pupil’s participation in an educational program or activity or bases an educational decision on the pupil’s submission to unwelcomed sexual advances, requests for sexual favors or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the pupil resists and suffers the threatened harm or submits and thus avoids the threatened harm.
10. “Professional responsibility or responsibilities” is the responsibilities of the staff member including, but not limited to, all school district sponsored extra-curricular activities, co-curricular activities, athletic coaching responsibilities; and other instructional or non-instructional positions and responsibilities appointed and/or assigned by the administration or Board.
11. “Promptly report” is reporting by the end of the next school day. If school is not in session the next day, then by the end of the first day after the weekend or holiday break. If this reporting time would exceed seventy-two hours, the staff member shall notify their immediate supervisor or Building Principal no later than seventy-two hours after the required reporting time.
12. “Sexual Harassment” is to include quid pro quo sexual harassment and/or hostile environment sexual harassment.
13. “Staff member” or “support staff member” is a compensated and/or uncompensated member of the school district’s staff, including any agents and/or representatives of the school district, or school volunteers.
14. “Unannounced or uninvited visit” is a pupil visiting, without prior notice to the staff member or without an invitation from the staff member, the staff member’s residence and/or other place where the staff member may be when not performing school related professional responsibilities.

### B. Reporting Procedure

1. Any staff member who believes, or has reason to believe, a pupil is seeking a relationship with the staff member beyond his/her professional responsibilities must promptly report this information to the Building Principal or immediate supervisor.
2. Any staff member who believes, or has reason to believe, a pupil is seeking a relationship with another staff member beyond the professional responsibilities of the other staff member or



believes, or has reason to believe, another staff member is seeking a relationship with a pupil beyond the professional responsibilities of the other staff member must promptly report this information to the Building Principal or immediate supervisor.

3. Any staff member who believes he/she had, or may have, engaged in conduct prohibited by this Policy and Regulation must promptly report the conduct to the Building Principal or immediate supervisor.
4. Failure of a staff member to report conduct they know, or had reason to know, is prohibited by this Policy and Regulation and will result in appropriate disciplinary action.
5. Any pupil, parent, legal guardian and/or other person(s) who believes, or has reason to believe, a staff member has engaged in conduct prohibited by this Policy and Regulation shall promptly report the conduct to the Building Principal.
6. Any person, including support staff members, may make an anonymous report to the Building Principal if the person in good faith believes, or has reason to believe, a staff member has engaged in conduct prohibited by this Policy and Regulation.
7. School staff having reasonable cause to believe a pupil has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.10 are required to immediately report to the New Jersey Department of Children and Families in accordance with N.J.A.C. 6A:11.1 and inform the Building Principal or immediate supervisor after making such report.
8. If the alleged inappropriate conduct involves a staff member's immediate supervisor, the report shall be made to the Building Principal or Superintendent. If the Building Principal is involved, the report shall be made to the Superintendent. A report regarding the Superintendent shall be made to the President of the Board of Education.

### C. Investigation of Reports

1. An immediate supervisor or Building Principal who receives a report a staff member engaged in, or may have engaged in, conduct prohibited by this Policy and Regulation will immediately notify the Superintendent.
2. The Building Principal will begin a prompt and thorough investigation of every report, documenting his/her actions and findings.
3. The Building Principal or the Superintendent will take such appropriate action as provided for in the law and as necessary at any time after receiving a report. This action may include, but is not limited to, notifying law enforcement, notifying the New Jersey Department of Children and Families if there is reasonable cause to believe a pupil has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.10 and in accordance with N.J.A.C. 6A:16-11.1, and/or any other measure provided for in the law.





### D. Preliminary Investigation of Reports

1. The Building Principal will begin a prompt, thorough, and impartial investigation. The preliminary investigation will be completed no more than ten working days after the Building Principal received the initial report.
2. The Building Principal's preliminary investigation may include, but is not limited to, interviews with staff members who may have potential knowledge of the alleged conduct, interviews with any pupils who may have potential knowledge of such conduct, interviews with parent(s)/legal guardian(s) or any other persons who may have potential knowledge of the alleged conduct, and interview(s) with the support staff member(s) and pupil(s) reported to have engaged in conduct prohibited by this Policy and Regulation.
3. The Building Principal will request, if relevant to an investigation, the parent(s)/legal guardian(s) of any pupil involved in the investigation to assist in the investigation to determine if inappropriate staff conduct may have existed.
4. If, based on a preliminary investigation, the Building Principal determines conduct prohibited by this Policy and Regulation did not exist, the Building Principal will meet with the staff member(s) and the parent(s)/legal guardian(s) of the pupil(s) reported to review the results of the Building Principal's preliminary investigation. The preliminary investigation report indicating inappropriate conduct did not exist will be in writing and will be provided to the staff member(s) and to the parent(s)/legal guardian(s) if requested. The Building Principal will maintain a separate file for all such reports and the report will not be included in the staff member's personnel file.
5. If, based on a preliminary investigation, the Building Principal deems inappropriate staff conduct may have occurred, he/she will immediately notify and meet with the staff member(s) and the parent(s)/legal guardian(s) of the pupil(s) indicated in the report to review the procedures to be followed in a continued full investigation. A copy of this Regulation and corresponding Policy will be provided to the staff member(s) and to the parent(s)/legal guardian(s) of the pupil indicated in the report upon request.
6. The Superintendent will be informed of the findings of all investigations.
7. The Superintendent may designate a staff member, other than the Building Principal, to conduct the preliminary and/or the full investigation.

### E. Full Investigation

1. The Building Principal, finding that inappropriate staff conduct may have occurred after the preliminary investigation, requires a full investigation. This full investigation may be conducted in cooperation with the Division of Youth and Family Services in accordance with N.J.A.C. 6A:16-10.2 and/or local law enforcement.
2. The Building Principal will conduct the full investigation if the Division of Youth and Family Services and/or local law enforcement does not intervene or if the allegations do not meet the



reporting requirements of N.J.A.C. 6A:16-10.2 et seq. for reporting to the Division of Youth and Family Services and/or of N.J.A.C. 6A:16-6.3 for reporting to law enforcement.

3. The full investigation will include, but not be limited to, interviews with the staff member(s), pupils, parent(s)/legal guardian(s) and any other persons who know, or would have reason to know, a staff member may have engaged in inappropriate staff conduct. This investigation should not take longer than an additional fifteen working days.
4. The Building Principal will accept testimony and evidence from the staff member(s), pupil(s), parent(s)/legal guardian(s) and other persons who may have information relevant to the investigation.
5. All persons that provide information, testimony and evidence to the Building Principal relative to a report will be informed the information, testimony and evidence may be used in additional investigations and/or hearings as determined by the Superintendent.
6. Upon the conclusion of the interviews and review of the information, testimony and evidence, the Building Principal will prepare a written report to the Superintendent. The report will provide a summary of the interviews and information, testimony and evidence and, if possible, a finding from the Building Principal.
7. If the Building Principal's full investigation report finds inappropriate staff conduct and/or conduct unbecoming a support staff member did not occur and the Superintendent concurs with the report's findings, the Building Principal will notify and meet with the staff member(s) and the parent(s)/legal guardian(s) of the pupil(s) investigated to review the findings.
8. If the Building Principal's full investigation report finds inappropriate staff conduct and/or conduct unbecoming a support staff member may have occurred and the Superintendent concurs with the report's findings, the Superintendent may take such appropriate action necessary and as provided for in the law. This action may include, but is not be limited to:
  - a. Provide the staff member an opportunity to rebut the findings of the Building Principal's full investigation report and findings;
  - b. Recommend to the Board of Education the withholding of the staff member's salary increment/increase for the subsequent school year;
  - c. Not recommend the staff member be re-appointed for the next school year;
  - d. Recommend to the Board of Education the staff member be terminated for inappropriate staff conduct and/or conduct unbecoming a support staff member;
  - e. Institute tenure charges (if applicable) in accordance with N.J.A.S. and N.J.A.C.; and/or
  - f. Recommend to the Board of Education any other disciplinary and/or legal measures as the Superintendent determines to be appropriate under the circumstances and in accordance with any collective bargaining agreements between the employee representative association and the Board of Education.



9. If the Superintendent does not concur with the findings of the Building Principal's full investigation, the Superintendent may continue the investigation, which may include testimony and/or evidence from additional witnesses, a discussion with those who have already provided information to the Building Principal, a discussion with the pupil(s) and parent(s)/legal guardian(s) and any activity the Superintendent believes would be helpful to the continued investigation. The results of the continued investigation conducted by the Superintendent will proceed consistent with paragraphs 7. and 8. above.
10. The Board will be informed of the findings and subsequent action taken, if any, of each full investigation. The results of the preliminary investigation do not need to be reported to the Board.
11. Any person who is not satisfied with the Superintendent's determination may appeal to the Board of Education.

Approved: August 18, 2009  
Revised: March 5, 2013



### **4282 -- Use of Social Networking Sites**

The Board of Education has a strong commitment to quality education and the well-being of all pupils, as well as the preservation of the school district's reputation. The Board believes support staff members must establish and maintain public trust and confidence, and be committed to protecting all pupils attending the school district. In support of the Board's strong commitment to the public's trust and confidence, the Board holds all support staff members to the highest level of professional responsibility. This policy provides support staff members guidance in maintaining that professionalism while using social networking sites.

The Commissioner of Education has determined inappropriate conduct outside a support staff members' professional responsibilities may indicate that they are unfit to discharge the duties and functions of their position. Support staff members should be advised that communications, publications, photographs, and other information appearing on social networking sites deemed inappropriate by the Board could be cause for dismissal of a non-tenured support staff member, or to certify tenure charges against a tenured support staff member to the Commissioner of Education.

Support staff members are advised to be concerned and aware such conduct deemed inappropriate may include, but is not limited to, communications and/or publications using e-mails, text-messaging, social networking sites, blogs, or any other form of electronic communication that is directed, and/or may be available, to pupils or for public display or publication.

While the Board respects the right of support staff members to use social networking sites, support staff members should recognize they are held to a higher standard than the general public with regard to standards of conduct and ethics. It is important that a support staff member's use of these sites does not damage the reputation of the school district, employees, Board members, or pupils and their families. Support staff members who use, send, post or publish images, photographs, or comments on social networking sites, blogs, or other forms of electronic communication outside their professional responsibilities shall ensure their use, postings, or publications are done with an appropriate level of professionalism and are appropriate conduct for a support staff member. Support staff members should exercise care in setting appropriate boundaries between their personal and public online behavior, understanding that what is private in the digital world often has the possibility of becoming public even without their knowledge or consent.

The school district strongly encourages all support staff members to carefully review the privacy settings on social networking sites they use and exercise care and good judgment when posting content and information on such sites. Support staff members should adhere to the following guidelines, which are consistent with the district's workplace standards on harassment, pupil relationships, conduct, professional communication, and confidentiality.

When using personal social networking sites, support staff members:

1. Should not make statements that would violate any of the district's policies, including its policies concerning discrimination or harassment, intimidation, and bullying;



2. Must uphold the district's value of respect for the individual and avoid making defamatory statements about the school district, employees, Board members, or pupils and their families;
3. May not disclose any confidential information about the school district or confidential information obtained during the course of his/her employment, about any individual(s) or organization(s), including pupils and/or their families;
4. Shall not use social networking sites to post any materials of a sexually graphic nature;
5. Shall not use social networking sites to post any materials which promote violence;
6. Shall not use social networking sites which would be detrimental to the mission and function of the district;
7. Shall not list or otherwise designate current pupils, or former pupils who are still enrolled in the district (including high school), as "friends" on social networking sites and are prohibited from "tweeting," "blogging," "texting," or making inappropriate contact by email, text message, social networking site, or other communication device(s) with these same pupils;
8. Are prohibited from using their school district title as well as adding references to the district in any correspondence including, but not limited to, e-mails, postings, blogs, and social networking sites unless the communication is of an official nature and is serving the mission of the district (this prohibition also includes signature lines and personal e-mail accounts); however, casual references to the district as their place of employment that may come up in the course of a discussion that don't violate this and/or other district policies, and are not used to add more weight or authority to their statements, may be allowed depending on how the reference to the district is used and in what context;
9. Shall not post updates to their status on any social networking sites during normal working hours including posting of statements or comments on the social networking sites of others during school time unless it involves a school project (employees must seek approval from the Building Principal or Superintendent for such use); and
10. Shall not post or publish any information the Commissioner of Education would deem to be inappropriate conduct by a school staff member.

The Policy of this district is to maintain a level of professionalism both during and after the school day. Any publication through any means of electronic communication which is potentially adverse to the operation, morale, or efficiency of the district, will be deemed a violation of this Policy. If the Board or Superintendent believes that a support staff member's activity on any social networking site violates the district's policies, the Board or Superintendent may request that the employee cease such activity. Depending on the severity of the incident, the support staff member may be subject to disciplinary action in accordance with then current district policies and practices.

This Policy has been developed and adopted by this Board to provide guidance and direction to support staff members on how to avoid actual and/or the appearance of inappropriate conduct toward the school



district, employees, Board members, pupils or their families, and/or the community while using social networking sites.

Adopted: November 13, 2012



### **4283 – Electronic Communications Between Support Staff Members and Students**

In accordance with the provisions of N.J.S.A. 18A:36-40, the Board of Education adopts this Policy to provide guidance and direction to support staff members to prevent improper electronic communications between support staff members and students. The Board of Education recognizes support staff members can be vulnerable in electronic communications with students.

