

Tularosa Municipal Schools

Board Policy Manual

SECTION III

PERSONNEL

3.0 PERSONNEL POLICY STATEMENT

The personnel policies of a school district are an essential part of the program of public education in a community. The philosophy of a school district and the community is reflected in these policies.

The Board of Education wishes to establish conditions that will attract and hold the highest qualified personnel who devote themselves to the education and welfare of our students.

The Board of Education establishes personnel policy. Personnel policies and procedures shall be established to accomplish the Board's mission and goals. The Board welcomes suggestions by the administration and its employees.

A cooperative effort by the administration and employees or their representatives to provide procedures for the handling of professional and ethical problems is encouraged.

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3.1 ADMINISTRATIVE INTERVENTION

The principles of progressive discipline shall be applied in dealing with employees unless circumstances warrant immediate action. Administrator's concerns shall be discussed with the employee regarding the unacceptable behavior, why the behavior is unacceptable and directions for specific actions for improvement of said behavior. Administrator's concerns of the same unacceptable behavior may result in a letter of reprimand.

When in the judgment of the Superintendent it is in the best interest of the District and / or employee to place said employee on Administrative Leave, the following procedures shall be followed:

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ADMINISTRATIVE INTERVENTION

- A. The employee will be notified by the individual's immediate supervisor or by the Superintendent.
- B. Reason(s) for the employee's being placed on leave shall be explained to the employee, including dates and circumstances of any incidents relevant to the actions taken; and, if requested, shall be provided in writing.
- C. Employees may, at the employee's request, be accompanied and represented by an Association representative at a meeting with a District official at the time of being notified of being placed on administrative leave or any subsequent investigative meeting held with the employee.
- D. The employee shall be relieved of all duties other than lesson planning as requested, and shall continue to be on a paid status pending the outcome of the investigation. If the investigation report recommends disciplinary action, such action may include suspension without pay and / or termination.

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3.2 BACKGROUND INVESTIGATION

This policy is issued by the Board of Education to all administrators and employees involved in employment and personnel functions.

All applicants for employment with the district are subject to work history, education history, and reference investigations, including but not limited to substitutes and temporaries. Each finalist or applicant recommended for employment will be subject to a criminal background investigation, including mandatory fingerprinting, at his or her expense, as a condition of employment or of further consideration for employment.

Effective immediately, all applicants for employment will be required to read and sign an Authorization and Agreement form. All background checks on applicants will be conducted through the Central Office.

All offers of employment shall be expressly contingent upon the satisfactory completion of background investigations. Criminal convictions shall not automatically bar an applicant from employment, but pursuant to the Criminal Offender Act, NMSA 1978 28-2-4 and 28-2-5, may be the basis for refusing employment. Information from background checks shall not be disclosed except to persons directly involved in the certification or employment decision involving the applicant or employee.

The administration may also conduct the referenced background investigations of incumbent employees if it becomes aware of facts, circumstances, or conduct that give rise to a reasonable suspicion that undisclosed aspects of the employee's background might disqualify him or her to continue in employment with the district.

Pursuant to state law, the Superintendent will report to the Public Education Department any known conviction of a felony or misdemeanor involving moral turpitude of a certified school employee that results in any type of action against the school employee. All certified administrators shall report any such information to the Superintendent.

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BACKGROUND INVESTIGATION

- A. Any offer of employment is contingent upon the satisfactory completion of all background investigations.
- B. Criminal convictions shall not automatically bar an applicant from obtaining employment with the Tularosa Municipal Schools, but pursuant to the Criminal Offenders Act, NMSA 1978 28-2-4, may be the basis for refusing employment.
- C. With regard to existing employees, the District may conduct equivalent background investigations if the District becomes aware of fact, circumstances or conduct giving rise to a reasonable suspicion that the employee has a history which, if substantiated, may adversely affect the employee's fitness to continue in employment with the District.

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3.3 CODE OF ETHICS

The Board of Education endorses the Code of Ethics of the Education Profession as adopted by the State Board of Education (SBE Regulation 93-16) with its four principles.

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CODE OF ETHICS:

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

- A. **Principle I:** Commitment to the Student. We measure success by the progress of each student toward achievement of his/her maximum potential. We therefore work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals. We recognize the importance of cooperative relationships with other community institutions, especially the home. In fulfilling our obligation to the student, we:
- (1) Deal justly and considerately with each student.
 - (2) Encourage the student to study and express varying points of view and respect his/her right to form his/her own judgment.
 - (3) Conduct conferences with or concerning students in an appropriate place and manner.
 - (4) Seek constantly to improve learning facilities and opportunities.
- B. **Principle II:** Commitment to the Community. We believe that patriotism in its highest form requires dedication to the principles of our democratic heritage. We share with all other citizens the responsibility for the development of sound public policy. As educators, we are particularly accountable for participating in the development of educational programs and policies and for interpreting them to the public. In fulfilling our obligations to the community, we:
- (1) Share the responsibility for improving the educational opportunities for all.
 - (2) Recognize that each educational institution has a person authorized to interpret its official policies.
 - (3) Acknowledge the right and responsibility of the public to participate in the formulation of educational policy.
 - (4) Evaluate through appropriate professional procedures conditions within a district or institution of learning, make known serious deficiencies, and take action deemed necessary and proper.
 - (5) Assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of our professional positions to promote political candidates of partisan activities.
 - (6) Protect the educational program against undesirable infringement, and promote academic freedom.

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- C. **Principle III: Commitment to the Profession.** We believe that the quality of the services of the education profession directly influence the future of the nation and its citizens. We therefore exert every effort to raise educational standards, to improve our service, to promote a climate in which the exercise of professional judgment is encouraged, to demonstrate integrity in all work-related activities and interactions in the school setting, and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, we contribute actively to the support, planning, and programs of our professional organizations. In fulfilling our obligations to the profession, we:
- (1) Recognize that a profession must accept responsibility for the conduct of its members and understand that our own conduct may be regarded as representative of our profession.
 - (2) Participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education.
 - (3) Cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns, and those colleagues new to their positions.
 - (4) Accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.
 - (5) Refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student.
 - (6) Refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues.
 - (7) Keep the trust under which confidential information is exchanged.
 - (8) Make appropriate use of the time granted for professional purposes.
 - (9) Interpret and use the writings of others and the findings of educational research with intellectual honesty.
 - (10) Maintain our integrity when dissenting by basing our public criticism of education on valid assumptions as established by careful evaluation of facts.
 - (11) Respond accurately to requests for evaluation of colleagues seeking professional positions.
 - (12) Provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.
- D. **Principle IV: Commitment to Professional Employment Practices.** We regard the employment agreement as a solemn pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. Sound professional personnel relationships with governing boards are built upon integrity, dignity, and mutual respect between employees, administrators, and local school boards. In fulfilling our obligations to professional employment practices, we:
- (1) Apply for or offer a position on the basis of professional and legal qualifications.
 - (2) Apply for a specific position only when it is known to be vacant and refrain from such practices as underbidding or commenting adversely about other candidates.
 - (3) Fill no vacancy except where the terms, conditions, and policies are known.
 - (4) Adhere to and respect the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent.

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- (5) Give prompt notice of any change in availability of service, in status of applications, or in change in position.
- (6) Conduct professional business through recognized educational and professional channels.

STANDARDS OF PROFESSIONAL CONDUCT

A. Preamble

- (1) We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and a reflection on how we would view the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.
- (2) Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.
- (3) In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, it stimulates us into discussing the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

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

- (1) shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-s, NMSA 1978), withhold confidential student records or

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- information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law.
- (2) shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition.
 - (3) shall avoid using our position as a licensed school employee to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior.
 - (4) shall tutor students only in accordance with local board policies if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian.
 - (5) shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason.
 - (6) shall not lend a student money except in clear and occasional circumstances as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance.
 - (7) shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
 - (a) all forms of sexual touching, sexual relations or romantic relations;
 - (b) inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
 - (c) any open displays of affection toward mostly-boys or mostly-girls;
 - (d) offering or giving a ride to a student unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements.
 - (8) shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:
 - (a) making any sexual advances, requests for sexual favors, repeated sexual references, and any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display 'distribution of sexually oriented materials where students can see them;

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- (b) creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at paragraph 7 or subparagraph a of paragraph 8, subsection B of 6.60.9.9 NMAC, above.

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

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

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

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- (18) shall not in connection with any State Board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering.
- (19) shall not, engage in any conduct or make any statement:
- (a) that would breach the security of any standardized or non-standardized tests;
 - (b) that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions
 - (c) that would give students an unfair advantage in taking a standardized or non-standardized test:
 - (d) that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test;
 - (e) that would assist students in obtaining services or benefits to which they do not qualify or are not entitled.
- (20) shall not, when on school property or off campus while representing the school or attending a school function; engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
[6.oU.9.9 NM.AC - N, 04-30-01]

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3.4 CONFLICT OF INTEREST--BUSINESS TRANSACTIONS

As specified by law, no school employee shall directly or indirectly see or be a party to any transaction to sell instructional materials, equipment, insurance or school supplies to the school district. No employee of the District shall receive any commission or profit from the solicitation or sale of investment securities or insurance to any other employee.

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CONFLICT OF INTEREST--BUSINESS TRANSACTIONS

- A. The provisions of this policy shall not apply to any employee making a sale in the regular course of employee's business when the sale complies with all applicable provisions of the law.
- B. Employees are prohibited from soliciting from children on school premises.
- C. School employees shall be discouraged from conducting any business transactions for personal profit during school hours and on school premises.
- D. School employees engaged in the sale of raffle tickets or other items for charity or other causes shall do so in a manner and time that will not interfere with the proper conduct of any school function or interfere with a school employee's effective performance of duties.
- E. Any concern regarding the application of this policy shall be presented in writing to the Superintendent.

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3.5 DISMISSAL OF LICENSED SCHOOL INSTRUCTORS

The Tularosa Board of Education will comply with state statutes and Public Education Department regulations in its dismissal decisions of a certified school instructor. (Sec. 22-10-17 and Sec. 22-10-21 NMSA 1978 as amended and SBE regulation 89-1). The policy applies only to those licensed school employees who have been employed for three (3) or more consecutive years.