The Board prohibits all electronic communications between a support staff member and a student. However, based on a support staff member's professional responsibilities electronic communications between a support staff member and a student may be permitted with written approval of the Superintendent (or designee). The approval is only for the school year in which the approval is granted. If the Superintendent (or designee) approves electronic communications between a support staff member and a student, the support staff member will be required to comply with all the provisions of this Policy.

The Commissioner of Education has determined inappropriate conduct may determine a school staff member unfit to discharge the duties and functions of their position. Improper electronic communications by school staff members may be determined to be inappropriate conduct.

For the purposes of this Policy, "electronic communication" means a communication transmitted by means of an electronic device including, but not limited to, a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. "Electronic communications" include, but are not limited to, e-mails, text messages, instant messages, and communications made by means of an Internet website, including social media and social networking websites.

For the purposes of this Policy, "professional responsibility" means a support staff member's responsibilities assigned to the support staff member by the administration or Board of Education.

For the purposes of this Policy, "improper electronic communications" means an electronic communication between a support staff member and any student of the school district when:

1. The content of the communication is inappropriate as defined in this Policy; and/or
2. The manner in which the electronic communication is made is not in accordance with acceptable protocols for electronic communications between a support staff member and a student as defined in this Policy.

Inappropriate content of an electronic communication between a support staff member, who has been approved by the Superintendent (or designee) to have electronic communications, and a student includes, but is not limited to:

1. Communications of a sexual nature, sexually oriented humor or language, sexual advances, or content with a sexual overtone;



2. Communications involving the use, encouraging the use, or promoting or advocating the use of alcohol or tobacco, the illegal use of prescription drugs or controlled dangerous substances, illegal gambling, or other illegal activities;
3. Communications regarding the support staff member's or student's past or current romantic relationships;
4. Communications which include the use of profanities, obscene language, lewd comments, or pornography;
5. Communications that are harassing, intimidating, or bullying;
6. Communications requesting or trying to establish a personal relationship with a student beyond the support staff member's professional responsibilities;
7. Communications related to personal or confidential information regarding another school staff member or student; and
8. Communications between the support staff member and a student that the Commissioner of Education would determine to be inappropriate in determining the support staff member is unfit to discharge the duties and functions of their position.

The following acceptable protocols for all electronic communications between a support staff member, who has been approved by the Superintendent (or designee) to have electronic communications, and a student will be followed:

1. E-Mail Electronic Communications Between a Support Staff Member and a Student
  - a. All e-mails between a support staff member and a student must be sent or received through the school district's e-mail system. The content of all e-mails between a support staff member and a student will be limited to the staff member's professional responsibilities regarding the student.
  - b. A support staff member will not provide their personal e-mail address to any student. If a student sends an e-mail to a support staff member's personal e-mail address, the staff member will respond to the e-mail through the school district e-mail system and inform the student his/her personal e-mail address should not be used for any electronic communication between the support staff member and the student.
  - c. A support staff member's school district e-mail account is subject to review by authorized school district officials. Therefore, a support staff member has no expectation of privacy on the school district's e-mail system.
2. Cellular Telephone Electronic Communications Between a Support Staff Member and a Student

Communications between a support staff member and a student via a personal cellular telephone will be prohibited. However, a support staff member may, with prior approval of the Building Principal (or designee), communicate with a student using their personal cellular telephone if the need to communicate is directly related to the support staff member's professional responsibilities for a specific purpose such as a field trip or co-curricular activity. Any such





approval for cellular telephone communications will not extend beyond the specific field trip or co-curricular activity approved by the Building Principal (or designee).

### 3. Text Messaging Electronic Communications Between Support Staff Members and Students

Text messaging communications between a support staff member and an individual student are prohibited. However, a support staff member may, with prior approval of the Building Principal (or designee), text message students provided the need to text message is directly related to the support staff member's professional responsibilities regarding the student. Any such text message must be sent to every student in the class or every member of the co-curricular activity. Any such approval for text messaging will not extend beyond the activity approved by the Building Principal (or designee).

### 4. Social Networking Websites and other Internet-Based Social Media Electronic Communications Between Support Staff Members and a Student

- a. A support staff member is prohibited from communicating with any student through the support staff member's personal social networking website or other Internet-based website. Communications on personal websites are not acceptable between a support staff member and a student.
- b. A support staff member will not accept "friend" requests from any student on their personal social networking website or other Internet-based social media website. Any communication sent by a student to a support staff member's personal social networking website or other Internet-based social media website will not be responded to by the support staff member and will be reported to the Building Principal (or designee) by the support staff member.
- c. If a support staff member has a student(s) as a "friend" on their personal social networking website or other Internet-based social media website they must permanently remove them from their list of contacts upon Board adoption of this Policy.
- d. Communication between a support staff member and a student through social networking websites or other Internet-based social media websites is only permitted provided the website has been approved by the Building Principal (or designee) and all communications or publications using such websites are available to: every student in the class; every member of the co-curricular activity and their parents; and the Building Principal (or designee).

### Reporting Responsibilities

1. In the event a student sends an electronic communication to a support staff member who has not been approved by the Superintendent (or designee) to have electronic communications, the support staff member will report the communication to the Building Principal (or designee). The Building Principal (or designee) will take appropriate action to have the student discontinue such electronic communications. Electronic communications by a support staff member or a



student where such communications are not approved by the Superintendent (or designee) may result in appropriate disciplinary action.

2. In the event a student sends an improper electronic communication, as defined in this Policy, to a support staff member who has been approved by the Superintendent (or designee) to receive electronic communications, the support staff member will report the improper electronic communication to the Building Principal (or designee). The Building Principal (or designee) will take appropriate action to have the student discontinue such improper electronic communications. Improper electronic communications by a support staff member or a student may result in appropriate disciplinary action.

A support staff member and student may be exempt from the provisions outlined in this Policy if a support staff member and student are relatives. The support staff member and the student's parent will submit notification to the Building Principal of the student's school of their family relationship and their exemption from the provisions outlined in this Policy.

In addition, if the support staff member is a youth team coach, scout leader, or other youth leader in which they have contact with students in this district, they are not subject to this Policy outside the school day when they are acting in one of the aforementioned roles.

The provisions of this Policy will be applicable at all times while the support staff member is employed in the school district and at all times the student is enrolled in the school district, including holiday and summer breaks.

A copy of this Policy will be made available on an annual basis, to all parents, students, and school employees either electronically or in school handbooks.

### Legal References

N.J.S.A. 18A:36-40

Adopted: September 9, 2014



### **4321 – Acceptable Use of Computer Network(s)/Computers and Resources by Support Staff Members**

The Board recognizes as new technologies shift the manner in which information is accessed, communicated and transferred, these changes will alter the nature of teaching and learning. Access to technology will allow support staff members to explore databases, libraries, Internet sites, blogs, and message boards while exchanging information with individuals throughout the world for job-related purposes. The Board supports access by support staff members to these information sources but reserves the right to limit in-school use to materials appropriate to educational purposes. The Board directs the Superintendent to effect training of support staff members in skills appropriate to analyzing and evaluating such resources as to appropriateness for educational and/or job-related purposes.

The Board also recognizes technology allows support staff members access to information sources that have not been pre-screened using Board approved standards. The Board therefore adopts the following standards of conduct for the use of computer networks and declares unethical, unacceptable, inappropriate or illegal behavior as just cause for taking disciplinary action, limiting or revoking network access privileges, instituting legal action, dismissal, or taking any other appropriate action as deemed necessary.

The Board provides access to computer networks/computers for administrative, educational and/or job-related purposes only. The Board retains the right to restrict or terminate support staff members' access to the computer networks/computers at any time, for any reason. School district personnel will monitor the computer networks/computers and online activities to maintain the integrity of the computer networks/computers and technology resources and ensure their proper use.

Support staff members are not allowed to let volunteers use the school district's computers or networks, unless they are under the discretion of that staff member to help pupils.

#### **Standards for Use of Computer Network(s)**

Any individual engaging in the following actions declared unethical, unacceptable or illegal when using computer networks/computers and personally-owned devices (e.g., smartphones, laptops, netbooks, tablets) shall be subject to discipline and/or legal action:

- A. Using the computer networks/computers or personally-owned devices for illegal, inappropriate or obscene purposes, or in support of such activities. Illegal activities are defined as activities which violate federal, state, local laws and regulations. Inappropriate activities are defined as those that violate the intended use of the networks. Obscene activities shall be defined as a violation of generally accepted social standards for use of publicly owned and operated communication devices.
- B. Using the computer networks/computers or personally-owned devices to violate copyrights, institutional or third party copyrights, license agreements or other contracts.



- C. Using the computer networks in a manner that:
1. Intentionally disrupts network traffic or crashes the network and/or individual computers;
  2. Degrades or disrupts equipment or system performance;
  3. Uses the computing resources of the school district for personal or commercial purposes, financial gain or fraud;
  4. Steals data or other intellectual property;
  5. Gains or seeks unauthorized access to the folders/directories or files of others, or vandalizes the data of another person;
  6. Gains or seeks unauthorized access to resources or entities;
  7. Forges email messages or uses an account owned by others;
  8. Invades privacy of others;
  9. Posts anonymous messages;
  10. Possesses any data which is a violation of this Policy and/or its associated Regulation; and/or
  11. Engages in other activities that do not advance the educational and/or job-related purposes for which computer networks/computers are provided.

### Violations

Individuals violating this policy shall be subject to appropriate disciplinary actions as defined by [Board Policy #4150 – Discipline](#) which includes but are not limited to:

1. Use of the networks/computers only under direct supervision;
2. Suspension of network privileges;
3. Revocation of network privileges;
4. Suspension of computer privileges;
5. Revocation of computer privileges;
6. Suspension;
7. Dismissal;
8. Report of suspected violation of Federal, State and/or local laws to appropriate legal authorities;
9. Legal action and prosecution by the appropriate legal authorities; and/or
10. Any appropriate action that may be deemed necessary as determined by the Superintendent and approved by the Board of Education.



### Rules for Network, Computer and Internet Use

According to Lopatcong Township Board of Education Policy and Regulation:

1. Support staff members may only access their own folders/directories or common folders/directories.
2. Support staff members must not access another staff member's folders/directories or files; and must not read, edit, modify, delete, copy, or move another staff member's files or documents; or add files to another staff member's folders/directories.
3. All support staff members must only access their assigned network account and must not log into or attempt to "break in" to another user's account.
4. All support staff members must not access, add, replace, or change any system or network folders/directories or files contained in those folders/directories.
5. All support staff members must not intentionally disrupt network traffic, cause the network performance to deteriorate (by tying up network resources), or crash the network or any of its components (e.g., servers, routers, wireless access points).
6. All support staff members must not use the district's computers and/or networks and Internet access for commercial purposes, personal or financial gain, or fraud (this includes forwarding emails or initiating emails that recommends the use of any commercial entity).
7. All support staff members are expected to report any violation of these rules to a school administrator.
8. All support staff members must log off properly before leaving the computer they were using.
9. After school hours, support staff members must turn off the computer and monitor they were using before leaving.
10. Support staff members should confine their use of the Internet to researching information in developing class lessons or other activities that support the educational process.
11. All support staff members must not use the school district's computer networks/computers, programs and/or applications, and/or the Internet to harass, insult, or attack others (cyberbullying).
12. All support staff members must respect the privacy and rights of others.
13. All support staff members must not intercept email messages meant for others or forge email messages posing as another individual.
14. All support staff members must not download, upload, store, distribute, or forward any copyrighted material for which the user does not own the copyright or have the permission of the copyright owner to do so; this includes audio (e.g., MP3, wav) and video files, and software.



15. All support staff members must not use the Internet to steal data or intellectual property, or violate copyright laws.

### Legal References

N.J.S.A. 2A:38A-3

Adopted: August 18, 2009  
Revised: July 17, 2012



### **R4321 – Acceptable Use of Computer Network(s)/Computers and Resources by Support Staff Members**

The school district provides computer equipment, computer services, and Internet access to its pupils and staff for educational and/or job-related purposes only. The purpose of providing technology resources is to improve learning and teaching through research, teacher training, collaboration, dissemination and the use of global communication resources.

For the purpose of this Regulation and its associated Policy, “computer networks/computers” includes, but is not limited to: the school district’s computer networks (e.g., switches, routers, wireless access points, servers); computers; other computer hardware and/or devices that can access the network (e.g., netbooks, iPads, tablets, Smart Boards); computer programs and software; Internet access equipment; Internet-based email, applications, licensed websites, and/or storage capabilities (sometimes referred to as the “Cloud”); and/or any other computer-related equipment and/or technology.

This Regulation and [Board Policy #4321 – Acceptable Use of Computer Networks/Computers and Resources by Support Staff Members](#) also applies to the use in school of, and the access of the school district’s computer networks and the Internet by, support staff member-owned technology devices (e.g., iPads, tablets, iPhones, smartphones, laptops, netbooks).

For the purpose of this Regulation and its associated Policy, “school district personnel” shall be the person(s) designated by the Superintendent to oversee and coordinate the school district’s computer networks/computer systems. School district personnel will monitor the district’s computer networks and online activity, in any form necessary, to maintain the integrity of the networks, ensure proper use, and to be in compliance with Federal and State laws that regulate Internet safety.

Due to the complex association between so many government agencies and computer networks/computers and the requirements of Federal and State laws, support staff members using the school district’s computer networks/computers must adhere to strict regulations. These regulations are provided to ensure support staff members are aware of their responsibilities. The school district may modify these regulations at any time.

Support staff members are responsible for acceptable and appropriate behavior on computer networks/computers. Communications on the computer networks/computers are often public in nature and policies and regulations governing appropriate behavior and communications apply. The school district’s networks, Internet access and computers are provided to support job-related activities and to communicate with others. Access to computer network services/computers is given to support staff members who are expected to act in a considerate, responsible and professional manner. Access entails responsibility and individual users of the district computer networks/computers are responsible for their behavior and communications over the computer networks/computers. It is presumed that users will comply with district standards. Beyond the clarification of such standards, the district is not responsible for the actions of individuals utilizing the computer networks/computers who violate the policies and regulations of the Board.



Computer networks/computer storage areas, including Internet-based storage capabilities, shall be treated in the same manner as other school storage facilities. School district personnel may review files and communications to maintain system integrity, confirm that users are using the system responsibly, and ensure compliance with Federal and State laws and statutes that regulate Internet safety. Therefore, no person should expect files and emails stored on district servers and/or Internet-based storage capabilities will always be private or confidential. Users should expect all files and emails stored on district servers and/or Internet-based storage capabilities will be available for review by school district personnel and/or school administrators.

The following prohibited behavior and/or conduct includes but is not limited to:

1. Sending or displaying offensive messages or pictures;
2. Violating the privacy of others by posting on the Internet, including to social networking sites, pictures or audio and video recordings of others taken while on school property;
3. Using obscene language and/or accessing material or visual depictions that are obscene as defined in section 1460 of Title 18, United States Code;
4. Using or accessing material or visual depictions that are child pornography, as defined in section 2256 of Title 18, United States Code;
5. Using or accessing material or visual depictions that are harmful to minors including any pictures, images, graphic image file or other material or visual depiction that taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
6. Depicting, describing, or representing in a patently offensive way, with respect to what is suitable for minors, sexual acts or conduct; or taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors;
7. Harassing, insulting or attacking others (cyberbullying);
8. Inappropriate online behavior, including inappropriate interaction with other individuals on social networking sites, blogs, message boards, and/or in chat rooms;
9. Damaging, degrading or disrupting computers, computer systems or computer network(s)/computers;
10. Violating copyright laws;
11. Using another's password to gain access to their files, emails, or network privileges;
12. Trespassing in another's folders/directories, work or files or email account;
13. Intentionally wasting limited resources;
14. Employing the networks/computers for personal or commercial purposes;
15. Engaging in other activities which do not advance the educational/job-related purposes for which computer networks/computers are provided;





16. Stealing data or other intellectual property;
17. Forging email messages;
18. Posting anonymous messages;
19. Accessing school computers for other than educational purposes; and/or
20. Any other unethical, unacceptable, illegal and/or inappropriate activity.

### **Information Content and Uses of the System**

Support staff members may not publish on or over the system any information which violates or infringes upon the rights of any other person or any information which would be abusive, profane or sexually offensive to a reasonable person, or which without the approval of the Superintendent or designated school district personnel, contains any advertising or any solicitation to use goods or services. A support staff member cannot use the facilities and capabilities of the system to conduct any non-school related business or solicit the performance of any activity which is prohibited by law or is non-educational/job-related.

While most of the content available on the Internet is not offensive and much of it is a valuable educational resource, some objectionable material exists. Even though the Board provides pupils access to Internet resources through the school district's computer networks/computers, with installed appropriate technology protection measures, support staff members must be advised that potential dangers remain and offensive material may be accessed notwithstanding the technology protection measures taken by the school district. Support staff members are advised that some systems and Internet websites may contain defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, or otherwise illegal or offensive material. The Board and school district personnel not condone the use of such materials and do not permit usage of such materials in the school environment. Support staff members should report pupils who knowingly bring materials prohibited by [Board Policy and Regulation #5510 – Acceptable Use of Computer Networks/Computers and Resources](#) into the school environment in accordance with Board policies and regulations to appropriate school district personnel.

### **On-line Conduct**

Any action by a support staff member or other user of the school district's computer networks/computers that is determined by school district personnel to constitute an inappropriate use of the school district's computer networks/computers resources or to improperly restrict or inhibit other persons from using and enjoying those resources is strictly prohibited and may result in limitation on or termination of an offending person's access and other consequences in compliance with Board policy and regulation. The support staff member specifically agrees not to submit, publish, or display any defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, or otherwise illegal or offensive material; nor shall a support staff member encourage the use, sale, or distribution of illegal or controlled substances. Transmission of material, information or software in



violation of any local, State or federal law is also prohibited and is a breach of the Consent and Waiver Agreement.

Support staff members agree to indemnify the Lopatcong Township School District and school district personnel for any losses, costs, or damages, including reasonable attorneys' fees incurred by the Board relating to, or arising out of any breach of this section by the support staff member.

Computer networks/computer resources are to be used by the support staff member for his/her educational/job-related use only; personal or commercial uses are strictly prohibited.

### **Software Libraries on the Networks**

Software libraries on or through the school district's networks, including applications on Internet-based licensed website, are provided to support staff members as an educational/job-related resource. No support staff member may install, upload, or download software without the expressed consent of school district personnel. Any software having the purpose of damaging another person's accounts or information on the school district computer networks/computers including Internet-based licensed websites (e.g., computer viruses) is specifically prohibited. School district personnel reserve the right to refuse posting of files and/or to remove files. School district personnel further reserve the right to immediately limit usage or terminate the support staff member's access or take other action consistent with the Board's policies and regulations of a support staff member who misuses the software libraries.

### **Copyrighted Material**

Copyrighted material must not be placed on any system connected to the computer networks/computers without authorization. Support staff members may download copyrighted material for their own use in accordance with Board Policy and Regulation #2531 – Use of Copyrighted Materials. Any support staff member may only redistribute a copyrighted program with the expressed written permission of the owner or authorized person. Permission must be specified in the document, on the system, or must be obtained directly from the author or authorized source.

### **Public Posting Areas (Message Boards/Blogs/Social Networking Sites, etc.)**

Messages are posted from systems connected to the Internet around the world and school district personnel have no control of the content of messages posted from these other systems. To best utilize system resources, school district personnel will determine which message boards, blogs, social networking sites, etc. are most applicable to the educational needs of the school district and will permit access to these website through the school district's computer networks. School district personnel may remove messages or posts that are deemed to be unacceptable or in violation of the Board policies and regulations. School district personnel further reserve the right to immediately terminate the access of a support staff member who misuses these public posting areas.



### **Real-time, Interactive, Communication Areas**

School district personnel reserve the right to monitor and immediately limit the use of the computer networks)computers or terminate the access of a support staff member who misuses real-time conference features (e.g., talk/chat/Internet relay chat).

### **Electronic Mail**

Electronic mail (“email”) is an electronic message sent by or to a person in correspondence with another person having Internet email access. All messages sent and received on the school district computer networks must have an educational/job-related or administrative purpose and are subject to review. A sender of an email message should expect the email messages will be reviewed by school district personnel and/or the school administration. Messages received by district-provide email account are retained on the system until deleted by a support staff member or for a period of time determined by the district. A canceled account will not retain its emails. School district personnel may inspect the contents of email sent by a support staff member to an addressee, or disclose such contents to other than the sender or a recipient when required to do so by Board policy, regulation or other laws and regulations of the State and Federal governments. The Board reserves the right to cooperate fully with local, State, or Federal officials in any investigation concerning or relating to any email transmitted on or through the school district’s computer networks or computers including the school district’s Internet-based email account.

### **Disk Usage**

The school district reserves the right to establish the maximum storage space a support staff member receives on the system and any Internet-based storage areas. A support staff member who exceeds his/her quota of storage space will be advised to delete files to return to compliance with the predetermined quotas amount of storage space. A support staff member who remains in noncompliance of the storage space quotas after seven school days of notification will have their files removed from the school district’s system.

### **Security**

Security on any computer system is a high priority, especially when the system involves many users. If a support member identifies a security problem on the computer networks, the support staff member must notify the appropriate school district staff member. The support staff member should not inform other individuals of a security problem. Support staff members may not allow others to use their account and password. Passwords provided to support staff members by the district for access to the school district’s computer networks/computers and/or licensed websites, or developed by the support staff member for access to an Internet website should not be easily guessable by, or shared with, others. Attempts to log in to the system or licensed websites using either another person’s account may result in termination of the support staff member’s account and/or access. Support staff members should immediately notify their Building Principal (or designee) if a password is lost or stolen, or if they have reason to believe that someone has obtained unauthorized access to their account. Any support staff



member identified as a security risk will have limitations placed on usage of the computer networks/computers or may be terminated as a user and be subject to other disciplinary action.

### **Vandalism**

Vandalism to any school district-owned computer networks/computers may result in cancellation of system privileges and other disciplinary measures. Vandalism is defined as any malicious attempt to harm or destroy data of another user, the system or licensed website, or any of the agencies or other networks/computers that are connected to the Internet backbone or of doing intentional damage to hardware or software on the system. This includes, but is not limited to, the uploading or creation of computer viruses.

### **Printing**

The printing facilities of the computer network(s)/computers should be used judiciously. Unauthorized printing for other than educational/job-related or school-related purposes is prohibited.

### **Internet Sites and the World Wide Web**

Designated school district personnel may establish an Internet site(s) on the World Wide Web or other Internet locations. Such sites shall be administered and supervised by designated school district personnel, who shall ensure the content of the website complies with Federal, State and local laws and regulations as well as Board policies and regulations.

### **Violations**

Violations of this Regulation and/or the Acceptable Use of Computer Networks/Computers and Resources by Support Staff Members may result in a loss of access as well as other disciplinary or legal action. Disciplinary action shall be taken as indicated in [Board Policy and Regulation #4321 – Acceptable Use of Computer Network\(s\)/Computers and Resources by Support Staff Members](#) and [Board Policy #4150 – Discipline](#), as well as possible legal action and/or reports to the legal authorities and entities.

### **Determination of Consequences for Violations**

The particular consequences for violations of this Regulation and/or its associated Policy shall be determined by the Building Principal (or designee). The Superintendent (or designee) will determine, in matters of discipline or employee suspension and/or actions by the appropriate legal authorities, which is (are) the appropriate course(s) of action.

Individuals violating this Regulation and/or its associated Policy shall be subject to the consequences in [Board Policy and Regulation #4321 – Acceptable Use of Computer Network\(s\)/Computers and Resources by Support Staff Members](#) and other appropriate discipline which includes but are is limited to:

1. Use of computer networks/computers only under direct supervision;



2. Suspension of network privileges;
3. Revocation of network privileges;
4. Suspension of computer privileges;
5. Revocation of computer privileges;
6. Suspension from employment;
7. Report of suspected violation of Federal, State and/or local laws to appropriate legal authorities;
8. Legal action and/or prosecution by the appropriate legal authorities; and/or
9. Any appropriate action that may be deemed necessary as determined by the Superintendent and approved by the Board of Education.

Adopted: August 18, 2009  
Revised: July 17, 2012



### **4322 – Support Staff Member’s Use of Personal Cellular Telephones and Other Communications Devices**

Support staff members may not use personal cellular telephones, smartphones text messaging devices, laptops, netbooks, tablets (e.g., iPads, Android/Windows) or other personal communication devices while in the presence of students and/or parents. The Board believes that making or taking personal calls and texting while students and/or parents are present is unprofessional.

Support staff members are strongly encouraged not to use their personal cellular telephones or other communications devices for non-school related, personal calls during school hours, except in an emergency situation. The Board of Education recognizes a support staff member may occasionally need to use a personal cellular telephone or other personal communication device during their workday. In the event the support staff member needs to electronically communicate on a non-school related, personal matter, the support staff member may do so provided the communication is made during the support staff member’s lunch or break periods and it is made outside the presence of students and/or parents.

A support staff member’s personal cellular telephone or other personal communication device must be secured by the support staff member when the support staff member is performing assigned school district responsibilities. In addition, cellular telephones and other personal communication devices should either be turned off or set on “silent” or “vibrate” during periods when students and/or parents are present. The Board of Education is not responsible if a support staff member’s personal cellular telephone or other communication device is lost, stolen, or goes missing.

For the purposes of this Policy, electronic communications include, but are not limited to: voice conversations, text-messaging, accessing social networking or other internet sites, or any other type of electronic communication.

Support staff members violating this Policy may be subject to reprimand or other disciplinary action.

Adopted: October 13, 2009 (previously #4316)  
Revised: October 13, 2015



### **4324 – Right of Privacy**

The Board of Education will provide facilities and school district-owned property to assist support staff members, including secretaries and custodians, in their job responsibilities or for the support staff members' convenience. These facilities or district-owned property may include, but are not limited to, an office, a storage cabinet/closet, a filing cabinet and/or a desk. The Building Principal (or designee) may provide a support staff member with exclusive use and access to such facilities or school district-owned property or may require the facility or school district-owned property be shared with other staff members. The support staff member may be provided a lock or key by the school district or may secure the facility or school district-owned property using their own locking device with permission from the Building Principal (or designee).