DEFINITION:

1. At Will Employee: Any employee with less than three years of employment.

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DISMISSAL OF LICENSED SCHOOL INSTRUCTORS

- A. This process shall be followed by the District in supervising and correcting unsatisfactory work performance of licensed school personnel before serving them with notice of intent to discharge.
1. Conference: Two or more conferences shall have been held with licensed school personnel charge with unsatisfactory work performance. Such conferences shall be held with the individual's immediate supervisor and such other person as the Board may designate. The conference at which the supervisor first identifies unsatisfactory work performance shall be counted as one of the required conferences.
 2. Sufficient time shall have elapsed between the conferences to allow the licensed school personnel to correct the unsatisfactory work performance and to have been observed for an adequate time in the discharge of his or her duties.
 3. Record: A written record of all conferences shall be made, specifying the areas of uncorrected, unsatisfactory work performance, all action which might improve such performance, and all improvements made.
 4. Signed: Each written record shall be signed by all parties to the conference. In the event of a refusal to sign, a notations shall be made of the refusal.
 5. A copy of each record shall be given to the person charged with unsatisfactory work performance. A copy shall be placed in the personnel file of the person charged.
 6. Termination: The Superintendent shall serve a notice of termination upon said licensed school personnel, which shall be a notice of intention not to reemploy. Such notice shall be served on or before the fourteenth calendar day prior to the last day of the school year.
 7. Terminated licensed employee shall have a right to appeal the termination before the Board of Education, only if the licensed employee's request is submitted in writing to the Superintendent within ten (10) working days from date written notice of termination is served on licensed employee.
 8. The hearing shall be informal and in executive session;
 - a) the licensed school employee is entitled to be accompanied by a person of his/ her choice;

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- b) the Superintendent shall present the factual basis for the determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee;
 - c) then, the licensed school employee shall present his/ her contentions limited to those matters specified in his /her request;
 - d) the Board may offer rebuttal testimony;
 - e) witnesses may be questioned by the Board, licensed school instructor and Superintendent, or their representative;
 - f) the Board may consider only evidence presented at hearing, and need consider only such evidence as it deems reliable;
 - g) no record shall be made of the hearing.
9. The Board shall notify the licensed school employee and Superintendent of its decision in writing within five (5) working days from conclusion of the hearing.
10. The individual may appeal the decision to an independent arbitrator as described in Section 22-10-17.1

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3.6 DISMISSAL OF NONCERTIFIED EMPLOYEES

The Superintendent will comply with state statutes in its dismissal of non-certified employees (see 22-10-14). This policy applies only to those non-certified employees who have been employed for three (3) or more consecutive years.

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DISMISSAL OF NONCERTIFIED EMPLOYEES

- A. Before terminating a noncertified school employee, the Superintendent shall serve the employee with a written notice of termination.
- B. Terminated noncertified employees shall have a right to appeal the termination before the Board of Education only if the noncertified employee's request is submitted in writing to the Superintendent within five (5) working days from the date written notice of termination is served on the noncertified employee.
- C. The hearing shall be informal and in executive session;
 - 1. the noncertified school employee is entitled to be accompanied by a person of his/ her choice;
 - 2. the Superintendent shall present the factual basis for his determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee;
 - 3. then, the noncertified school employee shall present his/ her contentions limited to those matters specified in his/ her request;
 - 4. the Board may offer rebuttal testimony;
 - 5. witnesses may be questioned by the Board, noncertified school employee and Superintendent, or their representative;
 - 6. the Board may consider only evidence presented at hearing, and need consider only such evidence as it deems reliable;
 - 7. no record shall be made of the hearing.
- D. The Board shall notify the noncertified school employee and Superintendent of its decision in writing within five (5) working days from conclusion of the hearing.
- E. The individual may appeal the decision to an independent arbitrator as described in Section 22-10-14.1

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3.7 DRUG-FREE / GUN-FREE SCHOOL ZONES

Students, staff, parents, community members, patrons and all visitors are hereby notified that our schools and within 1000 feet of school premises are designated school zones which are "Drug Free" (which includes illegal substances, alcohol and tobacco product use) and "Gun Free" (which includes all weapons). Violators will face severe federal, state and local penalties.

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3.8 DRUG-FREE SCHOOLS AND CAMPUSES AND DRUG-FREE WORKPLACE

The purpose of this policy is to insure a drug-free environment for all employees, to establish a drug awareness program for all school district personnel, and to provide assurance of state and federal government agencies that school district is complying with the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1986, as amended in 1989, and all regulations promulgated there under.

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DRUG-FREE SCHOOLS AND CAMPUSES AND DRUG-FREE WORKPLACE

- A. The Tularosa Municipal School District prohibits the employees of the district from unlawfully manufacturing, distributing, dispensing, possessing or using alcohol or controlled substances in the workplace. Violation of this prohibition may result in termination of employment with the district or other appropriate disciplinary action, including referral to law enforcement.
- B. "Controlled substance" shall mean any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, or any other controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) and as further defined by regulation 21 CFR 1300.11 through 1300.15.3. "Workplace" is defined as the site for the performance of work done in connection with employment, and shall include any place where work of the school district is performed, including a school building or other premises, any school owned vehicle or any other approved vehicle used to transport students to and from school or school activities, and off school property during any school sponsored or school approved activity, event or function where students are under the supervision of the school district.
- C. Any employee who is convicted of a violation of a criminal drug statute occurring in the workplace shall, within five (5) days of the date of such conviction, notify his immediate supervisor in writing of such conviction. The school district, upon receiving such written notice, shall take one of the following actions within thirty (30) days:
1. impose appropriate personnel action against the employee up to and including termination of employment; or
 2. require the employee to participate satisfactorily in a drug abuse assistance, counseling or rehabilitation program approved for such purposes by a federal, state, local health, law enforcement, or other appropriate agency.
- D. A drug awareness program shall be established within the school district to inform all employees about:
1. the dangers of drug abuse in the workplace;
 2. the school district's policy of maintaining a drug-free workplace;
 3. any available drug counseling, rehabilitation, and assistance program;
 4. the penalties that may be imposed upon employees for drug abuse violation occurring in the workplace.
- E. This policy is posted on the District web site (www.tularosa.k12.nm.us). Each employee shall be required to comply with the terms of this policy.
- F. The school district shall make a good faith effort to maintain a drug-free workplace through implementation of this policy.

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3.9 EMPLOYEE ASSAULT

The Board is committed to provide its employees with a safe working environment and to assist employees who, when acting within the scope of their duties, are subjected to assault, battery, or physical confrontation or resulting in physical or mental injury.

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Procedure 3.9-1

EMPLOYEE ASSAULT

DEFINITIONS:

As used in this policy:

- A. "Employee" means any person authorized to act and acting on behalf of the district, with or without compensation, including but not limited to, certified school instructors and administrator, non-certified staff member, coaches, sponsors, volunteers, and Board members, but shall not include independent contractors providing services to the District.
- B. "Scope of duties" means the range of actions undertaken by an employee in the performance of any duties which such employee is requested, required, or authorized to perform by the Board or its administration, regardless of the time and place of performance.
- C. "Assault" means:
 - 1. An attempt to commit a battery upon the person of an employee while the employee is lawfully acting within the scope of the employee's duties.
 - 2. Any unlawful act, threat or menacing conduct which causes any employee lawfully acting within the scope of one's duties to responsibly believe the employee is in danger of receiving an immediate battery.
- D. "Battery" means the unlawful, intentional touching or application of force to the person of an employee while the employee is in danger of receiving an immediate battery.
- E. "Injury" means any physical or mental harm to the employee or to the employee's property, resulting from an assault, a battery or other physical confrontation occurring while the employee was lawfully acting within the scope of the employee's duties.
- F. "Incident" means an occurrence governed by this policy.
- G. In the event an assault or a battery has occurred, the incident is to be reported to the police authority having jurisdiction where the assault or battery occurred. The report should be made by the person involved or if the individual is unable or unwilling to do so, the immediate supervisor or the superintendent shall make the report.
- H. Employee(s) who has/ have been the victim of an assault or battery, while acting properly within the scope of their duties may receive, at District expense, leave with pay for up to twenty (20) days, for injury, physical or mental, provided Worker's Compensation does not apply.

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3.10 EMPLOYEE ASSIGNMENTS / TRANSFERS

All assignment of employees shall be made by the Superintendent in accordance with applicable Board policy.

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EMPLOYEE ASSIGNMENTS / TRANSFERS

A. Assignment

1. Assignment of employees to specific work locations shall be made by the Superintendent.
2. The immediate supervisor shall be responsible for the work assignments and supervision of all employees and their duties; however, employees may receive work assignments from others so designated by the immediate supervisor.
3. Certified employees shall be assigned within the scope of their teaching certificates unless otherwise authorized by the Public Education Department and with the concurrence of the employee. Such concurrence for waiver will include the employee's responsibilities to comply with the requirements.
4. All employees will be informed of their assignment prior to the end of the school year. Employees will be informed of any changes made after the end of the school year. If an employee cannot be reached, notification will be mailed to the employee's last known address on file.
5. New certified employees shall be given notice of their specific assignment as soon as practical, but in no event later than fifteen (15) days after the school year begins.

B. Employees may request, on a transfer request form provided by the District, a transfer to another work locations within the same job classification. Such request shall be valid for one (1) year unless withdrawn by the employee.

C. The District reserves the right to administratively transfer employees as it becomes necessary. Such transfers shall be determined primarily on the basis of the District needs. Notice of administrative transfer shall indicate the reason(s) for the transfer. Prior to initiating an administrative transfer the District will consider the following factors:

1. Individual school program needs;
2. Reduction of enrollment;
3. Occupational needs or District requirements;
4. State or federal requirements.
5. Employees may volunteer to be administratively transferred. If more than one (1) employee volunteers to be transferred (if it meets the needs of the District) the employee with the most seniority shall be selected.

D. In the event an employee is administratively transferred, the employee will be provided one (1) work day to relocate to the employee's new work location.

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3.11 EMPLOYMENT

The hiring of employees is the responsibility of the Superintendent as provided by law (22-5-14, NMSA 1978. The assignment of employees is based on the needs of the District.

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EMPLOYMENT

- A. Job offers will be extended only by the Superintendent or designee. All other offers are null and void.
- B. The Superintendent is authorized to issue contracts.
- C. Current information on vacancies in the District will be available to all employees by the posting in the Superintendent's office and work sites. During non-school periods postings of available positions will be on the Central Office Bulletin Board.
- D. The Board will be appraised of employee(s) working under a waiver from the Public Education Department.
- E. If at any time there is a question as to the ability of an employee to perform job-related functions, the District will require a complete physical examination by a District approved physician, to be paid for by the District.
- F. An employee's employment status shall automatically be terminated when the employee fails to report to work for a period of three (3) consecutive work days and notification was not provided to the employee's supervisor during such absence, except when it is determined that the circumstances of such absence were justified and precluded providing notification.
- G. An employee shall be considered probationary for the first six (6) months of employment or reemployment.
 - 1. During such probationary period, an employee may be terminated, suspended, or disciplined with such action not being subject to the grievance procedure.
 - 2. No annual leave will be granted during the first six (6) months of employment, although the employee will earn annual leave during the period. No employee will be paid for annual leave days upon termination unless six (6) months of employment have been completed.
 - 3. Employees will not be eligible for personal leave until the probationary period has been completed.
 - 4. An employee is not eligible to request a transfer or promotion while on probation.
- H. When employees agree to be assigned work by their immediate supervisor beyond their regular assigned responsibilities and work day, they shall be entitled to compensatory time off. All assignments must have prior approval of the employee's immediate supervisor. Time worked may be accumulated up to one (1) employee work day per semester. Time earned must be scheduled and approved in advance by the immediate supervisor and must be taken during the semester it is earned. Compensatory time shall be provided on the basis of one (1) hour off for each hour worked. All time scheduled under this paragraph shall be recorded and maintained by the immediate supervisor.

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3.12 EMPLOYMENT ELIGIBILITY VERIFICATION

In accordance with the U.S. Department of Immigration and Naturalization Service, all personnel must complete and have on file Form I-9, in the central administration office.

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Procedure 3.12-1

EMPLOYMENT ELIGIBILITY VERIFICATION

- A. Form I-9 is required for employees employed after November 1, 1986.
- B. Appropriate forms are available in the central administration office.