Support staff members, including secretaries and custodians, should be aware that their expectation of privacy in these facilities and/or the school district-owned property provided by the Board of Education is reduced by virtue of actual office practices and procedures, for searches conducted pursuant to an investigation of work-related employee misconduct, or by legitimate school district policies or regulations. In addition, support staff members shall have a reduced expectation of privacy in these facilities and school district-owned property if there is reasonable suspicion the support staff member is violating a law or school policy. Support staff members shall be on notice that this reduced expectation of privacy may result in such facilities and/or school district-owned property being searched without a search warrant. In order to avoid exposing personal belongings or materials to such a search, support staff members are discouraged from storing personal papers and effects in these facilities or school district-owned property.

Adopted: April 10, 2012



### **4351 – Healthy Workplace Environment**

The Board of Education recognizes a healthy workplace environment enables school district administrative and support staff members to fully contribute their expertise and skills to their school district responsibilities. A healthy workplace environment can improve productivity, reduce absenteeism, and reduce staff turnover while having a positive impact on the school district's programs provided to pupils in the school district.

A significant characteristic of a healthy workplace environment is that employees interact with each other with dignity and respect regardless of an employee's work assignment or position in the school district. Repeated malicious conduct of an employee or group of employees directed toward another employee or group of employees in the workplace that a reasonable person would find hostile, offensive, intimidating, or humiliating is unacceptable and is not conducive to establishing or maintaining a healthy workplace environment. This unacceptable conduct may include, but is not limited to: repeated infliction of verbal abuse such as the use of derogatory remarks; insults; verbal or physical conduct that a reasonable person would find threatening, offensive, intimidating, or humiliating; the gratuitous sabotage or undermining of a person's work performance; or specific acts that are designed to embarrass or humiliate an individual in front others. A single act of such conduct shall not constitute the unacceptable conduct prohibited by this Policy unless it is especially severe and egregious.

Unacceptable conduct, for the purposes of this Policy, may include conduct toward an employee of a protected class or because of the employee's protected activity as defined by Federal and State anti-discrimination laws and statutes. While these employees and activities are afforded the legal protections under various Federal and State anti-discrimination laws and statutes, and other Policies of this Board an employee may choose to use this Policy in seeking a remedy. In addition, unacceptable conduct for the purposes of this Policy shall not be confused with conduct of management employees exercising management rights including, but not limited to, assigning tasks, reprimanding, assigning discipline, or directing.

Employees who believe the conduct prohibited by this Policy has been directed toward them or to another employee of the school district shall submit a written report to the Superintendent. The written report shall provide specific details supporting the claim including, but not limited to, the specific conduct; the names of witnesses (if any) who may have observed such conduct; dates or times when such conduct occurred; and any other information the person(s) making the report believes will be informative and helpful to an investigation of the allegations. If it is alleged that the Superintendent has engaged in unacceptable conduct, the employee will submit the written report to the Board President, who will assign the investigation to an administrator as the designee (e.g., Building Principal, Business Administrator). Upon receipt of a report, the Superintendent (or designee) will conduct an investigation and upon completion of the investigation will inform the person(s) who made the report such an investigation was completed. The amount of investigation information shared with the person(s) making the report will be at the discretion of the Superintendent (or designee) and may vary depending on whether the conduct reported was directed to the person(s) making the report,





confidential personnel matters, and/or other issues as determined by the Superintendent (or designee). The Superintendent (or designee) will document their investigation and findings in writing, including witnesses interviewed, other actions taken as part of the investigation, and the rationale for their findings and any recommendations. If the investigation is conducted by an individual other than the Superintendent, they will provide the Superintendent, or Board President if applicable, with a copy of their written report within two (2) business days of completing their investigation.

If the investigation determines conduct prohibited by this Policy has taken place, the Superintendent (or designee) will meet with the offender(s) and the victim(s) to review the investigation results and to implement remedial measures to ensure such conduct does not continue or reoccur. Appropriate disciplinary action may be taken depending on the severity of conduct.

There shall be no reprisals or retaliation against any person(s) who reports or is a witness to conduct prohibited by this Policy.

Adopted: April 13, 2010  
Revised: March 13, 2012



### **4352 – Sexual Harassment (M)**

The Board of Education recognizes that an employee's right to freedom from employment discrimination includes the opportunity to work in an environment untainted by sexual harassment. Sexually offensive speech and conduct are wholly inappropriate to the harmonious employment relationships necessary to the operation of the school district and intolerable in a workplace to which the children of this district are exposed.

Sexual harassment includes all unwelcome sexual advances, requests for sexual favors, and verbal or physical contacts of a sexual nature that would not have happened but for the employee's gender. Whenever submission to such conduct is made a condition of employment or a basis for an employment decision, or when such conduct is severe and pervasive and has the purpose or effect of unreasonably altering or interfering with work performance or creating an intimidating, hostile, or offensive working environment, the employee shall have cause for complaint.

The sexual harassment of any employee of this district is strictly forbidden. Any employee or agent of this Board who is found to have sexually harassed an employee of this district will be subject to discipline, which may include termination of employment. Any employee who has been exposed to sexual harassment by any employee or agent of this Board is encouraged to report the harassment to an appropriate supervisor. An employee may complain of any failure of the Board to take corrective action by recourse to the procedure by which a discrimination complaint is processed. The employee may appeal the Board's action or inaction to the New Jersey Division on Civil Rights or to the United States Equal Employment Opportunity Commission. Complaints regarding sexual harassment shall be submitted following the procedures outlined in Regulation 1530, Equal Employment Opportunity.

The Affirmative Action Officer shall instruct all employees of this Board to recognize and correct speech and behavior patterns that may be sexually offensive with or without the intent to offend.

#### **Legal References**

29 C.F.R. 1604.11

Adopted: August 18, 2009



### **R4352 – Sexual Harassment of Support Staff Members** **Complaint Procedure**

Sexual harassment of school staff members is prohibited by the Board of Education. The Superintendent and school district staff will use the following methods to investigate and resolve allegations of sexual harassment of school staff members.

#### A. Definitions

1. Gender-based Harassment – Gender-based harassment that includes acts of verbal, nonverbal, physical aggression, intimidation, or hostility based on gender, but not involving conduct of a sexual nature, may be a form of sex discrimination if it is sufficiently severe, persistent, or pervasive and directed at individuals because of their gender.
2. Hostile Environment Sexual Harassment – Sexual harassing conduct (which can include unwelcomed sexual advances, requests for sexual favors or other favors, or other verbal, nonverbal or physical conduct of a sexual nature) by a school staff member that is sufficiently severe, persistent, or pervasive to limit another staff member’s ability to participate in a workplace environment or activity, or to create a hostile or abusive workplace environment.
3. Quid Pro Quo Harassment – When a school staff member explicitly or implicitly conditions another school staff member’s conditions of employment on the staff member’s submission to unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the staff member resists and suffers the threatened harm or submits and thus avoids the threatened harm.

#### B. Grievance Procedure

The following Grievance Procedure shall be used for an allegation(s) of harassment of school staff members by other school staff members:

1. Reporting of Sexual Harassment Conduct
  - a. Any person with any information regarding actual and/or potential sexual harassment of a staff member must report the information to the school Building Principal, their immediate supervisor or the Affirmative Action Officer.
  - b. The school district can learn of sexual harassment through other means such as from a witness to an incident, an anonymous letter, or telephone call.
  - c. A report to the school Building Principal or an immediate supervisor will be forwarded to the school district Affirmative Action Officer within one working day, even if the school Building Principal or immediate supervisor feels sexual harassment conduct was not present.



- d. In the event the report alleges conduct by the Building Principal or the Affirmative Action Officer, the Superintendent will designate a school official to assume the Building Principal's or Affirmative Action Officer's responsibilities, as outlined in [Board Policy #4352 – Sexual Harassment](#) and this Regulation.
2. Affirmative Action Officer's Investigation
    - a. Upon receipt of any report of potential sexual harassment conduct, the Affirmative Action Officer will begin an immediate investigation. The Affirmative Action Officer will promptly investigate all alleged complaints of sexual harassment, whether or not a formal grievance is filed and steps will be taken to resolve the situation, if needed. This investigation will be prompt, thorough, and impartial. The investigation will be completed no more than ten working days after receiving notice.
    - b. When a school staff member provides information or complains about sexual harassment, the Affirmative Action Officer will initially discuss what actions the staff member is seeking in response to the harassment.
    - c. The Affirmative Action Officer's investigation may include, but is not limited to, interviews with all persons with potential knowledge of the alleged conduct, interviews with any staff member(s) who may have been sexually harassed in the past by the school staff member and any other reasonable methods to determine if sexual harassment conduct existed.
    - d. The Affirmative Action Officer may request a staff member involved in the investigation to assist in the investigation.
    - e. The Affirmative Action Officer will provide a copy of [Board Policy and Regulation #4352 – Sexual Harassment](#) to all persons who are interviewed with potential knowledge, upon request, and to any other person the Affirmative Action Officer feels would be served by a copy of such documents.
    - f. Any person interviewed by the Affirmative Action Officer may be provided an opportunity to present witnesses and other evidence.
    - g. The Affirmative Action Officer and/or Superintendent will contact law enforcement agencies if there is potential criminal conduct by any party.
    - h. The school district administration may take interim measures during an Affirmative Action Officer's investigation of a complaint.
    - i. The Affirmative Action Officer will consider particular issues of welcomeness based on the allegations.
  3. Investigation Results
    - a. Upon the conclusion of the investigation, but not later than ten working days after reported to the Affirmative Action Officer, the Affirmative Action Officer will prepare a summary of findings to the parties. At a minimum, this summary shall include the



- person(s) providing notice to the school district and the staff member(s) who was alleged to be sexually harassed.
- b. The Affirmative Action Officer shall make a determination whether sexual harassment conduct was present.
  - c. If the Affirmative Action Officer concludes sexual harassment conduct was not, or is not present, the investigation is concluded.
  - d. If the Affirmative Action Officer determines that sexual harassment has occurred, the school district administration shall take reasonable and effective corrective action, including steps tailored to the specific situation. Appropriate steps will be taken to end the harassment such as counseling, warning, and/or disciplinary action. The steps will be based on the severity of the harassment or any record of prior incidents or both. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.
  - e. In the event the Affirmative Action Officer determines a hostile environment exists, the Superintendent shall take steps to eliminate the hostile environment. The school district may need to deliver special training or other interventions to repair the educational environment. Other measures may include directing the harasser to apologize to the harassed staff member, dissemination of information, distribution of new policy statements or other steps to communicate the message that the Board does not tolerate harassment and will be responsive to any school staff member that reports such conduct.
  - f. In some situations, the school district may need to provide other services to the staff member that was harassed, if necessary, to address the effects of the harassment on that staff member. Depending on the type of harassment found, these additional services may include an independent re-assessment of the harassed staff member's work performance, counseling and/or other measures that are appropriate to the situation.
  - g. The Superintendent will take steps to avoid any further sexual harassment and to prevent any retaliation against the staff member who made the complaint, was the subject of the harassment, or against those who provided the information or were witnesses. The Affirmative Action Officer will inform the sexually harassed staff member to report any subsequent problems and will make follow-up inquiries to see if there have been any new incidents or retaliation.
  - h. All sexual harassment grievances and accompanied investigation notes will be maintained in a confidential file by the Affirmative Action Officer.
4. Affirmative Action Officer's Investigation Appeal Process
- a. Any person found by the Affirmative Action Officer's investigation to be guilty of sexual harassment conduct, or any person who believes they were sexually harassed but not supported by the Affirmative Action Officer's investigation, may appeal to the



Superintendent. The Superintendent will make his/her determination within ten working days of receiving the appeal.

- b. Any person who is not satisfied with the Superintendent's determination may appeal to the Board. The Board will make its determination within forty-five calendar days of receiving an appeal from the Superintendent's determination.

### C. Office of Civil Rights (OCR) Case Resolution

Persons not satisfied with the resolution of an allegation of sexual harassment by school district officials or the Board may request the Office of Civil Rights (OCR) of the United States Department of Education to investigate the allegations.

1. Any alleged victim of sexual harassment may appeal a decision of the Affirmative Action Officer, Superintendent, or the Board to the Office of Civil Rights (OCR).
2. Any person may report an allegation of sexual harassment to the OCR at any time. If the OCR is asked to investigate or otherwise resolve incidents of sexual harassment of school staff members, OCR will consider whether:
  - a. The school district has a policy prohibiting sexual harassment and a grievance procedure;
  - b. The school district appropriately investigated or otherwise responded to allegations of sexual harassment; and
  - c. The school district has taken immediate and appropriate corrective action responsive to Quid Pro Quo or Hostile Environment Harassment.

Issued: August 18, 2009



### **4360 – Support Staff Member Tenure**

The Board of Education directs that the tenure status of support staff members be determined only in accordance with law and this policy and such contractual terms as may have been negotiated with the employee's majority representative.

Persons employed as janitors, custodians, and maintenance personnel will be employed on fixed term contracts and will not acquire tenure in their positions.

The Board will not grant tenure to any employee for whom such tenure has not been provided in law.

#### **Legal References**

N.J.S.A. 18A:17-2; 18A:17-3

Adopted: August 18, 2009



### **4381 – Protection Against Retaliation**

The Board of Education will take no retaliatory action, by discharge, demotion, suspension, or any other adverse action, against an employee because that employee has conscientiously:

1. Disclosed or threatened to disclose to a supervisor or public body an activity, policy, or practice of this Board or any district officer that the employee reasonably believes to be in violation of law or rule;
2. Provided information to a public body conducting an investigation, hearing, or inquiry into any alleged violation of law by the Board or an officer of this district; or
3. Objected to or refused to participate in an activity, policy, or practice of this district that the employee reasonably believes to be in violation of law or rule, fraudulent, criminal, or incompatible with a clear mandate of public policy concerning the public health, safety, or welfare or protection of the environment.

An employee who has reason to believe that the Board has engaged in an illegal activity or an activity contrary to public policy must report that belief in writing to the Superintendent before notice is given to a supervisor or a public body. The Superintendent shall promptly report the same to the Board and institute an investigation of the reported activity. The findings of the investigation will be reported in writing to the Board and to the employee.

The protection of law and this policy apply only to employees who have given notice in accordance with this policy and have afforded the Board a reasonable period of time to take any corrective action that may be required or have acted in circumstances that the employee believes in good faith constitute an emergency.

The Superintendent shall post notice of this policy and inform employees of their rights under the New Jersey Conscientious Employee Protection Act.

### **Legal References**

N.J.S.A. 34:19-1

Adopted: August 18, 2009





### **4410 – Compensation**

The Board of Education will establish the compensation for support staff members not covered by the terms of a negotiated agreement or in an individual contract with the Board.

#### **Legal References**

N.J.S.A. 18A:6-6; 18A:16-11

Adopted: August 18, 2009



### **4415 – Substitute Wages**

In order to ensure reliable assistance in the absence of regular support staff employees, the Board of Education will offer competitive compensation to qualified substitute secretaries, clerks, custodians, maintenance workers, teacher aides, and lunchroom supervisors. In no instance shall the wages paid a substitute exceed the wages paid the regular employee.

Substitute support staff members will be paid at a per diem rate set by the Board.

Adopted: August 18, 2009



### **4420 – Benefits**

The Board of Education reserves the right to establish benefits for support staff members not covered by the terms of a negotiated agreement or in an individual contract with the Board.

#### **Legal References**

N.J.S.A. 18A:6-6; 18A:16-12 et seq.

Adopted: August 18, 2009



### **4425 – Work-Related Disability Pay**

The Board of Education will permit, in accordance with law, the absence without loss of pay or of annual or accumulated sick leave benefits of a support staff member disabled by accident or injury arising out of and in the course of employment. Any such employee shall seek the workers' compensation benefits to which he/she is entitled by law.

An employee whose disability has qualified for the receipt of workers' compensation benefits shall be presumed eligible for work related disability pay under this policy. When an employee's disability is so brief as to preclude the employee's application for worker's compensation benefits, the employee may request and the Board may grant work related disability pay.

Any employee who qualified for work related disability pay under this policy shall receive full pay during the period he/she is on disability leave of absence, up to one calendar year.

As a condition of receiving full salary, an employee who receives workers' compensation benefits for his/her work-related disability must endorse and deliver to the Board all workers' compensation temporary disability checks received for the period covered by this policy.

#### **Legal References**

N.J.S.A. 18A:30-2.1; 18A:66-32.1

N.J.S.A. 34:15-38

Adopted: August 18, 2009



### **4425.01 – Modified Duty Early Return to Work Program – Support Staff Members**

New Jersey's workers' compensation laws provide lost wages and pay medical expenses for an employee who sustains an injury as a result of an on-the-job accident, injury, or occupational disease. Workers' compensation is designed to protect school district employees and their families against the hardships from injury arising in the workplace. In an effort to assist school staff in recovering from an eligible workers' compensation injury, the Board provides a Modified Duty Early Return To Work Program. The Program is provided to staff members who have been injured on the job, but who are not permanently disabled. The Program is intended to minimize the negative psychological impact to an injured staff member due to being out of work and to provide a transition and adjustment period for the injured staff member to return to work while recovering from an on-the-job injury.

The school district may assign temporary modified duties and responsibilities to staff members that have sustained an eligible workers' compensation injury. These employees may temporarily perform duties and responsibilities that may or may not be within their job description, or may or may not be within their department. The modified duties and/or responsibilities will be within the injured staff member's capabilities and a staff member will not be assigned any modified duties and/or responsibilities that require any certifications/licenses that are not possessed by the injured staff member.

The modified duties and responsibilities will be determined by the School Business Administrator/Board Secretary, the district's designated Workers' Compensation Coordinator, after a medical examination and evaluation of the injured staff member by the Board's designated workers' compensation physician. The Workers' Compensation Coordinator will determine if the injured staff member is eligible for modified duties or responsibilities. This determination will be based on:

1. The workers' compensation physician's examination and evaluation report;
2. The injured staff member's capabilities to assume modified duties or responsibilities;
3. The availability of modified duties and responsibilities within the district at the time; and/or
4. Other issues that may impact the district's ability to assign modified duties and responsibilities.

This Modified Duty Early Return to Work Program will be administered consistent with applicable federal and State laws and in accordance with provisions of collective bargaining agreements within the district.

Adopted: August 18, 2009



### **R4425.01 – Modified Duty Early Return to Work Program** **– Support Staff Members**

The Modified Duty Early Return to Work Program shall be administered by the School Business Administrator/Board Secretary, the district's designated Workers' Compensation Coordinator.

#### A. Filing a Claim Report

1. A staff member must file a written Workers' Compensation Report if they have been injured in the performance of their job. This Report will be available in the main office and the nurse's office in each school building and in the Coordinator's office.
2. Upon sustaining an on-the-job injury, the staff member shall immediately report the injury to their immediate supervisor and report to the school nurse. If the injured staff member is not assigned to a school building with a school nurse, the school staff member shall immediately contact the Coordinator's office. The Coordinator, or designee, will direct the injured staff member to a school's main office, a school nurse, or the workers' compensation physician.
  - a. In the event the injury requires immediate medical treatment, the staff member may be directed to the workers' compensation physician or to the hospital emergency room. In this case, the Report shall be completed by the staff member whenever practical.
  - b. In the event the staff member gets injured when schools are closed or after business hours and the staff member believes the injury requires immediate medical treatment the staff member shall:
    - (1) Go to the hospital emergency room; and
    - (2) Notify their immediate supervisor as soon as possible after the injury.
  - c. In the event the injured staff member goes to the hospital emergency room when schools are closed, the staff member must report the injury to the Coordinator the next business day. The Coordinator may direct the injured staff member to a school nurse or to the workers' compensation physician. All future medical treatment for the injured staff member shall be scheduled through the Coordinator's office.
  - d. In the event the staff member gets injured when schools are closed or after business hours and the staff member believes the injury does not require immediate medical treatment, the staff member shall:
    - (1) Immediately notify their immediate supervisor; and
    - (2) Notify the Workers' Compensation Coordinator's office the next business day.
3. The Workers' Compensation Report shall be forwarded to the Coordinator's office as soon as it is completed by the injured staff member.
  - a. In the event the staff member requires a physician's examination and evaluation, the Coordinator's office will schedule the appointment with the workers' compensation physician's office and the staff member.



4. Any staff member injured on-the-job and the injury causes the staff member to miss work time or prohibits the staff member from fulfilling all their job responsibilities must be examined by the workers' compensation physician. The Coordinator will authorize workers' compensation time off from work for a staff member injured on-the-job only after the staff member has been examined by the worker's compensation physician. The Coordinator may, upon certain circumstances, authorize workers' compensation time from work without requiring an examination by the workers' compensation physician.
5. The Modified Duty Early Return to Work Policy will be attached to the Workers' Compensation Report and this Regulation will be provided to the injured staff member upon request.

### B. Physician's Workers' Compensation Examination and Evaluation

1. The Coordinator will provide the workers' compensation physician a job description and a list of required tasks for positions in the school district.
2. Upon completing the medical examination and evaluation, the workers' compensation physician will prepare a report indicating the staff member's physical limitations, if any, that prevent the staff member from completing the staff member's job responsibilities. The workers' compensation physician's report will also include a diagnosis, to the best of the physician's ability, on the length of recovery for each limitation. The physician's report will be forwarded to the Coordinator.
3. The Coordinator will review the workers' compensation physician's report and follow-up with the workers' compensation physician and the staff member if the Coordinator needs more information to make a determination if modified duty is an option for the injured staff member.

### C. Modified Duty Restriction

1. There is no permanent modified duty and all modified duty positions are temporary.
2. Upon reviewing the workers' compensation physician's report, the Coordinator will determine if temporary modified duty is appropriate for the staff member. The Coordinator may determine the staff member should be out of work until such time the staff member is able to return to work to assume all their job responsibilities. The Coordinator may also determine a date in the future for the staff member to return to work to assume temporary modified duties.
3. A medical review and examination by the workers' compensation physician may be required to continue a modified duty assignment beyond sixty calendar days.
4. The Board reserves the right to require a staff member returning from modified duty to submit to a physical examination before returning to their position to assume all the job responsibilities of their position.



5. There will be communications among the Coordinator, the injured staff member's supervisor, the staff member, the workers' compensation physician, and the workers' compensation insurance provider throughout the course of treatment and recovery of the injured staff member.
6. A tracking system will be established for documenting a staff member's status in the Modified Duty Program.

#### D. Assignment of Job Tasks

1. Assigning modified duty to staff members will be decided on a case-by-case basis.
2. Job tasks for staff members on modified duty will be determined and assigned within the limitations established and approved by the workers' compensation physician.
3. The injured staff member's immediate supervisor shall provide periodic status reports to the Coordinator for any staff member assigned modified duty.
4. There is no restriction on the school district location or the type of modified duties assigned to a staff member provided it is consistent with the limitations detailed by the workers' compensation physician. These modified duties may be assigned to a full or partial day schedule depending on the staff member's limitations.
5. The modified duties and/or responsibilities will be within the injured staff member's capabilities and a staff member will not be assigned any modified duties and/or responsibilities that require any certifications/licenses that are not possessed by the injured staff member.

#### E. Staff Member Requirements

1. Staff members shall perform the job tasks designated by the workers' compensation physician in the physician's report and assigned by the Coordinator. In the event these job tasks cause discomfort, the staff member shall discontinue the specific activity and inform their immediate supervisor. The immediate supervisor will report this information to the Coordinator, who will schedule a medical appointment for the staff member.
2. Staff members are required to follow the Coordinator's directives regarding:
  - a. Job assignments and tasks;
  - b. Attending scheduled doctors' appointments; and
  - c. Completing and transmitting reports to and from the workers' compensation physician, their immediate supervisor, and the Coordinator's office.

#### F. Compliance With Laws

The Modified Duty Early Return To Work Program shall be administered consistent with the applicable federal and State laws and in accordance with provisions of collective bargaining agreements within the district.

Issued: August 18, 2009





### 4431.01 – Family Leave (M)

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### A. Introduction

The Board will provide family leave in accordance with the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act (NJFLA).

FMLA leave for eligible staff members will be up to twelve weeks leave of absence in a twelve month period upon advance notice to the district for the birth of a son or daughter of the staff member and in order to care for such son or daughter; for the placement of a son or daughter with the staff member for adoption or foster care; in order to care for the spouse, son, daughter, or parent of the staff member if such spouse, son, daughter, or parent has a serious health condition; or for a serious health condition that makes the staff member unable to perform the functions of the position of such staff member, or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty). In addition, eligible employees may take up to a combined total of twenty-six workweeks in a single twelve month period to care for a covered service-member with a serious injury or illness.

NJFLA leave for eligible staff members will be up to twelve weeks leave of absence in any twenty-four month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with adoption of such child by the staff member, and the serious health condition of a spouse, parent, or child.



### B. Applicability

The Board will comply with requirements of the New Jersey and Federal Family Leave laws. The laws have similar and different provisions that may provide different rights and obligations for the staff member and/or the Board. The staff member will be afforded the most favorable rights if there is a conflict in the rights afforded to the staff member under the two laws.

1. If the staff member is eligible for leave for reasons provided under the FMLA and NJFLA, then the time taken will be concurrent and be applied to both laws.
2. The NJFLA provides twelve weeks leave in a twenty-four month period while the FMLA provides twelve weeks leave in a twelve-month period. A staff member is eligible for up to twelve weeks leave in the first twelve months of the twenty-four month period under the NJFLA. A staff member is eligible for up to twelve weeks leave in the second twelve-month period under the FMLA.
3. In the event the reason for the family leave is recognized under one law and not the other law, the staff member is eligible for each law's leave entitlements within one twelve-month period. (Example: A staff member may use their FMLA leave for a twelve week family leave for their own pregnancy, which is considered a "serious health condition" under FMLA, and upon conclusion of the twelve week FMLA leave, the staff member would be eligible for a twelve week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.)

### C. Definitions

1. Federal Family and Medical Leave Act (FMLA)

"Contingency operation" means a military operation that results in the call or order to, or retention on, active duty of members of the uniformed services during a war or during a national emergency declared by the President or Congress.

"Covered active duty" or "call to covered active duty" means duty during deployment of a member with the Armed Forces to a foreign country and, in the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.