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3.13 EMPLOYEE-STUDENT RELATIONS / SEXUAL EXPLOITATION PREVENTION

Employees of the Tularosa Municipal Schools are hired for the purpose of taking a sincere professional interest in students. Professional ethics require that staff members avoid social situations through which they could exploit their positions of authority over students.

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Procedure 3.13-1

EMPLOYEE-STUDENT RELATIONS

- A. Employees will not use their position of authority or influence to make personal demands of students.
- B. Employees will not engage in dating or become intimately involved with students.
- C. Employees will not participate in any unethical or unlawful behaviors with students.
- D. Violation of this policy will result in disciplinary action.

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Procedure 3.13-2

SEXUAL EXPLOITATION PREVENTION

- A. All district employees, students, patrons, and vendors are entitled to work and study in school-related environments that are free from sexual exploitation. Therefore sexual exploitation or violence by any officer, employee, student, or other person having business with the district is prohibited. Sexual exploitation is any sexual advance, request for sexual favor, or sex-based behavior.
- B. Any employee whose behavior is found to be in violation of this policy shall be subject to discipline, including but not limited to suspension or termination of employment.
- C. All romantic relationships between students and employees are prohibited. Educators and students will not engage or attempt to engage in any nonprofessional social behavior with each other. Nonprofessional social behavior includes but is not limited to dating, any type of sexual activity; any touching of a sexual nature; hugging; kissing; hand holding or physical caressing; sexual flirtations, advances, or propositions; continued or repeated unwanted remarks about an individual's body; sexually degrading words used toward an individual or to describe an individual; the display in the school or workplace of sexually suggestive actions, gestures, objects, graffiti, or pictures.
- D. A student who believes that he or she has suffered sexual exploitation should report such matter to the school principal.
- E. The superintendent or designee shall assign an individual or team of individuals to investigate a complaint of sexual exploitation. A person who is alleged in a complaint to have violated this policy or to have been a witness to the alleged violation may not be named the investigator of the complaint.
- F. If the allegation of sexual exploitation is made against the superintendent or a member of the board, the assistant superintendent for Human Resource Services shall appoint, with the board's legal counsel, and independent investigator not employed by the district. The superintendent or the board retains the prerogative to appoint an independent investigator for any allegation of sexual exploitation.
- G. After completion of an investigation, if the investigator determines that sexual exploitation has taken place, disciplinary action will be taken.
- H. Retaliation against a person who reports or testifies to a complaint of sexual exploitation is prohibited. Any retaliation itself shall be viewed as an instance of sexual harassment and be subject to the provisions of this policy.
- I. To the extent reasonably possible, the privacy of a person involved in a sexual exploitation investigation shall be preserved. Investigators will request that participants in the investigation not discuss the investigation, except for conversations with parents, guardians, spouses, counselors, or legal representatives.

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- J. After an investigation has yielded a decision, either the person determined to have committed the exploitation or the person alleging the exploitation may appeal the decision to the superintendent, who will hear the appeal or designate a representative to hear the appeal.
- K. If at any time during the investigation it is suspected that child abuse has occurred, a report shall be made to the state child protection agency.

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3.14 EMPLOYEES WITH COMMUNICABLE DISEASES

Upon discovery or being informed that an employee of the Tularosa Municipal Schools has been diagnosed as having a communicable disease, the Tularosa Municipal Schools will endeavor to protect the health and safety of all employees and students while concurrently safeguarding the legitimate interest and rights of the employee.

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Procedure 3.14-1

EMPLOYEES WITH COMMUNICABLE DISEASES

- A. For the purpose of this policy "communicable diseases" are defined as diseases caused by infectious agents that may be transmitted directly or indirectly from person to person.
- B. Communicable diseases include but are not limited to, hepatitis B virus, cytomegalovirus, herpes simplex, human immune deficiency virus, measles, pertussis (whooping cough), rubella, salmonella, tuberculosis, typhoid fever and similar communicable diseases with severe consequences.
- C. The District will not require mandatory testing, screening or vaccination of employees for communicable diseases as a condition of employment unless required to do so under state or federal law or ordered to do so by the State District Health Offices.
- D. If school authorities have reasonable cause to believe that an employee has or is a carrier of a communicable disease, such employee may be required to submit to an appropriate medical examination.
- E. If an employee is determined to be the carrier of a communicable disease, that employee will not be permitted to continue work until he/she provides the school district with a medical doctor's certificate to return to work.
- F. Tularosa Municipal Schools complies with ADA regulations with regard to communicable diseases.
- G. The District will endeavor to maintain confidentiality in all matters pertaining to communicable diseases.

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3.15 EQUAL EMPLOYMENT OPPORTUNITY

It is the express policy and purpose of the Tularosa Municipal Schools to provide educational and employment opportunities, without regard to race, color, sex, ethnicity, national origin, religion, age, handicap or any other prohibited basis, in conformity with the laws of the United States and the State of New Mexico.

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Procedure 3.15-1

EQUAL EMPLOYMENT OPPORTUNITY

- A. After an offer of employment, applicants selected for positions may be required to complete a functional capacity evaluation to determine their fitness for duty. This functional capacity evaluation will be conducted by a medical service provider selected by the District. The employment contract and commencement of work will be contingent upon the results of the evaluation. The cost for this evaluation will be assumed by the District. This requirement will not apply to substitutes and temporary employees or individuals under an increment contract.
- B. If at any time there is a question as to the ability of a school employee to perform job-related functions consistent with business necessity, the District will require a complete physical examination by a district-appointed physician to be paid for by the District.

The Equal Employment Opportunity Commission has identified four situations under which a medical examination or inquiry will be considered job-related and consistent with business necessity and, therefore, permissible:

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

All information obtained through medical inquiries or examinations must be treated as confidential.

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3.16 EVALUATION OF EMPLOYEES

Employees of the Tularosa Municipal Schools will be evaluated in accordance with state law and district procedure. The underlying purpose in evaluation is designed to improve instruction as well as promote professional growth. The process will identify strengths and weaknesses and shall also provide an opportunity for recognition and encourage outstanding performance.

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Procedure 3.16-1

EVALUATION OF EMPLOYEES

- A. Employees shall be given a copy of any evaluation form and shall have the right to attach a written response to the form. The employee has the option to meet with the evaluator to discuss an observation or evaluation.
- B. Employees will be evaluated whenever there is a concern regarding performance.
- C. Employees may request to be evaluated in addition to their required evaluation cycle.

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3.17 EXTRACURRICULAR ACTIVITIES, ASSIGNMENT AND CONTRACT

In cases where an offer of employment indicate that an individual has been initially employed for a position which includes both teaching and extracurricular activity responsibilities, offers of re-employment to that person shall include both the teaching and extracurricular activity assignments unless the Superintendent deletes the extracurricular assignment or the teaching assignment.

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Procedure 3.17-1

EXTRACURRICULAR ACTIVITIES, ASSIGNMENT AND CONTRACT

- A. All increments and extracurricular activities are set by the Superintendent.
- B. All increments for certified staff are negotiated.
- C. An addendum to the regular contract will be provided for all extracurricular assignments.
- D. Extracurricular assignments are considered to be an "at will" assignment (i.e., not under contract and eligible for termination at any time with two (2) weeks notice).

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3.18 FEDERAL GRIEVANCE

A federal grievance is an allegation that a specific chapter of Title Six, Civil Rights Act of 1964 which prohibits discrimination in educational programs receiving federal funds; Title Seven, Civil Rights Act of 1964 and EEO 1972 which prohibits discrimination in employment including hiring, upgrading, salaries, fringe benefits, training, or other conditions of employment; and / or Title Nine, Education Amendments act of 1972 which expressly prohibits sex discrimination against students or others in educational programs or activities; has been violated. Complaints alleging any actions prohibited by the United States Department of Justice regulations implementing Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), may also be filed as outlined in District procedures.

Employees, as a result of such allegations, are provided the following procedure to seek resolution to the issue.

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FEDERAL GRIEVANCE

- A. The grievant shall prepare and file the grievance with the Title VI, Title VII, Title IX, Compliance Officer within thirty (30) days of the occurrence or first knowledge of the alleged discrimination. Grievances related to handicapping conditions (Section 504 of the Rehabilitation Act) must be filed with the Compliance Officer within one-hundred and eighty (180) days.
- B. The Compliance Officer shall investigate the complaint within fifteen (15) working days after the grievance is filed.
- C. The Compliance Officer shall issue a written report of his findings and recommendations for resolution or remediation of the grievance within ten (10) working days after the conclusion of the investigation.
- D. Copies of the report shall be sent to the grievant and the Superintendent of Schools. The grievance shall be considered resolved if both the grievant and the school district accept the recommendations as set forth in the report.
- E. Grievances filed under Title VI, Title VII, and Title IX which are not resolved satisfactorily may be filed with the Superintendent of Schools.
- F. ADA / Section 504 Complaint Process:
 - 1. A complaint should be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
 - 2. A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged violation. (Processing allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
 - 3. An investigation, as may be appropriate, will follow a filing of complaint. The ADA investigation will be conducted by the Assistant Superintendent.

The Section 504 investigation will be conducted by the Director of Special Education.

These rules contemplate informal but thorough investigation, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.

- 4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the Superintendent or designee and a copy forwarded to the complainant no later than thirty (30) days after its filing.
- 5. The ADA / Section 504 coordinator will maintain the files and records of the District relating to the complaints filed.

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6. The complainant may request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within thirty (30) days to the Superintendent of the District.
7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as filing of an ADA / Section 504 complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
8. These rules will be construed to protect the substantive rights of interested persons, meet appropriate due process standards and assure that the District complies with ADA and Section 504 and their implementing regulations.

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3.19 GRIEVANCE

The Board provides for an employee grievance procedure to address allegations by an eligible employee that has been adversely and/or unfairly affected by a perceived violation misinterpretation, or inequitable application of a specific provision of the negotiated agreement.

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Procedure 3.19-1

GRIEVANCE

- A. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to problems which may arise. All grievances shall be processed as provided herein.
- B. Definitions:
1. A "grievance" is an allegation by an employee, group of employees, or the Association, that there has been a violation, misinterpretation, or misapplication of a specific provision(s) of this Agreement.
 2. Matters not grievable are the contents of an evaluation of work performance of an employee, the refusal to reemploy an employee, or the discharge of an employee; and actions to challenge or change this Agreement. Employees discharged shall have the right, as guaranteed by law, to request a hearing with the Board with appeal right to arbitration as specified within the law.
 3. The grievant shall be required to exhaust the grievance procedure set forth in this Article before seeking alternative remedies, where there is a specific method of review by law (i.e., EEOC, HEW, OSHA).
 4. Employees having concerns that do not fall within the definition of a grievance can discuss the matter with their immediate supervisor or, if necessary, with the Superintendent.
 5. The term "day" when used in this Article shall mean working days of the grievant and supervisor involved in the grievance.
 6. The "immediate supervisor" is the lowest level management personnel having jurisdiction over the grievant and/or has been designated by the Superintendent to adjust grievances.
 7. A "grievant" or "aggrieved" shall mean the employee, group of employees in the unit or the Association.
 8. "Group grievance" is a grievance which involves the same or similar allegations of employees filing a group grievance and the same supervisor, provided such claim is signed by those individuals in the group grievance.
- C. At all levels of the grievance procedure, an employee may discuss the matter with the appropriate management personnel and may be accompanied by an Association representative(s). If the employee desires to be accompanied by an Association representative(s), notification must be provided in advance of scheduling the meeting. The immediate supervisor may also have a representative(s) present. When the aggrieved is not represented by the Association, the Association shall be afforded the opportunity to be present and make its views on the grievance known at all levels of the procedure except the Discussion Level.
- D. No grievance shall be initiated unless it has been discussed by the aggrieved with the immediate supervisor. Prior to initiating a grievance at the Superintendent's Level, an informal conference will take place between the aggrieved and/or representative(s) and the Superintendent.
- E. Nothing contained herein shall limit the right of an employee to process a grievance as an individual without representation by the Association.