"Covered service-member" means a current member of the Armed Forces (including National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

"Covered veteran" means an individual who was a member of the Armed Forces (including National Guard or Reserves), discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible staff member takes FMLA leave to care for the covered veteran. For a veteran discharged prior to March 8, 2013, the



effective date of the FMLA Final Rule, the period between October 28, 2009 and March 8, 2013 will not count towards the determination of the five-year period. 29 CFR § 825.127(b)(2)

“Military caregiver leave” means leave taken to care for a covered service-member with a serious injury or illness under FMLA. 29 CFR §825.127

“Next of kin of a covered service-member” means the nearest blood relative other than the covered service-member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service-member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service-member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service-member, all such family members will be considered the covered service-member’s next of kin and may take FMLA leave to provide care to the covered service-member, either consecutively or simultaneously. When such designation has been made, the designated individual will be deemed to be the covered service-member’s only next of kin. For example, if a covered service-member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service-member’s next of kin. Alternatively, where a covered service-member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service-member’s next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service-member pursuant to 29 CFR §825.122(k). 29 CFR §825.127(d)(3)

“Outpatient status” means, with respect to a covered service-member who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. 29 CFR § 825.127(b)(1)

“Parent” means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents “in law.”

“Parent of a covered service-member” means a covered service-member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service-member. This term does not include parents “in law.”

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider. “Serious health condition” may include treatment of substance abuse pursuant to 29 CFR §825.119.



“Serious injury or illness,” only in the case of a veteran or current member of the Armed Forces, means:

- a. In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the covered service-member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the service-member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
- b. In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
  - (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service-member unable to perform the duties of the service-member’s office, grade, rank, or rating; or
  - (2) A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of fifty percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
  - (3) A physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
  - (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. 29 CFR 825 §127(c)

“Single twelve-month period” means that a military caregiver’s leave begins on the first day the staff member takes FMLA leave and ends twelve months after that date, regardless of the twelve-month period established by the district for other FMLA leave reasons. 29 CFR §825.127(e)(1)

“Son” or “daughter” means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen or age eighteen or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.



“Son or daughter of the covered service-member” means a covered service-member’s biological, adopted or foster child, stepchild, legal ward, or a child for whom the covered service-member stood in loco parentis, and who is of any age. 29 CFR §825.127(d)(1)

“Son or daughter on covered active duty or call to covered active duty status” means the staff member’s biological, adopted or foster child, stepchild, legal ward, or a child for whom the staff member stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age. 29 CFR §825.126(a)(5)

“Spouse” means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex marriage or common law marriage. 29 CFR §825.122

“Staff member” means an employee eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).

“Week” or “Workweek” means the number of days a staff member normally works each calendar week.

### 2. New Jersey Family Leave Act (NJFLA)

“Child” means a biological, adopted or foster child, stepchild, legal ward, child of a parent who is under eighteen years of age or a child eighteen years of age or older but incapable of self-care because of a mental or physical impairment.

“Continuing medical treatment” or “continuing supervision by a health care provider” means a period of incapacity or a period of absence in accordance with N.J.A.C. 13:14.

“Parent” means a biological, adoptive, or foster parent; step-parent; parent-in-law; a legal guardian having a “parent-child relationship” with a child as defined by law; or a person who has sole or joint legal or physical custody, care, guardianship, or visitation with a child.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider.

“Spouse” means a person to whom a staff member is lawfully married as defined by New Jersey law.

“Staff member” means an employee eligible for family leave in accordance with the New Jersey Family Leave Act.

“Week” or “Workweek” means the number of days a staff member normally works each calendar week.



### D. Eligibility

#### 1. Federal Family and Medical Leave Act (FMLA)

A staff member will become eligible for FMLA leave after he/she has been employed at least twelve months in this district and employed for at least 1250 hours of service during the twelve-month period immediately preceding the commencement of the leave. The twelve months the staff member must have been employed need not be consecutive months pursuant to 29 CFR Part §825.110(b). The minimum 1250 hours of service will be determined according to the principles established under the Fair Labor Standards Act (FSLA) for determining compensable hours of work pursuant to 29 CFR §785. Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care will expire at the end of the twelve-month period beginning on the date of such birth or placement.

Pursuant to 29 CFR §825.201(b), a husband and wife both employed by the district are limited to a combined total of twelve weeks of leave during the twelve-month period if the leave is taken for the birth of a son or daughter of the staff member or to care for such son or daughter after birth; for placement of a son or daughter with the staff member for adoption or foster care or to care for the child after placement.

The method to determine the twelve-month period in which the twelve weeks of FMLA leave entitlement occurs will be a “rolling” twelve month period measured backward from the date a staff member uses any family leave.

A staff member during any period of FMLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member using FMLA leave may commence part-time employment that will not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

#### 2. New Jersey Family Leave Act (NJFLA)

A staff member will become eligible for NJFLA leave after he/she has been employed at least twelve months in this district for not less than 1,000 base hours, excluding overtime, during the immediate preceding twelve month period. The calculation of the twelve-month period to determine eligibility will commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

The district will grant a family leave under NJFLA to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for the leave. N.J.A.C. 13:14-1.12



A staff member during any period of the NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member on NJFLA leave may commence part-time employment that will not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs will be a “rolling” twenty-four month period measured backward from the date a staff member uses any leave.

### E. Types of Leave

#### 1. Federal Family and Medical Leave Act (FMLA)

A staff member may take FMLA leave to include service-member qualifying exigency leave or military caregiver leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave will make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.

- a. Leave for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care may not be taken by a staff member intermittently or on a reduced leave schedule.
- b. Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition.
- c. Intermittent leave means leave scheduled for periods of time from one hour or more to several weeks; however, the total time within which the leave is taken cannot exceed a twelve month period for each serious health condition episode. Intermittent leave may be taken for a serious health condition that requires periodic treatment by a health care provider, rather than one continuous period of time. Intermittent leave may also be taken for absences where the staff member is incapacitated or unable to perform the essential functions of the position because of a serious health condition even if the staff member does not receive treatment by a health care provider. The staff member will make a reasonable effort to schedule intermittent leave so as not to unduly disrupt the operations of the instructional/educational program.
- d. Reduced leave means leave scheduled for fewer than the staff member’s usual number of hours worked per workweek, but not fewer than a staff member’s usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule not exceeding twenty-four consecutive weeks. The staff member will





make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member will provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule will not result in a reduction of the total amount of leave to which a staff member is entitled.

- e. The fact that a holiday may occur within the week taken by a staff member as Family Leave has no effect and the week is counted as a week of Family Leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.

Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

- f. Service-member qualifying exigency leave may arise out of the foreign deployment of the staff member's spouse, child, or parent 29 CFR §§825.122 and 126:
  - (1) The district must grant an eligible staff member up to twelve work weeks of unpaid, job-protected leave during a twelve-month period for qualifying exigencies that arise when the staff member's spouse, child, or parent is on covered active duty, or has been notified of an impending call or order to covered active duty.
  - (2) The military member must be the spouse, son, daughter, or parent, of the staff member taking FMLA exigency leave.
  - (3) FMLA leave can be granted for one or more of the following exigencies:
    - (a) Short-notice deployment:
      - i. Notification of duty seven (7) or less calendar days prior to date of deployment;
      - ii. Leave can be used for a period of seven (7) calendar days beginning on the date the military member is notified.
    - (b) Military events and related activities, including official ceremonies, programs, or events sponsored by the military and related to the covered active duty or call to covered active duty status of the military member; and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.



- (c) Childcare and school activities including arranging for alternative childcare; providing childcare on an urgent, immediate need basis (not routine, regular, or everyday basis); to enroll in or transfer to a new school or day care facility; or to attend meetings with staff at a school or day care facility:
    - i. The son or daughter must be the son or daughter of the covered service-member.
  - (d) Financial and legal arrangements made to address the military member's absence while on covered active duty or call to covered active duty status.
  - (e) Counseling, provided by someone other than a health care provider for oneself, for the military member, or qualified child, if the need arises from the covered active duty or call to covered active duty status of the military member.
  - (f) Rest and Recuperation (R&R) to spend time with the military member on short-term, temporary R&R leave during a term of deployment:
    - i. Can be used for a period of fifteen (15) calendar days beginning on the date the military member commences each instance of R&R leave.
  - (g) Post-deployment activities such as ceremonies or briefings including any that arise from the death of the military member while on covered active duty.
  - (h) Parental care for one meeting the definition of a "parent" and incapable of self care including: arranging alternative care; providing care on an immediate need basis; and to attend meetings or arrange services at a care facility.
  - (i) Additional activities in accordance with 29 CFR §825.126(b)(9).
- g. Military caregiver leave provides care for a covered service-member with a serious injury or illness 29 CFR §§825.122 and 127:
- (1) The district must grant up to a total of twenty-six workweeks of unpaid, job-protected leave during a "single twelve-month period" to care for a covered service-member with a serious injury or illness.
    - (a) The eligible staff member must be the spouse, son, daughter, parent, or next of kin of the covered service-member.
    - (b) The staff member is limited to a combined total of twenty-six workweeks for any FMLA-qualifying reasons during the single twelve-month period. Up to twelve of the twenty-six weeks may be for an FMLA-qualifying reason other than military caregiver leave.



- (c) Spouses who are eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of twenty-six workweeks of leave during a single twelve-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service-member with a serious injury or illness. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full twenty-six workweeks of FMLA leave.
  - (2) Leave entitlement is applied on a per-covered-service-member, per-injury basis.
    - (a) The staff member may take an additional twenty-six weeks of leave if the leave is to care for different covered service-members or to care for the same service-member with a subsequent serious injury or illness, except that no more than twenty-six weeks of leave may be taken within any single twelve-month period.
    - (b) An eligible staff member may take military caregiver leave to care for more than one current service member or covered veteran at the same time or for the same family member with the same serious injury or illness both when the family member is a current service-member and when the family member is a veteran.
    - (c) Military caregiver leave may be taken by eligible staff members whose family members are recent veterans with serious injuries or illnesses incurred or aggravated in the line of duty on active duty, and that manifested before or after the veteran left active duty.
2. New Jersey Family Leave Act (NJFLA)

A staff member may take NJFLA leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave will make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program. The district will not require a staff member to take a leave of absence beyond the period of time the staff member requests family leave. N.J.A.C. 13:14-1.5(f)

- a. In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. The total time within which the leave is taken, cannot exceed a twelve-month period for each serious health condition episode. The staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable; and the staff member will make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the



instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.

- b. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule for a period not exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken for the birth or adoption of a healthy child. The staff member will make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member will provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule will not result in a reduction of the total amount of leave to which a staff member is entitled.
- c. The fact that a holiday may occur within the week taken by a staff member as family leave has no effect and the week is counted as a week of family leave. However, if the staff member is out on family leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.
- d. Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

### F. Notice

1. Federal Family and Medical Leave Act (FMLA)
  - a. Foreseeable Leave - A staff member eligible for FMLA leave must give at least thirty (30) calendar days written advance notice to the School Business Administrator/Board Secretary if the need for the leave is foreseeable based on an expected birth, placement for adoption of foster care, or planned medical treatment for a serious health condition of the staff member or a family member. If thirty (30) calendar days is not practical, the staff member must provide notice "as soon as practicable" which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as thirty (30) calendar days notice "as soon as practical" ordinarily would mean at least verbal



notification to the School Business Administrator/Board Secretary within one or two working days or when the need for leave becomes known to the staff member. The written notice will include the reasons for the leave, the anticipated duration of the leave and the anticipated start of the leave.

When planning medical treatment, the staff member must consult with the School Business Administrator/Board Secretary and make a reasonable effort to schedule the leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider. Staff members are ordinarily expected to consult with the School Business Administrator/Board Secretary prior to scheduling of treatment that would require leave for a schedule that best suits the needs of the district and the staff member.

The district may delay the staff member taking leave for at least thirty (30) calendar days if the staff member fails to give thirty (30) calendar days notice for foreseeable leave with no reasonable excuse for the delay.

- b. Unforeseeable Leave - When the approximate timing of the need for leave is not foreseeable, a staff member should give notice to the School Business Administrator/Board Secretary for leave as soon as practicable under the facts and circumstances of the particular case. It is expected the staff member will give notice to the School Business Administrator/Board Secretary within no more than one (1) or two (2) working days of learning of the need for leave, except in extraordinary circumstances where such notice is not foreseeable. The staff member should provide notice to the employer either in person or by telephone, facsimile machine or other electronic means.
2. New Jersey Family Leave Act (NJFLA)
- a. Foreseeable Leave - A staff member eligible for NJFLA leave must give at least thirty (30) calendar days advance written notice to the School Business Administrator/Board Secretary of the need to take family leave except where the need to take family leave is not foreseeable.
    - (1) Notice for leave to be taken for the birth or placement of the child for adoption will be given at least thirty (30) calendar days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty (30) calendar days, the staff member will provide such notice that is reasonable and practicable.
    - (2) Notice for leave to be taken for the serious health condition of a family member will be given at least fifteen (15) calendar days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen (15) calendar days, the staff member will provide such notice that is reasonable and practicable.
    - (3) When the School Business Administrator/Board Secretary is not made aware that a staff member was absent for family leave reasons and the staff member wants to request the leave be counted as family leave, the staff member must



provide timely written notice within two (2) working days of returning to work to have the time considered for family leave in accordance with the Family Leave Act.

- b. Unforeseeable Leave - When the need for leave is not foreseeable, the staff member must provide notice “as soon as practicable” which will be at least verbal notice to the School Business Administrator/Board Secretary within one (1) or two (2) working days of the staff member learning of the need to take family leave. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the School Business Administrator/Board Secretary.
3. In all circumstances when verbal notice is provided it must be followed by written notice delivered the School Business Administrator/Board Secretary within two (2) working days.

### **G. Leave Designation**

An eligible staff member will designate FMLA or NJFLA leave upon providing notice of the need for the leave or when the need for leave commences. The School Business Administrator/Board Secretary will provide the staff member with this Policy to assist the staff member in determining the type of leave.

### **H. Benefits**

Whether a staff member is required to use sick time or any other accrued leave time concurrent with FMLA or NJFLA leave time will depend upon either the district’s practice or a provision in the district’s collective bargaining agreement, if applicable. 29 CFR §825.100

The Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the staff member had continued to work instead of taking the leave. If the staff member was paying all or part of the premium payments prior to the leave, the staff member would continue to pay his/her share during the leave time. Any ten month staff member who is on leave under NJFLA or FMLA at the end of the school year will be provided with any benefits over the summer that the staff member would normally receive if they had been working at the end of the school year.

### **I. Returning from Leave**

The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act

A staff member returning from leave will be entitled to the position he/she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would have lost his/her position had the staff member not been on family leave as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member will



be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes and laws. The staff member's tenure and seniority rights, if any, and other benefits will be preserved, but the staff member will accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of a staff member prior to the expiration of the requested family leave may be permitted by the Board if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.

The Board may, in accordance with the provisions of 29 CFR §825.312 delay restoration of employment of a staff member using FMLA leave for the staff member's serious health condition until the staff member submits a fitness-for-duty examination from his/her health care provider indicating that the staff member is able to resume work. In the event the Board requires such a fitness-for-duty examination before restoration of the staff member after leave, the Board will provide the staff member specific notice either at the time the staff member gives notice of the need for leave or immediately after the leave commences and the staff member advises the Board of the medical circumstances for the leave.

If leave is taken under FMLA, and the staff member does not return to work after the leave expires, the Board is entitled to recover health insurance costs paid while the staff member was on FMLA. The Board's right to recover premiums would not apply if the staff member fails to return to work due to:

1. The continuation, onset or recurrence of a serious health condition of the staff member; or
2. Circumstances beyond the staff member's control.

### J. Ineligible Staff Members

1. Federal Family and Medical Leave Act (FMLA)

The district may deny job restoration after FMLA leave if the staff member is a "key employee" as defined in 29 CFR §825.217 if such denial is necessary to prevent substantial and grievous economic injury to the district or the district may delay restoration to a staff member who fails to provide a fitness for duty certificate to return to work for leave that was the staff member's own serious health condition. A "key employee" is a salaried, staff member who is among the highest paid ten (10) percent of the school district staff employed by the district within 75 miles of the worksite. No more than ten (10) percent of the school district staff within 75 miles of the worksite may be "key employees."

In the event the School Business Administrator/Board Secretary believes that reinstatement may be denied to a key employee, the School Business Administrator/Board Secretary must give written notice to the staff member at the time the staff member gives notice of the need for leave, or when the need for leave commences, if earlier, that he/she qualifies as a key employee. The key employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the district should determine that substantial



and grievous economic injury to the district's operations will result if the staff member is reinstated from leave. The district's notice must explain the basis for the district's finding that substantial and grievous economic injury will result, and if leave has commenced, must provide the staff member a reasonable time in which to return to work. If the staff member on leave does not return to work in response to the notice of intent to deny restoration, the staff member continues to be entitled to maintenance of health insurance.

A key employee's rights under the FMLA continue unless and until the staff member either gives notice that he/she no longer wishes to return to work or the district actually denies reinstatement at the conclusion of the leave period. A staff member is still entitled to request reinstatement at the end of the leave period even if the staff member did not return to work in response to the district's notice. The district will then again determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the district will notify the staff member in writing (in person or by certified mail) of the denial of the restoration.

### 2. New Jersey Family Leave Act

The district may deny family leave to the staff member if the staff member is a salaried employee who is among the highest paid five percent of the school district staff or one of the seven highest paid employees of the district, whichever is greater, if the denial is necessary to prevent substantial and grievous economic injury to the school district's operations. The School Business Administrator/Board Secretary will notify the staff member of the intent to deny the leave at the time the School Business Administrator/Board Secretary determines the denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member will be permitted to return to work within ten (10) working days of the date of notification.

## K. Verification of Leave

### 1. Federal Family and Medical Leave Act (FMLA)

The Board requires a staff member's FMLA leave to care for the staff member's seriously ill spouse, son, daughter, or parent; or for a service-member's qualifying exigency or serious injury; or for illness due to the staff member's own serious health condition that makes the staff member unable to perform one or more of the essential functions of the staff member's position, be supported by a certification issued by the health care provider of the staff member or the staff member's ill family member. The medical certification required encompasses both physical and psychological care and includes situations where a family member is unable to care for his/her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself/herself to the doctor. It can also include providing psychological comfort and reassurance beneficial to a child, spouse, or parent with a serious health condition who is receiving inpatient or home care and can include situations where the staff member may be needed to substitute for others who normally care for the family member or covered service-





member or to make arrangements for changes in care. The staff member need not be the only individual or family member available to care for the family member or covered service-member. 29 CFR §825.124

The certification must meet the requirements of 29 CFR §§825.306, 309 and 310 to include: which part of the definition of “serious health condition” applies; the approximate date the serious health condition commenced and its probable duration; whether it will be necessary for the staff member to take intermittent and/or reduced leave; whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity; if additional treatments will be required for the condition; and/or if the patient’s incapacity will be intermittent or will require reduced leave. The certification of a serious health condition of a family member of the staff member will be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider’s knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement.

In the event the School Business Administrator/Board Secretary doubts the validity of the certification, in accordance with 29 CFR §825.307, the district may require, at the district’s expense, the staff member obtain an opinion regarding the serious health condition from a second health care provider designated by the district, but not employed on a regular basis by the district. If the second opinion differs from the staff member’s health care provider, the district may require, at the district’s expense, the staff member obtain the opinion of a third health care provider designated by the district or approved jointly, in good faith, by the district and the staff member. The opinion of the third health care provider will be final and binding on the district and the staff member.

The district may require re-certification pursuant to the requirements of 29 CFR §825.308. In accordance with 29 CFR §825.309, the staff member on leave must provide a written report to the School Business Administrator/Board Secretary every thirty workdays. The report will include the staff member’s status and intended date to return to work. In the event the staff member’s circumstances change, the staff member must provide reasonable notice to the School Business Administrator/Board Secretary if the staff member intends to return to work on a date sooner than previously noticed to the district. The staff member is not required to take more leave than necessary to resolve the circumstance that precipitated the need for leave. As a condition of returning to work after the leave for the staff member’s own serious health condition, and in accordance with 29 CFR §825.310, the district requires a staff member to provide a certification from their health care provider that the staff member is able to resume work.

In accordance with 29 CFR §825.311, the district may delay the taking of FMLA leave to a staff member who fails to provide certification within fifteen (15) calendar days after being requested to do so by the district. In accordance with 29 CFR §825.312, the district may delay the taking of leave until thirty (30) calendar days after the date the staff member provides notice to the



district of foreseeable leave or the district may delay continuation of leave if a staff member fails to provide a requested medical certification in a timely manner.

### 2. New Jersey Family Leave Act

The Board will require the certification of a duly licensed health care provider verifying the purpose of requested NJFLA leave. Certification of a serious health condition of a family member of the staff member will be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement, whichever is appropriate.

In the event the School Business Administrator/Board Secretary doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require, at the district's expense, the staff member to obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification the district may require, at the district's expense, that the staff member obtain the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider will be final and binding on the district and the staff member.

### L. Interference with Family Leave Rights

The Federal Family and Medical Leave Act and the New Jersey Family Leave Act prohibit interference with a staff member's rights under the law, and with legal proceedings or inquiries relating to a staff member's rights. Unless permitted by the law, no staff member will be required to take family leave or to extend family leave beyond the time requested. A staff member will not be discriminated against for having exercised his/her rights under the Federal Family and Medical Leave Act or the New Jersey Family Leave Act nor discouraged from the use of family leave.

### M. Non-Tenured Teaching Staff

Family leave granted to a non-tenured staff member cannot extend the staff member's employment beyond the expiration of his/her employment contract.

### N. Record Keeping

In order that staff member's entitlement to FMLA leave and NJFLA leave can be properly determined, the Superintendent will ensure the keeping of accurate attendance records that distinguish family leave from other kinds of leave. The Superintendent will publish a notice explaining the Act's provisions and provide information concerning the procedures for filing complaints of violations of the FMLA and NJFLA.

Implementation of FMLA and NJFLA will be consistent with provisions in collective bargaining agreement(s) in the district.



### O. Processing of Complaints

1. Federal Family and Medical Leave Act (FMLA) 29 CFR §§825.400-401
  - a. If there is a dispute between the district and a staff member as to whether leave qualifies as FMLA leave, it should be resolved through discussion between the staff member and the district. Such discussions and the decision will be documented by the school district.
  - b. The staff member also may file, or have another person file on his/her behalf, a complaint with the United States Secretary of Labor. A complaint may be filed in person, by mail, or by telephone with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, at any local office of the Wage and Hour Division.
2. New Jersey Family Leave Act N.J.A.C. 13:14-1.16
  - a. Any complaint alleging a violation of the Act will be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.

### Legal References

29 CFR §785  
29 CFR. §825 et seq.  
N.J.S.A. 10:5-1  
N.J.A.C. 13:14-1 et seq.

Adopted: August 18, 2009  
Revised: January 5, 2016



### **4431.03 – New Jersey’s Family Leave Insurance Program**

Board of Education employees are eligible to apply for benefits under New Jersey’s Family Leave Insurance Program administered by the State of New Jersey – Department of Labor and Workforce Development. New Jersey’s Family Leave Insurance Program (NJFLI) may provide up to six weeks of family leave insurance benefits payable to covered employees from either the New Jersey State Plan or an approved employer-provided private plan.

A benefit provided through the NJFLI will be for the employee to bond with a child during the first twelve months after the child’s birth, if the covered individual or the domestic partner or civil union partner of the covered individual is a biological parent of the child, or the first twelve months after the placement of the child for adoption with the covered individual. An employee who intends to apply to the State of New Jersey for benefits under this provision of the NJFLI must provide the Superintendent written notice thirty calendar days prior to beginning the leave. Failure to provide this thirty-day notice may result in a reduction in the employee’s maximum family leave insurance benefits. Intermittent leave to bond with a newborn or newly adopted child must be agreed to by the Superintendent and the employee and, if agreed to, must be taken in periods of seven days or more.

A benefit provided through the NJFLI will also be to care for a family member with a serious health condition supported by a certification provided by a health care provider. An employee who intends to apply to the State of New Jersey for benefits under this provision of the NJFLI for consecutive leave must provide the school district reasonable and practical notice unless the time of the leave is unexpected or the time of the leave changes for unforeseen reasons. An employee who intends to apply for benefits under this provision of the NJFLI for intermittent leave must provide the school district with a written notice at least fifteen calendar days prior to beginning the leave.

For the purposes of this Policy, “family member” means a child, spouse, domestic partner, civil union partner, or parent of a covered individual. “Child” means a biological, adopted, or foster child, stepchild, or legal ward of a covered individual, child of a domestic partner of the covered individual, or child of a civil union partner of the covered individual, who is less than nineteen years of age or is nineteen years of age or older but incapable of self-care because of mental or physical impairment.

An employee will be required to use six (6) sick days from the six allotted sick days for family illness in connection with a period of paid leave from the NJFLI. In accordance with N.J.S.A. 18A:30-1, sick leave is only to be used for personal disability due to illness or injury and therefore may not be used for NJFLI purposes.

All applications for benefits under the NJFLI must be filed directly with the State of New Jersey – Department of Labor and Workforce Development. The eligibility requirements, wage requirements, benefit duration and amounts, and benefit limitations shall be in accordance with the provisions of the NJFLI as administered by the State of New Jersey – Department of Labor and Workforce Development. A formal appeal may be submitted to the State of New Jersey – Department of Labor and Workforce Development if an employee or the Board disagrees with a determination on a claim.



The NJFLI provides eligible individuals a monetary benefit and not a leave benefit. In addition, the school district administrative and related staff will comply with the State of New Jersey - Department of Labor and Workforce Development requests for information in accordance with the provisions of N.J.A.C. 12:21-3.9.

The Board may elect to provide employees with Family Leave Insurance benefits coverage under a private plan that must be approved by the State of New Jersey – Department of Labor and Workforce Development.

A printed notification of covered individuals’ rights relative to the receipt of benefits under the NJFLI will be posted in each of the school district worksites and in a place or places accessible to all employees at the worksite. Each employee shall receive a copy of this notification in writing at the time of the employee’s hiring, whenever the employee provides written notice to the Superintendent of their intention to apply for benefits under the NJFLI, or at any time upon the first request of the employee. The written notification may be transmitted to the employee in electronic form.

### **Legal References**

N.J.S.A. 43:21-25 et seq.