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- F. If a grievance affects a group or class of employees, the Association may file the grievance within ten (10) days of the act that caused the grievance at the appropriate Supervisor's Level or if the appropriate Supervisor does not have the authority to remedy the matter, at the Superintendent's Level.
- G. All grievances, responses, and appeals must be filed on appropriate forms as provided by the District or the Association. The parties shall collaboratively develop all forms and shall share equally in the cost.
- H. All written materials related to the processing of a grievance will be filed separately from the District's personnel files.
- I. The District agrees to make available to the aggrieved, all information in its possession or control which is relevant to the issues raised by the grievance.
- J. The Board and the Association agree that any grievance meetings will be kept informal and that the specific information excluding outcome will remain confidential.
- K. No party shall take reprisals on any member of the unit, supervisor, administrator, or Board member, Association representative(s), or other participant in the procedure by reason of such participation.
- L. PROCEDURE
 1. Since it is important that grievances be processed as quickly as possible, the number of work days indicated at each level shall be maximum.
 2. The time lines specified may be extended if mutually agreed to in writing by the parties to the grievance.
 3. The aggrieved must meet with the immediate supervisor at the Discussion Level within ten (10) days of the act or discovery of the act that caused the grievance. An ongoing act can be discussed within ten (10) days of the latest occurrence.
 4. Failure to file a grievance or appeal a decision within the time limits specified herein shall result in the dismissal of the issues.
 5. Failure to submit a decision in writing within the time limits specified herein will cause the grievance to proceed to the next level.
- M. STEPS OF GRIEVANCE
 1. Discussion Level. Prior to filing a grievance, the employee shall meet with the immediate supervisor in an attempt to resolve the issue. The potential grievance will be identified by the employee and the solution sought discussed. If the matter is not resolved, the employee may proceed to Supervisor Level of the Grievance Procedure.

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2. Supervisor Level.

- a) If the grievance is not settled at the Discussion Level, the aggrieved may, within ten (10) days, submit a formal written grievance to the immediate supervisor.
- b) The grievance statement shall identify the section of the Agreement alleged to have been violated, the circumstances involved, the specific remedy sought, and the date of the alleged act.
- c) The immediate supervisor shall communicate a decision in writing within ten (10) days after receiving the grievance.

3. Superintendent Level.

- a) If not satisfied with the decision at the Supervisor Level, the grievant may, within ten (10) days, appeal the grievance in writing to the Superintendent.
- b) The Superintendent shall meet with the grievant and the supervisor involved in the grievance to review the record of the prior steps and other information that may be presented. Parties to the grievance may be accompanied by representative(s) to the meeting. The Superintendent shall render a decision on the grievance within ten (10) days following receipt of the appeal.

4. Arbitration Level.

- a) If the aggrieved is not satisfied with the disposition of the grievance at the Superintendent Level, the grievant may within ten (10) days submit the grievance to arbitration.
- b) Within five (5) days following the appeal to Arbitration, the parties to the grievance shall meet to prepare a joint letter to the Federal Mediation and Conciliation Service requesting a list of five (5) arbitrators.
- c) The parties will strive to mutually agree upon the Arbitrator. If the parties fail to mutually agree upon the Arbitrator each party will strike one name followed by the other party striking one name until a single name remains and that person shall become the Arbitrator. The party required to strike the first name will be determined by a flip of the coin. The process of striking names shall occur within ten (10) days of receipt of the list by both parties.
- d) The Arbitrator shall conduct the hearing in accordance with the voluntary arbitration rules of the American Arbitrators Association and the provision of this Article. The Arbitrator's decision shall be final and binding.

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1. If any question arises as to the arbitrability of the grievance, such questions shall be ruled upon by the arbitrator.
2. The Arbitrator shall have no authority to add to, subtract from or modify the terms of this Agreement, and the Arbitrator shall interpret this Agreement in accordance with accepted arbitral standards of contractual interpretation.
3. The Arbitrator's decision will be in writing and will set forth the Arbitrator's findings of fact, reasoning and conclusion of the issue submitted. The Arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is in violation of the terms of this Agreement. A copy of the award will be submitted to the Superintendent, the aggrieved, and the Association.
4. All costs of the services of the Arbitration, including, but not limited to, per diem expenses, travel and subsistence and the cost of any hearing room will be borne equally by the Board and the aggrieved. All other costs will be borne by the party incurring them. Unless the aggrieved is represented by the Association, the Board may require that the aggrieved party post the party's share of the expenses in advance of the hearing.
5. If any party requests a transcript of the proceedings, the party shall bear the full costs for the transcript.
6. The determination of the Arbitrator shall be acted upon as soon as possible but in no case more than thirty (30) calendar days.

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3.20 INFECTION CONTROL TO MINIMIZE OCCUPATIONAL EXPOSURE TO INFECTIOUS MATERIALS

The Office of Safety, Health Administration (OSHA) standard 29 CCFR 1910.1030, Blood borne Pathogens, requires employees to reduce the risk of infection to employees from blood borne pathogens.

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Procedure 3.20-1

INFECTION CONTROL TO MINIMIZE OCCUPATIONAL EXPOSURE TO INFECTIOUS MATERIALS

- A. Employees shall adhere to the District's Exposure Control Plan which includes Universal Precautions.
- B. A complete copy of 29 CFR 1910.1030 is available at the Central Administration Office and each principal's office.

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3.21 INSURANCE PROGRAMS

The Board shall provide employees, through the New Mexico Public Schools Insurance Authority, programs of medical, dental, vision, life, and long-term disability insurance. Workers' Compensation for on-the-job injuries and professional liability coverage is also provided as specified under the New Mexico Public Schools Insurance Authority.

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Procedure 3.21 - 1

INSURANCE PROGRAMS

A. Enrollment

1. Employees to be eligible for insurance coverage must work at least twenty (20) hours per week and work at least four hours each day of the work week. If a full-time position becomes a job sharing position, the district will provide insurance benefits for one person only. The job sharing partners must decide who is eligible for coverage.
2. Employees who are not enrolled in a District insurance program will be accepted in any or all of the District's insurance programs so long as they enroll no later than thirty-one (31) calendar days from the effective date of employment. Employees may also enroll due to a change in marital status or change in the job status of the employee's spouse, provided the employee's spouse was covered by insurance during the previous employment.
3. During enrollment periods, employees shall be provided a thorough explanation of the programs.
4. Each subscriber to an insurance program will receive a brochure outlining all of the basic terms and benefits of the program.

B. Premium Payment

1. For employees who elect to participate in an insurance program as provided by the Board, the Board agrees to contribute that percentage of premium required by State law.
2. Employees who choose to participate in the District's insurance program will have their contribution deducted from their paychecks.

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3.22 INVESTIGATION OF EMPLOYEES ACCUSED OF CHILD ABUSE

The Board of Education requires that all employees report suspected child abuse by school employees. If such report is made in good faith, the reporting employee shall be immune from civil liability or criminal sanctions for their action. The failure to report such abuse or neglect will be cause for criminal prosecution and may be cause for discipline of the employees.

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Procedure 3.22-1

INVESTIGATION OF EMPLOYEES ACCUSED OF CHILD ABUSE

- A. Investigations by law enforcement or Children, Youth and Families Department Protective Services Division
1. The Children, Youth and Families Department (CYFD) and/ or law enforcement may interview an employee at school who has been accused of child abuse.
 2. NMSA 22-5-4.2 requires that school employees who know or suspect that a child is abused, report this to CYFD and/ or law enforcement. When the suspected abuser is a school employee, law enforcement rather than CYFD should be contacted.
 3. The CYFD and/ or law enforcement investigator is to report to the school principal or designee upon arrival, provide his/ her credentials, and state who they wish to see. The principal will record that the investigation occurred and the information will remain confidential. The principal will report to the Superintendent that the interview is occurring.
 4. The principal will provide a place for the interview which insures privacy for the employee-- away from students and staff.
 5. When the principal summons the employee for the interview, the principal will tell the employee that a CYFD social worker and/ or law enforcement officer would like to interview him/ her regarding an accusation which has been made against him/ her. This will be done in privacy where others cannot hear and will not be discussed by the principal with other employees.
 6. The employee may choose whether to talk with CYFD/ law enforcement at that time or to meet with them at another time and place. If the employee so chooses, he/ she must inform the investigator directly of this choice. The employee may choose to have a representative of his/ her choice present during the interview, including legal representation if so desired. Although these are the rights of the employee, the school cannot legally bring this to the attention of the employee at the time of the investigation as it could be construed as interfering with the investigation process.
 7. It is the responsibility of CYFD to inform the individual being investigated that no party may be compelled to participate in a conference, produce any papers, or visit any place (32A-4-4). Law enforcement is responsible to advise the employee of his/ her Miranda rights; it is not the responsibility of the school to do this.
 8. Following the initial contact, CYFD and law enforcement will disclose sufficient information to the Superintendent so that children may be protected.

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9. A copy of these policies and procedures will be available in the school office so that the employee may request time to review them prior to any investigatory interview.

B. Access to Records

The CYFD and/ or law enforcement may have access to a child's school records which pertain to a child abuse or neglect case maintained by school persons [32A-4-3(F)]. The appropriate administrator will make these records available for review. The school will document which records were reviewed and if copies were made. If there is a dispute on what records should be disclosed, the Superintendent is to be called, who will confer with the appropriate agency supervisor and with Special Education when appropriate. For access to personnel files, a court order is needed.

C. Investigation by School Official

1. The school district is responsible for conducting an investigation of any employee accused of child abuse. The superintendent will designate the persons to conduct the investigation. The District's investigation will follow and be coordinated with that conducted by CYFD and/ or law enforcement. Should the investigation become lengthy and it is the feeling of the school district that it is important to begin an internal investigation, this will be coordinated with law enforcement.
2. The District's investigation will be conducted in accordance with any applicable negotiated agreement. The District will inform the individual that he/ she has the right to Association representation during the interview and the employee may reschedule the interview to another reasonable time in order to secure representation.
3. Prior to any interview relevant to a child abuse accusation that may result in disciplinary action, the District will inform the employee that anything they say may ultimately be used against them. The employee may refuse to answer questions that probe possible criminal conduct until the employee has obtained legal advice and/ or counsel.
4. The length of any administrative leave shall be kept to a minimum depending upon the seriousness of the allegations and complexity of the investigation.

D. Confidentiality of Investigation

1. The fact of a child abuse/ neglect investigation by law enforcement, CYFD, or school officials, and any details of such known to school employees shall be kept confidential. Only the school principal, Superintendent, and/ or designee and school employees involved in the investigation should have any knowledge of the actual investigation.

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2. The principal or designee shall instruct school employees who know of the investigation about the confidentiality of what they know and learn, and caution them against disclosure to others, both within and out of the school system. If this is violated, the employee may be subject to disciplinary action.
3. An inquiry of school personnel by a parent guardian, custodian, or another member of the public regarding an abuse-neglect investigation is to be referred to the agency responsible for the investigation. This does not apply to the police, attorneys representing the child, or parties involved, nor does it prevent testifying in court if lawfully subpoenaed.
4. Information provided by CYFD/ law enforcement personnel is statutorily mandated to be kept strictly confidential.

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3.23 LEAVE FROM DUTY

The Board authorizes leaves from duty as required by federal and state laws and Board policy.

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LEAVE FROM DUTY

A. GENERAL INFORMATION

1. The immediate family of an employee is the spouse, child, grandchild, parent, sister, brother, grandparent, son-in-law, daughter-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law, a person who served as the guardian for the employee prior to the employee's becoming an adult or were individuals under the employee's guardianship, and others who reside in the same household with the employee.
2. All leaves will be requested through and approved by the immediate supervisor unless otherwise provided herein.
3. All leaves are based upon the number of hours in the employee workday.
4. Inappropriate use of any leave may be cause for disciplinary action including dismissal. An employee may be requested to present proof of illness in order to qualify for pay during sick leave.
5. The District and the Association shall work together in an effort to prevent any possible abuse of leaves.

B. SICK

1. Employees shall earn sick leave at the rate of approximately one (1) day per month. The total amount of accrual of sick leave for the entire year shall be credited at the beginning of the employee's employment year. If the number of days taken during the year exceeds the number earned for the year, or the number of days accrued, employees shall be docked at their daily rate of pay for each day taken.
2. Employees employed for less than a full year or on a part-time basis shall have their leave accrual prorated.
3. Earned sick leave may be used provided the employee is on paid duty status.
4. Sick leave may be accumulated up to one hundred (100) days. Employees who start the fiscal year with one hundred (100) days may utilize their earned sick leave during the year.

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5. However, their accumulated sick leave shall not exceed one hundred (100) days at the end of the fiscal year.
6. Immediate supervisors will oversee absences to determine if a pattern of absences or a frequency of absences is occurring. Absences on Friday and the following Monday and the day before and after a holiday will be observed and may be cause for the immediate supervisor to require a medical certificate for such absence.

C. EXTENDED SICK LEAVE

An employee who has been employed by the District for more than three (3) years who is unable to work because of a personal illness, or for the purpose of caring for a sick member of the employee's immediate family, and who has exhausted all available sick leave shall be granted leave for the duration of the illness or disability up to one year without pay. Any request for this leave must state the probable date of return and be accompanied by a verifying physician's statement. Before returning, such employee must submit a physician's release to return to work.

1. Employees returning to duty from an extended leave shall be assigned to a substantially equivalent position to that held by the employee at the commencement of the leave. If the leave period is for one semester or to the end of the school year, the employee shall be returned to the position previously held if it exists or to a substantially equivalent position.
2. An employee may remain in the District's group health insurance program by paying one hundred percent of the premiums of such benefits while on approved extended leave or the employee's share of the premiums as provided by law. Premium payments must be made at the time specified by the District. Failure to make payment will cause termination of benefits.
3. An employee returning from an extended leave must file by certified mail, an intent to return to the District no later than November 1, when returning for the second semester or April 1, when returning for first semester of the next school year or July 1. Failure to do so will be considered a resignation on the part of the employee at the conclusion of the leave or the school year, whichever comes first.

D. BEREAVEMENT

Employees will be provided leave with pay for three (3) workdays immediately following the death of someone in their immediate family. If requested, two (2) additional days will be granted when travel 400 miles out of town is requested.

E. FUNERAL

Employees may be excused by their immediate supervisor without loss of pay, for a period up to three (3) hours, to attend funeral services of others than members of the immediate family.

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F. MATERNITY

1. An employee may use accumulated sick leave days during the pregnancy and immediately after the birth of the child. The employee shall notify the Superintendent in writing of her desire to take such leave, and except in cases of emergency, shall give such notice thirty (30) calendar days prior to the date on which the leave is expected to begin.
2. An employee may continue in active employment as late in her pregnancy as she and her physician recommend, provided she is able to perform her required employment assignment.
3. An employee returning to employment from maternity leave shall submit a physician's statement that she is able to resume her duties.

G. PATERNITY

An employee shall be entitled to use up to five (5) days accumulated sick leave for the birth of his child. The employee shall notify the Superintendent in writing of his desire to take such leave, and except in cases of emergency shall give such notice thirty (30) calendar days prior to the date on which his leave is expected to begin.

H. ADOPTION

An employee adopting a child shall be entitled to use up to five (5) days of accumulated sick leave or one week of unpaid leave. The employee shall notify the Superintendent thirty (30) days in advance of the intention of requesting the leave and whether or not it will be with pay. In cases of an emergency, the Superintendent shall waive the thirty (30) day requirement.

I. PARENTAL

An employee shall be entitled upon request and verification of birth date to a leave without pay to begin at anytime between the birth of his/her child or adopted child and one year thereafter. This leave may be for a period of time up to one (1) year.

J. ADVANCED STUDY

1. An employee who has been employed by the District for four (4) or more years immediately preceding the request of leave is eligible to receive advanced study leave without pay.
2. Prior to returning to employment to a position as indicated in the letter of leave approval, the employee must provide verification of advanced study by submitting to the Superintendent an official transcript indicating the earning of no less than twelve (12) hours per semester or twenty-four (24) hours for one (1) year.
3. In the event advanced study leave is extended a second year, the requirement of semester hours must be met.

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4. Upon return the employee will be placed in the position held before the leave, if in existence, or to a substantially equivalent position.
5. Unused accrued leaves shall be restored to employees upon their return to employment.

K. JURY DUTY / COURT SUBPOENA

1. Absence will be granted when an employee is subpoenaed to appear in an official proceeding, if such proceeding does not involve self-employment or the employer and does not concern the employee's own personal life.
2. Leave will be granted to an employee for appearance in court as a witness, to serve on a jury, or to respond to an official order from another government jurisdiction for reasons not brought about through the wrongdoing or misconduct of the employee.
3. Employees shall notify their immediate supervisor of their desire to apply for such leave as soon as possible prior to the date services must be rendered.
4. Employees may not receive compensation from the District and from jury duty/ court subpoena leave.

L. MILITARY

1. As provided by law, employees who are members of an organized unit of the National Guard, or reserve unit of any of the U.S. military branches shall be given military leave with pay up to fifteen (15) days annually, in accordance with their official orders when they are ordered to active duty training with such organized units.
2. As provided by law, employees who leave their employment to enter the armed forces, voluntarily or involuntarily, have the right to return to employment provided certification of satisfactory service and application for reemployment occurs within thirty-one (31) days of separation from active duty.

M. PERSONAL

Employees shall be granted two (2) days of leave for personal reasons. Such leave shall be accumulated at the rate of one (1) day per semester (90 days) of school. Returning employees may take their two (2) days during the first semester. New employees must accumulate their personal leave days at the rate of one (1) day per semester. Requests for such leave must be made five (5) days in advance unless the employee's immediate supervisor waives the notice requirement. Personal leave may not be taken before or after a holiday unless prior approval has been granted and circumstances warrant considering approval of the leave request. Personal leave is not cumulative but may be credited to the employee's accumulated sick leave if not used.

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N. POLITICAL

Upon request, the Board may grant an employee political leave without pay to campaign for election or serve in public office. If the leave is for an entire school year, the employee will be returned to the position held, but if the leave is only for a portion of the year the employee will be returned only if a vacancy exists for which the employee is qualified or if a mutually agreeable arrangement has been made and recommended by the Superintendent.

O. PROFESSIONAL

1. Leave with pay may be granted for professional visitation and attendance at job-related meetings, conferences and training services or other activities which in the Superintendent's judgment, would be beneficial to the work of the employee or to the District.
2. Such leave may or may not involve the reimbursement of expenses, including substitutes, depending upon the mutually agreeable arrangements made prior to the leave.

P. FAMILY MEDICAL LEAVE ACT

This Leave Article is in compliance with the Family and Medical Leave Act (FMLA) enacted in 1993.

1. The requirements of the Act entitles eligible employees to take up to twelve (12) weeks of unpaid, job protected leave each year for specified family and medical reasons. To be eligible for FMLA benefits, an employee must have worked for the Board for at least a total of twelve (12) months and at least 1,250 hours over the prior twelve (12) months.
2. An eligible employee is eligible for up to a total of twelve (12) work weeks of unpaid leave during any twelve (12) month period for one or more of the following reasons:
 - (a) for the birth or placement of a child for adoption or foster care;
 - (b) to care for an immediate family member with a serious health condition; or
 - (c) to take medical leave when the employee is unable to work because of a serious health condition.
3. Spouses employed by the Board are jointly entitled to a combined total of twelve (12) work weeks of family leave.
4. Leaves that fall within the FMLA will be credited toward the twelve (12) weeks of entitlement.

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Q. SICK LEAVE BANK

1. Classified employees may choose to participate in the Sick Leave Bank by contributing one (2) days of sick leave to the Bank. The employee shall notify the Central Office prior to October of their decision to participate in the Sick Leave Bank. New employees contracted after October 1 may enter into the Sick Leave Bank during their first thirty (30) days of employment.
2. An employee must have contributed to the Bank in order to request and be eligible to receive days from the Bank.
3. All available leave must be used before an employee is eligible to receive days from the Bank.
4. Maximum withdrawal from the Bank is twenty (20) days.
5. An employee utilizing the Bank will reimburse the Bank at the rate of three (3) days per year (or more as determined by the employee) until the borrowed days have been returned or employment is terminated.
6. The Sick Leave Bank Committee will be composed of four (4) members: one classified and certified employee appointed by the Association, one administrator appointed by the Superintendent, one person agreed upon by the Association and the Superintendent. A school nurse will act in an advisory capacity to the Committee.
7. The Committee shall establish specific guidelines for granting sick leave from the Bank, including catastrophic or chronic conditions affecting the employee and the history of the applicant's prior usage of sick leave.
8. Decisions of the Sick Leave Bank Committee shall be final and not subject to the grievance procedure.
9. An employee who is not satisfied with the decision of the District Sick Leave Bank Committee shall have the right to address in a timely fashion the District Sick Leave Bank Committee and may be accompanied by an Association representative(s).
10. The Committee will recommend the requirement of an additional day of sick leave to be contributed by all members of the Sick Leave Bank when the Bank total falls below one hundred (100) days.

(up dated 10/14/2015)

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R. ANNUAL

Employees on a twelve month work schedule shall be entitled to up to ten (10) days of paid leave. Employees who have been employed for six (6) to eleven (11) months are entitled to one week of annual leave. During the school year, annual leave up to five (5) days, may be requested five (5) days prior to the requested date; however, only one employee per job classification per work location will be granted leave for the same day or number of days. After the school year, leave shall be scheduled between June 10 and August 1.