N.J.A.C. 12:21-1.1 et seq.

Adopted: March 9, 2010



### **4432 – Sick Leave**

The Board of Education shall grant sick leave, in accordance with law, to support staff members absent from work because of a personal disability due to illness or injury, or quarantine. Each full- or part-time employee eligible for sick leave will be entitled annually to the number of paid sick leave days as stated in the negotiated contract with the Lopatcong Education Association (LEA) or in an individual contract with the Board.

If there are any discrepancies between this Policy and its associated Regulation with the then current contract between the Board and the LEA, the contract will prevail only for employees covered by that contract.

#### **Legal References**

29 U.S.C. 2601 et seq.

N.J.S.A. 18A:30-1 et seq.

Adopted: August 18, 2009

Revised: December 11, 2012



### **R4432 – Sick Leave**

#### **A. Eligibility for Sick Leave**

1. Each person employed full- or part-time by this district will be paid in full, to the limit of his/her entitlement, for days on which the employee is absent from work because of:
  - a. Personal disability due to the employee's illness or injury;
  - b. The employee's exclusion from school by the school district's physician or school nurse on account of a contagious disease; or
  - c. The employee's having been quarantined for a contagious disease in his/her immediate household.
2. Whatever the claims of disability, no day of absence shall be considered to be a sick leave day on which the employee:
  - a. Has engaged in or prepared for gainful employment with an employer other than the Board;
  - b. Has participated in a concerted work stoppage; or
  - c. Has engaged in any activity, vocational or avocational, that clearly refutes the employee's claim of disability or quarantine.

#### **B. Call in Procedures**

1. An employee who anticipates a day of disability should make every reasonable effort to so notify his/her immediate supervisor and the Substitute Caller no later than the day before the absence, to allow sufficient time for the securing of any substitute services that may be required.
2. Notice of the disability should include a reasonable estimate of the duration of the disability.
3. An employee who becomes aware of his/her disability on the morning of the absence must call the Substitute Caller between the hours of 5:30am and 6:30am.
4. An employee who becomes disabled during the school day must so inform his/her immediate supervisor or the Building Principal (or designee) as promptly as possible and request permission to leave the school premises.
5. In all instances, the employee should call personally to report sick leave. An agent may be appointed to call in sick leave only when the employee is so incapacitated as to make a personal call inadvisable or impossible.

#### **C. Sick Leave Charges**

1. A sick leave absence commences when the absence is called in pursuant to paragraph B above.
  - a. An employee who leaves school early because of a disability will not be charged with a sick leave day provided the absence commences after the hour of 1:00pm.
  - b. Leaves between 11:00am and 1:00pm will be charged one-half a sick day.



2. A sick leave day once commenced may be reinstated as a working day only with the approval of the Building Principal.
3. An employee absent on sick leave on a day when the school is closed early for emergency reasons will be charged with a full sick leave day.
4. An employee scheduled for a sick leave absence on a day on which the schools do not open because of an emergency (such as a snow day) will not be charged with a sick leave day.

### **D. Verification of Sick Leave**

1. An employee absent for reasons of disability more than two consecutive working days or more than five cumulative working days in any one month shall submit the signed statement of his/her physician indicating:
  - a. The reason for the employee's absence, as personally known to the physician, and
  - b. If the employee is not immediately returning to work, the anticipated duration of the employee's disability.
2. The Board may, at its discretion, require the employee to submit to an examination by the school district's physician or a physician designated by the school district's physician.
3. If the results of the examination conducted pursuant to paragraph D2 above are inconsistent with the statement of the employee's physician, the two examining physicians shall agree in good faith on a third physician, who shall examine the employee and whose medical opinion shall be conclusive and binding as to the employee's disability on days claimed for sick leave.

### **E. Readmission After Disability**

1. An employee who wishes to return to work after sick leave of more than four consecutive working days or more than six cumulative working days in any one month shall submit a signed statement of his/her physician indicating the employee's fitness to perform his/her duties.
2. The Board may, at its discretion, require the employee to submit to an examination by the school district's physician or a physician designated by the school district's physician.
3. If the results of the examination conducted pursuant to paragraph E2 above is inconsistent with the statement of the employee's physician, the two examining physicians shall agree in good faith on a third physician, who shall examine the employee and whose medical opinion shall be conclusive and binding as to the employee's fitness to return to service.

### **F. Exhaustion of Sick Leave**

1. The Board Secretary (or designee) will monitor each employee's sick leave bank and charge the employee's bank of accumulated sick leave with sick leave days in accordance with [Board Policy #4432 – Sick Leave](#) and this Regulation.
2. When it is apparent that an employee on extended sick leave will utilize the last sick leave day to which he/she is entitled within five working days, the Board Secretary (or designee) will so





inform the employee by written notice. The notice will include a statement of the employee's right to request the Board for an extension of sick leave.

3. A request for the extension of sick leave should be submitted to the Superintendent and Board Secretary at least seven working days in advance of the next Board meeting. The request must be accompanied by a physician's signed statement setting forth the nature and anticipated duration of the employee's disability.
4. An employee who anticipates an extended period of disability may apply to the Board for a disability leave of absence, during which the employee will receive no compensation or benefits.
5. Employees are reminded that sick leave extensions and disability leaves of absence are not entitlements and will be granted or denied by the Board on a case-by-case basis.

### **G. Accumulation of Sick Leave**

1. Sick leave will be charged, first, to the sick leave newly available in the employee's current contract year and, when that sick leave entitlement is exhausted, to the employee's bank of accumulated sick leave.
2. At the beginning of each contract year, all unused sick days will be carried forward and credited to a full-time employee's bank of sick leave.
3. Part-time employees receive a pro-rated number of sick days equal to the percentage of their contract if they work less than five days per week.

### **H. Records**

1. The personnel file of each person employed by this district will include an accurate record of the employee's attendance in accordance with [Board Policy #4211 – Attendance](#).
2. Each employee's attendance record will record the reason for any absence.
3. The attendance record will include the accumulated unused sick leave in the employee's sick leave bank.

Adopted: August 18, 2009  
Revised: December 11, 2012



### **4433 – Vacations**

The Board of Education believes that it is beneficial to the school district that persons employed to work twelve months a year be given periodic relief from the responsibilities of their position without loss of compensation.

The Board reserves the right to determine the conditions under which vacation time may be taken when not otherwise covered by the terms of a negotiated agreement or in an individual contract with the Board.

Twelve month full-time employees will receive two weeks of vacation per year during the first five years of their employment. Beginning in school fiscal year (July 1 to June 30) after their fifth employment anniversary they will receive three weeks of vacation. If their fifth employment anniversary is in July or August they will receive an additional five days during the current school year. For employment anniversaries in September and October - four days; November and December - three days; January and February - two days; and March and April - one day.

#### **Legal References**

N.J.S.A. 18A:30-7

Adopted: August 18, 2009



### **4434 – Holidays**

The Board of Education will compensate support staff members for holidays in accordance with the holiday provisions of current valid negotiated contracts.

Compensation for holidays for non-association/non-union represented support staff members will be determined by the Board on an annual basis.

#### **Legal References**

N.J.S.A. 36:1-1

Adopted: August 18, 2009



### **4435 – Anticipated Disability**

The Board of Education shall provide for leaves of absence, in accordance with law and the policies of this Board, for any employee of this district not otherwise covered by the terms of the negotiated agreement whose absence from duties will be required for a foreseeable event of disability such as childbirth or surgery.

An employee who anticipates disability shall so notify the Superintendent as soon as the employee is under medical supervision for the condition and a date is projected for the anticipated disability. Because of the potentially disabling nature of pregnancy and the certainty of temporary disability at parturition, the Board will presume that a pregnant employee is disabled for work thirty days before the anticipated date of childbirth and continues to be disabled for thirty days after parturition, except that any such employee who presents medical certification of her fitness may continue to work until she is actually disabled and may return to work as soon as she is able.

The Board reserves the right to require an employee who requests an extended leave of absence that includes anticipated disability to commence and/or terminate the leave at times that ensure continuity in district operations. Whenever possible, partial year leaves of absence will begin and end at divisions in the academic calendar and will cause not more than one interruption in employment continuity during the school year in which the leave is taken. No person who is required to take leave at a time other than that requested will be denied the use of sick leave for the anticipated disability that occurs or is presumed to occur during the leave.

An employee who anticipates a disability may request a leave of absence to commence before disability and to extend beyond the period of disability. Any such request shall be subject to Board discretion and the Board's policy on leave of absence. An employee on voluntary leave of absence is not eligible for sick leave pay for disability occurring during the period of that absence.

#### **Legal References**

42 U.S.C.A. 2000e-2(a)

29 C.F.R. 1604-1 et seq.

N.J.S.A. 10:5-12(a)

N.J.S.A. 18A:6-6; 18A:16-2; 18A:30-1 et seq.

Adopted: August 18, 2009



### **4436 – Personal Leave**

The Board of Education may provide for an employee's compensated or uncompensated absence for reason of personal necessity not covered by the terms of a negotiated agreement or in an individual contract with the Board.

The Board reserves the right to determine the reasons for which personal leave will be granted, the number of days that may be used in any one school year for personal leave, and the manner of proof of personal necessity.

#### **Legal References**

N.J.S.A. 18A:30-7

Adopted: August 18, 2009



### **4437 – Military Leave**

The Board of Education recognizes that military service rendered by any district employee in the defense of the country or in maintaining preparedness for conflict, foreign or domestic, is a service benefiting all citizens. A permanent or full-time temporary officer and/or employee of the district will be provided military leave and related benefits pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Section 4301 et seq., P.L. 2001 Chapter 351 amending N.J.S.A. 38:23-1, N.J.S.A. 38A:1-1 and N.J.S.A. 38A:4-4., and any other applicable Federal and State laws.

A permanent or full-time temporary officer or employee of the school district who is a member of the organized militia of New Jersey (New Jersey National Guard, New Jersey Naval Militia Joint Command) will be entitled, in addition to pay received, if any, as a member of the organized militia, to a leave of absence from his/her respective duties without loss of pay or time on all days during which he/she is engaged in any period of State or Federal active duty; provided, however, that the leave of absence for Federal active duty or active duty for training will not exceed ninety work days in the aggregate in any calendar year. Any leave of absence for such duty in excess of ninety work days will be without pay, but without loss of time. Such leave will be in addition to the regular vacation or other accrued leave provided to the officer or employee. A full-time temporary officer or employee who has served under such temporary appointment for less than one year in the district will receive this leave without pay, but without loss of time.

A permanent or full-time temporary officer or employee of the school district who is a member of the organized reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve or United States Marine Corps Reserve, or other organization affiliated therewith, including the National Guard of other states, will be entitled, in addition to pay received, if any, as a member of a reserve component of the Armed Forces of the United States, to a leave of absence from his/her respective duties without loss of pay or time on all work days on which he/she will be engaged in any period of Federal active duty, provided, however, that such leave of absence will not exceed thirty work days in any calendar year. Such leave will be in addition to the regular vacation or other accrued leave provided to the officer or employee. Any leave of absence for such duty in excess of thirty work days will be without pay, but without loss of time. A full-time temporary officer or employee who has served under such temporary appointment for less than one year in the district will receive this leave without pay, but without loss of time.

Military leave with pay is not authorized for Inactive Duty Training (IDT) as defined in N.J.A.C. 5A:2-2.1.

The district will provide benefits and rights for staff on military leave as required by Federal and State laws.

Pursuant to N.J.S.A. 52:13H-2.1, in accordance with the provisions of Article VIII, Section II, paragraph 5 of the New Jersey Constitution, upon application by the district to the State Treasury and approval of the application by the Director of the Division of Budget and Accounting, reimbursement



will be made by the State of New Jersey for any costs incurred as a result of the provisions of P.L. 2001, Chapter 351.

### Legal References

N.J.S.A. 18A:6-33; 18A:29-11

N.J.S.A. 38:23-1 et seq.; 38A:1-1; 38A:4-4; 52:13H-2.1

N.J.A.C. 5A:2-2.1

Uniformed Services Employment and Reemployment Rights Act (USERRA),  
38 U.S.C. Section 4301 et seq.

Adopted: August 18, 2009  
Revised: February 20, 2018



### **4438 – Jury Duty**

The Board of Education will indemnify all full-time employees against loss of pay incurred by a call to jury duty. No employee will be penalized in any way for an absence caused by service on a panel of grand or petit jurors. The time any such employee is absent will not be charged against personal leave and will count toward district service.

A full-time employee who is absent from their school district duties while on jury duty for any court of New Jersey, any court of any other State, any federal district court, or in the U.S. District Court for New Jersey will receive their usual compensation from the school district for each day the support staff member is present for jury duty. In the event there is any jury duty compensation, excluding mileage and lodging, paid to the employee for their time on jury duty, the employee will reimburse the school district the amount of any jury duty compensation paid to the staff member.

An employee summoned to jury duty shall promptly report the summons to his/her immediate supervisor.

On return from jury duty, the employee must submit to his/her immediate supervisor a court record of the number of days served on jury duty.

While on jury duty, an employee must report daily to his/her supervisor the schedule for the following day and must report to work when he/she is excused from jury duty for half a day or more or suffer loss of pay.

### **Legal References**

N.J.S.A. 2B:20-1 et seq.; 2B:20-16

Adopted: August 18, 2009