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3.24 OVERTIME COMPENSATION

Overtime is provided for by law at the rate of time and one half earned by any employee who is required to work more than forty (40) hours during the work week. This overtime compensation does not apply to executive, administrative, professional or licensed teach employees or to volunteers.

Definition: The "work week" is defined as Sunday through Saturday.

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OVERTIME COMPENSATION

- A. All overtime work must have prior approval of the Superintendent.
- B. Compensation shall be paid at a rate of one and one-half (1 1/2) times the employee's regular hourly rate of pay.
- C. Hours worked by an employee who, at his or her option, engages in part time occasional or sporadic employment for the District in a different capacity other than his or her primary employment classification, shall be excluded from the calculation of hours for overtime compensation.
- D. An employee who voluntarily agrees to substitute during the scheduled work hours for another employee who is employed in the same classification and with the Superintendent's approval, shall be excluded from those hours in the calculation of overtime compensation.

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3.25 PERSONNEL FILES

There shall be one (1) official file for each employee which shall be maintained in perpetuity in the Central Administration Building, except for files provided in the Grievance Procedure or as required by the Family Medical Leave Act.

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PERSONNEL FILES

- A. References provided in confidence for employment or promotion purposes shall not be subject to inspection by the employee.
- B. Information shall be placed in personnel files only with the approval of the Superintendent. No anonymous or unsigned information may be placed in the employee's file.
- C. The employee will be given the opportunity to see any information prior to placement in the employee's official file except information related to routine file maintenance.
 - 1. The employee shall acknowledge having read these materials by affirming one's signature on the actual copy/copies to be filed.
 - 2. The employee has the right to respond in writing to anything placed in that employee's file and have such response placed with the material to which the response relates.
- D. Employees may inspect their official files by appointment with the Superintendent. No file shall be removed from the Central Administration Building.
- E. When a court of law, arbitrator, or a grievance procedure determines that an evaluation was done improperly, it will be removed with written authorization of the determining authority.
- F. Administrators and school officials with a specific purpose will have access to employee files.
- G. Employees may request in writing that a negative report be removed from their personnel file after three years from the date of occurrence. Such report will be removed provided no further action relating to the incident has occurred. No report shall be removed that involved a substantiated incident of physical or sexual abuse towards students or staff. District evaluation reports shall not be considered for removal.

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3.26 POLITICAL ACTIVITIES BY EMPLOYEES AND OTHERS

Employees seeking political office, as well as other candidates, are prohibited from conducting campaign activities during regular work hours on school premises.

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POLITICAL ACTIVITIES BY EMPLOYEES AND OTHERS

- A. Under no circumstances will a candidate be permitted to use students during school hours in any campaign activity.
- B. Candidates are prohibited from using school machines or materials to produce campaign literature.
- C. Candidates or their supporters may place campaign materials in the staff lounge.
- D. Candidates will be permitted to address the group after school hours. Attendance for faculty members will not be mandatory.
- E. No visit to classrooms for campaigning purposes will be permitted.
- F. Students are not to be asked to take home campaign literature for individual candidates.
- G. School phones will not be used for political campaign purposes.
- H. Campaign fund raising will not be permitted on the school premises.
- I. The use of campaign materials, programs, and candidate forms for instructional purposes will be permitted and should reflect opposing viewpoints.

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3.27 PRINCIPAL OF SCHOOLS

The principal is the chief administrative officer of the individual school.

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PRINCIPAL OF SCHOOLS

- A. The Superintendent shall select and assign principals.
- B. The principal shall comply with federal, state, local laws, policies and regulations.
- C. The principal is responsible to and shall serve under the direction of the Superintendent.
- D. The principal shall be evaluated annually by the Superintendent.

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3.28 REDUCTION-IN-FORCE (R.I.F.)

A. Authority

Pursuant to NMSA 1978 § 22-5-14 (2003), the Superintendent has the authority to discharge licensed school personnel during the term of their contracts or to terminate licensed school instructors and non-licensed school employees with rights created by NMSA 1978, Section 22-10A-24(C) (hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of circumstances justifying a reduction in force as specified herein. Reduction-in-force (R.I.F.) is "just cause" for discharge of licensed school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in personnel who are covered by the policy may be accomplished, within the context of the District's general personnel policies.

B. Board Discretion

The Board is vested with the discretion to develop educational policies for the District, so long as the state educational standards and statutorily-required standards are met. The Superintendent, in carrying out the educational policies of the Board and administering and supervising the District, shall exercise his or her discretion in accordance with this policy in determining when decreased enrollment, financial exigency or other causes justify a reduction in personnel.

C. Grounds Justifying Reduction In Force

Situations that justify a R.I.F. shall include, but are not limited to, the following:

1. Decrease in student enrollment or reduced student demand for or participation in programs or activities;
2. Decrease in revenue:
 - a. because of decrease of student enrollment;
 - b. because of loss or reduction of tax revenues;
 - c. because of reduction of state, local, or federal financial support; or
 - d. because of inflation reducing the value of revenues received or significantly increasing costs of operation;
3. Change in the educational program of the district, as determined by the Board, in its good-faith exercise of discretion;
4. Consolidation or de-consolidation involving the district;
5. Court orders;

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6. Orders of the Secretary of Education;
7. Legislative mandates;
8. Unanticipated financial or programmatic exigencies identified by the Superintendent which warrants initiation of a RIF process.

D. Good Faith Determination

The Superintendent shall exercise discretion in good faith, and determinations that a R.I.F. is necessary shall be based on bona fide educational considerations, and shall not be a subterfuge for discharging or terminating licensed personnel without just cause or for impermissible reasons.

E. Timing Of Reduction In Force

A R.I.F. may occur at any time during the calendar year when the Superintendent, in his or her discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on such projections, nor shall it require the reemployment of any employees who were released on the basis of such projections.

F. Determination Of Need For Reduction In Force

Except as required by legislative mandate or orders of the State Secretary of Education and to the extent that circumstances permit, the Superintendent, with the assistance of the administrative staff, shall report to the Board any circumstances which may ultimately require a R.I.F., in order that notice be given to licensed personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided. Preparation of a R.I.F. Plan shall not be necessary if the reductions can be accomplished through attrition (i.e., resignations, retirements, etc.), or by termination of a sufficient number of non-tenured staff.

1. Preparation of R.I.F. Plan

When the Superintendent concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to the Board. The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the district and how it may be modified to reduce costs, programs and personnel while still providing the educational program required of school districts and the particular educational needs of the district. Where circumstances warrant, a R.I.F. plan may address particular programs, departments, school sites, content areas or activities if the causes for the R.I.F. predominately impact that aspect of the educational program. Such impact shall be described in the R.I.F. plan. The R.I.F. plan shall include, but need not be limited to, the following:

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- a. a detailed description of the cause or causes requiring a R.I.F.;
- b. a description of all adjustments already made by the Administration in an attempt to avoid a R.I.F., if any (e.g., reduction by attrition, cuts in non-licensed staff, abolition of non-essential services or activities such as extra-curricular programs, etc.)
- c. a designation of the part or parts of the total educational program or particular program or activity in which the R.I.F. is proposed and the number of positions proposed to be reduced in each program or activity;
- d. a designation of non-essential services or activities which are to be retained, with a justification for retaining such programs; and
- e. a discussion of alternatives (if any) considered by the Superintendent with an explanation as to why such alternatives were rejected.

The Superintendent shall include in the R.I.F. plan a listing of all extra-curricular, co-curricular and athletic programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and the proposed weight to be given each category of such programs or activities for discussion at the public meeting at which the R.I.F. plan is considered.

2. Board Considerations

The Board shall consider the recommendations of the Superintendent for the adoption of the R.I.F. plan at a duly-called board meeting, the public notice of which announces that a R.I.F. will be considered. The discussion and action on the plan shall be in open session; however, nothing herein shall restrict the Board from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The Board may allow such review, consultation, and comment by employees and members of the public, as the Board, in its discretion, deems appropriate. The Board may propose modifications to the plan recommended by the Superintendent as it deems appropriate, provided that the Superintendent shall be the final decision-maker on the content and scope of the plan after giving due consideration to the Board's proposals.

If a mid-year R.I.F. is proposed which would require the discharge of tenured certified staff, the Superintendent and Board shall adopt a joint determination that as to the projected financial burdens to the District in the future and concluding the District cannot survive financially for the fiscal year already underway, if the R.I.F. is not carried out.

Any final plan for a R.I.F. shall be made available to all staff, by providing copies thereof in the office of each building principal and at the Superintendent's office, within two (2) working days after the final plan has been approved by the Superintendent.

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3. Adopted Plan

If a R.I.F. plan is adopted, the Board shall not be required to deplete its operational cash balances maintained or carried over as permitted by NMSA 1978 § 22-8-41C and Section 71, Laws 2003, Ch. 153 in order to avoid the R.I.F., if the Board, in its discretion, determines that the cash balance must be maintained at the level determined by the Board, in order to cover other permitted expenditures or as a contingency for unforeseen expenditures or emergencies.

Based upon the R.I.F. plan approved by the Board, the Administration shall perform a study of the School District's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan. The primary concern to be applied in making the R.I.F. selections shall be the Board's interest in maintaining a sound and balanced educational program which is accredited and meets state and federal or regulatory requirements or standards, as well as the educational and extra-curricular program established for the District. In performing the study, the School Administration shall prepare a rating sheet and apply a point scale using the criteria applicable to the affected personnel specified in the following section.

G. Criteria For Selection Of Employees For R.I.F.

1. Licensed Personnel

a. Licensing as Qualification/Substandard Licenses.

Substandard licensure is inferior to full licensure, and a person who is fully licensed to teach within the presently assigned content area shall be retained in preference to a person holding a substandard license.

- (1) A person holding a "teaching waiver" of licensure requirements approved by the Public Education Department (per NMSA 1978 Section 22-10A-14B) shall be treated as having substandard licensure for the purpose of this policy, and shall receive zero (0) points for licensure in the survey and on the rating sheet.
- (2) A licensed person working in the affected content area pursuant to an "assignment waiver" (per NMSA 1978 Section 22-10A-14C), but possessing full licensing in another content area not affected by the RIF shall be allocated five (5) points on the rating sheet.
- (3) A person who is fully licensed and teaching in the affected content area shall be allocated ten (10) points on the rating sheet.

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b. Endorsements

Licensed personnel possessing teaching endorsements recognized by the Public Education Department beyond those requested or required as qualifications for the individual's current assignment or content area shall receive an additional two (2) points per current valid endorsement, up to a maximum of six (6) points.

c. Extracurricular Licensing/Experience/Assignment

Licensing, experience and current assignment in the extra-curricular or co-curricular activities which are to be retained as an integral part of the district's overall program for its students may be considered as a qualification requirement, in addition to licensure status, in making selection of personnel to be released under this policy. Head coaches or trainers possessing current licensing as a coach or trainer who are also certified employees of the district may be allocated two (2) points for each head coaching or training assignment up to a maximum of six (6) points for all current assignments. Licensed assistant coaches who are also certified employees of the district may be allocated one (1) point for each assistant coaching assignment up to a maximum of three (3) points for all current assistant coaching assignments.

The Board shall also possess the discretion to grant up to, but no more than, three (3) points for current extra-curricular or co-curricular assignments, requiring specialized knowledge, training, expertise, or significant time commitment, but for which licensing is not available, in programs or activities which the Board has determined to retain as an integral part of its overall program.

No employee may receive in excess of ten (10) total points on the rating sheet for extracurricular, athletic or co-curricular assignments. The Administration shall include in the proposed R.I.F. Plan a listing of all extracurricular, athletic and co-curricular programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and the proposed weight to be given to each category of such programs or activities for discussion at the Board meeting at which the R.I.F. Plan is considered.

d. Service in District

Where cumulative scores on the rating sheet are equal between two or more licensed school instructors being considered for termination or discharge, tenured licensed school instructors shall be retained in preference to licensed school instructors who have been employed by the district for less than three consecutive school years of service.

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- (1) Each licensed individual considered for termination or discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the district, prior to the current year, excluding approved extended leaves of absence, up to a maximum of twenty (20) points.

e. Education

The amount of credit for education shall be determined based on degree and additional hours:

(1)	B.A.	1 point
(2)	B.A. + 15	2 points
(3)	B.A. + 45 or M.A.	4 points
(4)	M.A. + 15	6 points
(5)	M.A. + 45 and higher	8 points
(6)	Ed.D. and Ph.D.	10 points

f. Performance: [Optional - The School Superintendent shall determine whether this criterion shall be used at the time the R.I.F. Plan is approved.]

The current supervisor of each licensed school instructor considered for termination or each licensed person considered for discharge shall rate the relative performance of each such person on a rating form to be prepared by the Superintendent, or under his/her direction. Such rating form may be based on the District's standard evaluation form(s) rating teacher competencies but may include additional competencies identified by the Superintendent which reflect his or her judgment as to the attributes necessary for success in the particular program(s) affected by a R.I.F. The rating form shall include not more than a total of ten (10) standard and specific competency areas, shall specify the score for each performance category or attribute, and shall allow for a maximum score of twenty (20) points. The supervisor(s) may consult with the Superintendent concerning the implementation of the evaluation. The supervisor(s) shall complete the rating forms and return them to the Superintendent within the time specified for completion of the evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or with the Superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals considered for a R.I.F. for a period of the three (3) years immediately prior to the R.I.F, if available.

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When a supervisor lacks familiarity with an individual's performance (*e.g.*, a new supervisor), the Superintendent may assign the evaluation to a present or past District administrator or supervisor who has greater familiarity with the individual's performance. The Superintendent may devise such other measures as he or she deems necessary to address with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to award points to licensed personnel based on the employee's performance.

2. Selection Based on Scores

The Superintendent shall total the points allocated based on the criteria specified above. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious and detrimental effect on the total educational program. In such event, the Superintendent may select a higher scoring person for termination or discharge but shall prepare a written justification for such action in the best interests of the District, along with the rating sheets for such positions. The computations of the Superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

3. Transfers/Reassignment

If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person ("the affected person") is also licensed and qualified for another program(s) within the District, the person shall be considered for transfer or reassignment to such program(s). The fact that there are one or more other licensed employees within the program affected by the R.I.F. who scored higher than the affected person, and that such person(s) may be licensed and qualified to teach or administer in other programs in the District, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/reassignment obligation shall not arise until after the selection of the person or persons to be released from the program affected by the R.I.F. and shall only apply to the person or persons selected for release. Consideration of transfer or reassignment of the affected person shall be governed by the following criteria:

- a. Existing Vacancy. If, upon the effective date of the termination or discharge due to a R.I.F., there is an existing vacancy in another program for which the affected person is licensed and qualified, he or she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.
- b. No Existing Vacancy. Where the affected person is licensed and qualified for another program or programs in the District, but all such positions are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.

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- (1) If the person is fully licensed for a position in another program or an administrative position but has not actually taught in such program or held such an administrative position during any part of the preceding five (5) school years, such person shall not be considered qualified for transfer or reassignment to the other position.
- (2) If neither the Superintendent nor the current supervisor of the program has observed the person being considered for transfer or reassignment performing the duties of the other program, it is impractical for the relative performance of the person being considered for transfer or reassignment and the person or persons currently teaching or administering in the program to be rated based on direct observation. Under such circumstances, the Superintendent or his/her designee shall make a judgment as to the likely performance of the person being considered for transfer or reassignment and assign the performance score which may be used in the selection process in comparison to the person or persons currently employed in the other program. The Superintendent or designee shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

Each licensed instructor or administrator discharged and each tenured teacher terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Secretary of Education governing discharge of licensed school personnel or the termination of tenured teachers. The written decision of the Superintendent, to the extent required by statute and regulation, shall clearly specify that the termination or discharge resulted from a R.I.F. and not from any cause personal to the person released.

4. Non-Licensed Personnel

Seniority shall be the primary criterion in determining which non-certified personnel shall be recommended for complete or partial termination in order to implement the R.I.F. Plan. More senior non-certified personnel ordinarily shall be retained in preference to less senior non-certified personnel within the same job category. However, where multiple positions and programs are affected by the R.I.F., the School Administration may prepare a rating sheet which includes the following criteria in making the selection:

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- a. **Specialized Qualifications/Licenses:** Specialized training/certification or licensing directly related to the current job duties of the non-certified employee (*e.g.*, electrician's license held by maintenance employee) may be allocated up to, but no more than, five (5) points. This factor excludes credit for extra-curricular licensing referred to in the next section.
- b. **Extra Curricular Licensing/Assignments/Experience:** Licensing/training in extra-curricular activities, such as coaching or training in athletic programs, which are to be retained as an integral part of the District's overall program for its students, may be considered as a qualification requirement in making selection of personnel to be released under this policy. Head coaches and trainers who possess current licensing as a coach or trainer may be allocated up to, but no more than, two (2) points for each head coaching or training assignment, up to a maximum of six (6) points for all current assignments. Licensed assistant coaches, or service in current extra-curricular assignments requiring specialized knowledge, training expertise, or significant time commitment, may be allocated up to, but no more than one (1) point for each assistant coaching assignment, up to a maximum of three (3) points for all current assignments.
- c. **Service in District:** Each noncertified employee rated shall be awarded one (1) point for each complete school year of full-time service during the most recent period of uninterrupted service with the District, up to a maximum of twenty (20) points. Periods of extended leave of absence without pay shall not be included. Where cumulative scores are equal, tenured, noncertified individuals (those who have completed three (3) full consecutive years of service in the District) shall be retained over nontenured, noncertified individuals.
- d. **Performance:** [Optional - To be used only if directed by School Superintendent]. If two or more individuals have equal ratings on the above criteria, the current supervisor of each person classified as support staff who is considered for termination shall rate the relative performance of such person on a rating form to be prepared by the Superintendent. Such rating form will be designed based on the District's performance evaluation form for non-certified employees. The rating form will allow for a maximum score of twenty (20) points. The forms will be returned to the Superintendent for tabulation.
- e. **Selection Based on Scores:** The Superintendent shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the Superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

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- f. **Transfer/Reassignments:** If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person is tenured and qualified for another program within the District in which a vacancy exists, that person shall be considered for transfer/reassignment to the other program.
- g. **Termination:** Each non-licensed employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-licensed personnel. The written decision of the Board, to the extent required by statute and regulation, shall clearly specify that the termination resulted from a R.I.F. and not from any cause personal to the person released.

5. Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10A-25, NMSA 1978 22-10A-28, respectively, and any applicable regulations of the State Secretary of Education.

6. Recall of Released Staff

For a period of one (1) year after the effective date of the discharge or termination of any employee pursuant to this policy, the Superintendent shall offer to such person any position(s) which becomes available for which such person is licensed and qualified, provided that such person has complied with the requirements specified below.

- a. Every person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the Superintendent, within thirty (30) days after the effective date of the discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be contacted. Such person must notify the Superintendent of any change in address within ten (10) days after changing residences in order to insure proper notification in the event of a recall.
- b. In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or licensure to which a person will be recalled, the selection criteria of this policy will be applied to determine which person is to be recalled. The points accrued for "Service in District" and "Performance" shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination which is directly related to the District's educational program shall be credited and considered.

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- c. Any person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the Superintendents office within fifteen (15) calendar days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be made to the next person qualified to be recalled, or if there is none, the position will be filled by another qualified applicant.
- d. Any person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of actual service in the District for salary purposes.
- e. After the one (1)-year recall period has expired, any person discharged or terminated under this policy shall no longer have any right to be recalled. Such persons who wish to be reemployed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

In the event legislation is passed which requires the Superintendent to reduce licensed school personnel, for any reason, the Superintendent shall follow the legislative procedures, if any, in lieu of this policy.

In the event the State Secretary of Education orders are entered which have the effect of revising the District's boundaries to exclude school facilities previously operated by the District, reducing the District's enrollment, or reassigning licensed school personnel to another District, or other state board orders resulting from exercise of its legislative powers, then the procedures described in the State Secretary's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Unless a different procedure is mandated by law, the termination or discharge of school employees in compliance with a State Secretary order shall be governed by NMSA 1978, Statutes 22-10A-24, 22-10A-25, 22-10A-27, and 22-10A-28, if applicable.

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3.29 RE-EMPLOYMENT

The re-employment of employees is the responsibility of the Superintendent, as provided by law.

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Procedure 3.29-1

RE-EMPLOYMENT

- A. The assignment of employees is determined on a yearly basis.
- B. The assignment is based on the needs of the District and is delegated to the Superintendent.
- C. A schedule will be developed by the Superintendent for re-employment.
- D. The Superintendent may also extend the contract of any employee in the intervening of a two-year contract.
- E. The district will ensure comparability among schools in the assignment of teachers, administration, and support staff.

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3.30 RESIGNATION OF EMPLOYEES

Licensed employees shall provide the Superintendent of designee with at least thirty (30) days notice of the intent to resign. Non-licensed employees shall provide at least fifteen (15) days notice of the intent to resign. Under extenuating circumstances, the superintendent may waive notice requirement.

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Procedure 3.30-1

RESIGNATION OF EMPLOYEES

- A. Resignations may only be rescinded by the approval of the Superintendent.
- B. Written notice of resignation must be submitted to the Superintendent.
- C. A verbal resignation is effective with written acknowledgement in the employee's file.
- D. Noncertified employees failing to provide notice of not less than fifteen (15) days prior to the date of resignation shall be grounds for the withholding of an amount of the employee's daily pay for each day less than the fifteen (15) days required for notice.

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3.31 SAFETY AND SUPPORT

It is the policy of the Board to provide the safest possible working environment for its employees within the resources available to the District and the restrictions of applicable law and regulations.

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Procedure 3.31-1

SAFETY AND SUPPORT

- A. It is the policy of the Board to provide a safe working environment for its employees within the resources available to the District and the restrictions of applicable law and regulations.
- B. Necessary safety equipment and training will be provided to employees. It will be the employee's responsibility to use the proper equipment and to exercise safe work habits to prevent injury.
- C. Self-Defense or the Defense of Others
 - 1. Employees have the right to use such force as is necessary to protect themselves, students, or other employees from physical injury which they reasonably believe might result from actual or threatened physical attack upon themselves, students, other persons, or employees.
 - 2. No disciplinary action shall be taken against an employee who acts in self-defense or for the defense of others, if the Superintendent is satisfied after investigation, that the defensive action including the amount of force used, was appropriate under the circumstances.
- D. Assault or Battery
 - 1. In the event an assault or a battery has occurred, the incident is to be reported to the police authority having jurisdiction where the assault or battery occurred. The report should be made by the person involved or if the individual is unable or unwilling to do so, the immediate supervisor or the superintendent shall make the report.
 - 2. Employee(s) who has/have been the victim of an assault or battery, while acting properly within the scope of their duties may receive, at District expense, leave with pay for up to twenty (20) days, for injury, physical or mental, provided Worker's Compensation does not apply.
- E. In the event that an administrator is provided documented evidence that a student or parent is potentially dangerous, classified employees who are assigned specified responsibilities with that student or potential contact with the student's parents, will be so informed. An exception to this notification requirement will occur when confidentiality is protected under the law.
- F. The District and the Association will work toward providing a work and learning environment for employees and students which is free from harassment. Harassment of students and/ or employees will not be tolerated.

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SECTION III

3.32 SALARY SCHEDULES

Placement on a salary schedule will be determined by the Superintendent in accordance with applicable Board policies and procedures.

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Procedure 3.32-1

SALARY SCHEDULES

- A. Employees of the Tularosa Municipal School District are paid according to various salary schedules.
- B. It is the employee's responsibility to provide the appropriate documentation to verify their placement on the salary schedule. It is the responsibility of all teachers to secure verification of outside experience from school officials in their previous employment location. Such verification of experience must be on file in the central administration office within forty-five (45) days of employment. Approved forms must be completed and are available in the central office.
- C. Credit for work experience and education may affect placement on the salary schedule. A year of experience for 182-day employees constitutes 92 days or more of full-time employment. Less than that will not be recognized for advancement on the schedule. On 202-day contracts, service for 103 or more days of full-time employment will be considered one year; service for less than 103 days will not be allowed on the appropriate salary schedule. On 212-day contracts, service for 107 days of full-time employment or more will be considered one year; service for under 107 days will not be allowed on the appropriate salary schedule. On 240-day contracts, service for 122 days of full-time employment or more will be considered one year; service for under 122 days will not be allowed on the appropriate salary schedule.
- D. The Superintendent may in certain job categories establish a salary which deviates from the established salary schedule.
- E. The Superintendent has approved payroll deductions as authorized when requested by the employee and which are in addition to those deductions required by law, such as federal and state withholding tax, social security workers' compensation and educational retirement. Voluntary deductions for specific insurance coverages and other miscellaneous deductions approved by the Superintendent are also provided.
- F. By law, United States levies and garnishments may be deducted from the employee's salary.
- G. Education credits for movement on the salary schedule must be from an accredited university and fall within the following guidelines:
 - 1. Undergraduate and graduate credit hours earned before the bachelor's degree is completed may not be counted. (Granting institutions may choose to count these graduate hours as part of a graduate degree.)
 - 2. Credit hours, either undergraduate or graduate may be counted if earned after the bachelor's degree. Courses should be related to classes being taught by the employee or developing skills, such as computers or languages. Courses that do not count toward a bachelor's degree or do not meet the above criteria will not be considered for placement on the salary schedule.

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- H. Verifiable incoming experience for up to 20 years of full-time employment will be allowed for certified staff. Verifiable incoming experience for up to 7 years of full-time employment will be allowed for non-certified staff.

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3.33 SEXUAL HARASSMENT

Tularosa Municipal Schools' Board of Education forbids discrimination against any employee or applicant for employment on the basis of sex. The Board will not tolerate sexual harassment activity by any of its employees. This policy similarly applies to non-employee volunteers or any other persons who work within the control of school authorities.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other continuous verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decision affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

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Procedure 3.33-1

SEXUAL HARASSMENT

A. Examples of sexual harassment:

1. Written Contact: Sexually suggestive or obscene letters, notes, invitations, or drawings. This also includes computer terminal messages of a sexual nature.
2. Verbal Contact: Sexually suggestive or obscene comments, threats, jokes, any sexual propositions, comments about an employee's body or sexual characteristics that are used in a negative or embarrassing way.
3. Physical Contact: Any intentional pats, squeezes, touching, pinching, repeatedly brushing up against another's body, assault, blocking movement or coercing sexual intercourse.
4. Visual Contact: Suggestive looks, leering or staring at another's body, gesturing, displaying sexually suggestive objects or pictures, cartoons, posters or magazines.
5. Sexual Blackmail: Sexual behavior to control another employee's work environment is also prohibited. This includes salary, promotions, evaluations and/ or better job assignments.

B. Victim's Responsibility

1. Verbal or physical conduct of a sexual nature may constitute sexual harassment when the allegedly harassed employee has indicated, by his/ her conduct, that it is unwelcome.
2. An employee who has initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

C. Reporting, Investigation, and Sanctions

1. Any staff member who believe he or she has been sexually harassed should report the complaint as soon as possible to one of the following:
 - a) Immediate supervisor
 - b) Next higher level above the supervisor
 - c) In the case of a student, the report should be made to the principal.
 - d) Superintendent

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Procedure 3.33-2

2. In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. The Superintendent or the Board has the responsibility of investigating and resolving complaints of sexual harassment.
3. Any employee found to have engaged in sexual harassment shall be subject to sanctions, including but not limited to warning or reprimand, suspension, or termination, subject to applicable procedural requirements.
4. The District will endeavor to maintain confidentiality and no reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

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3.34 SMOKE-FREE / TOBACCO-FREE ENVIRONMENT

The Tularosa Municipal Schools provides a smoke-free / tobacco-free environment on all campuses. The purpose of this policy is to assist every student in acquiring good health habits and understanding the conditions necessary for a desirable and healthy environment.

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Procedure 3.34-1

SMOKE-FREE / TOBACCO-FREE ENVIRONMENT

- A. To carry out this policy, to serve as role models for students, to promote further the health of all students and staff, and to promote cleanliness of all facilities, employee tobacco use shall be prohibited on all school property, including all property owned or leased by the District including school buildings, grounds, and school-owned vehicles.
- B. This ban extends to all employees, students, and patrons attending School-sponsored events and meetings during or after the regular school day including School-sponsored activities outside the School District.
- C. A violation of this policy by any district employee will be considered insubordination and will subject the employee to disciplinary action. In recognition of the addictive nature of tobacco use, the District encourages employees to participate in tobacco use cessation programs made available by the District.
- D. Tobacco use is prohibited during outdoor events.
- E. In accordance with SBE Regulation No. 94-2, parents, school visitors, and the general public are prohibited from using tobacco products in school buildings and on school property.
- F. Procedures developed by the District to communicate this policy to students, employees, parents, school visitors and the community are to include but not limited to conspicuously posted signage on all school property. School district officials will be responsible for enforcing the provisions of this policy.
- G. Citizens who are observed smoking or using tobacco products on School District property shall be asked to refrain from using tobacco products on school property. Repeated violations may result in prohibiting the individual from entering School District property for a specified period of time.

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3.35 SUBSTITUTE TEACHERS

The Superintendent shall maintain an active list of persons approved by the Public Education Department to act as substitute teachers.

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Procedure 3.35-1

SUBSTITUTE TEACHERS

- A. A list of substitute teachers shall be furnished annually to principals, who shall select substitutes when necessary.
- B. A "substitute teacher" shall be defined as one who meets the regulations of the State Board of Education Substitute Certification or a regular Teaching Certificate for the State of New Mexico. The role of the substitute teacher is to temporarily replace a regularly assigned teacher for a period of time not extending beyond sixty (60) consecutive days of full-time instruction or its equivalent service as the need arises.
- C. The substitute teacher shall be compensated at a rate established by the Superintendent.
- D. The regular teacher is obligated to provide the substitute with an adequate instructional lesson plan and schedule, as well as a statement of assigned duties.
- E. A substitute may be removed from the substitute list at the discretion of the principal with the approval of the Superintendent.

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3.36 SUPERINTENDENT OF SCHOOLS

The Superintendent of Schools is appointed to the position by the Board of Education. The Superintendent shall serve as the chief executive officer of the Board; shall be responsible for the administration of the total school system; and shall provide the educational leadership for the school district within the framework of policies established by the Board of Education.

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SECTION III

3.36-1 SUPERINTENDENT

The Board shall employ a Superintendent, who shall enforce the statutes of the state of New Mexico, the rules of the Secretary of Public Education, and the policies of the Local Board of the District. The Superintendent shall:

- A. Carry out the educational policies and rules of the State Board and Local School Board;
- B. Administer and supervise the School District;
- C. Employ, fix the salaries of, assign, terminate or discharge all employees of the School District;
- D. Prepare the School District budget based on public schools' recommendations for review and approval by the Local School Board and the department. The Local Superintendent shall tell each school principal the approximate amount of money that may be available for their school and provide a school budget template to use in making school budget recommendations;
- E. Perform other duties as required by law, department or the Local School Board.
- F. Administer Local Board policies and state and federal regulations including the Public School Code;
- G. Be accountable for student achievement, budget management, expenditure of funds, dissemination of information, District communications, and the development, implementation, and evaluation of the EPSS, and all other District business;
- H. Attend all Board meetings or, when necessary, designate a licensed administrator to attend;
- I. Ensure that school patrons and the public are informed and involved in the acquisition, planning, and development of school facilities, and that students are provided with adequate facilities which conform to state and federal mandates;
- J. Ensure that all students are supervised; and
- K. Administer and implement the Districts approved staff accountability plan and procedures.

The administration of the school system in all aspects is the responsibility of the Superintendent, whose functions, shall be carried out in accordance with the policies of the Board.

The Superintendent may establish regulations for the administration of the District that are in compliance with applicable statutes or regulations of the Secretary of Public Education and the policies of the Board. These regulations are binding on the employees of this District and students in the schools.

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3.36-1 Continued-1 SUPERINTENDENT

Superintendent's Contract

The Board may contract with a Superintendent for a term not to exceed three (3) years. The contract year for the Superintendent shall be twelve (12) months and shall begin on July 1 of the year and end on June 30. The Board will take action on an existing Superintendent's contract no later than February 28 of the year the contract expires. The Board may extend the contract in the intervening year of a multiple year contract. The Superintendent's benefits shall be determined at the time of appointment or reappointment and shall be made part of the written contract. The Board may also issue a contract addendum outlining any specific conditions or requirements negotiated by the Board and the Superintendent that extend beyond the regular contractual provisions.

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3.37 TEACHER EMPLOYMENT RECORDS

A teacher's contract is contingent upon the Superintendent's receipt of the following documents: Valid New Mexico certificate/license, official college transcripts, national teacher examination scores for teachers as required by the State Board of Education, and the child abuse/neglect training form.

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Procedure 3.37-1

TEACHER EMPLOYMENT RECORDS

- A. Certificate: The teacher must hold a valid New Mexico teachers' certificate/ license for grade level the teacher is teaching. A record of this certificate must be on file in the central administration office before payment can be made for teaching services.
- B. College Transcripts: An official transcript of the teacher's credits must be on file in the central administration office. If a teacher earns the necessary number of hours to advance a range on the salary schedule, an official transcript indicating their completion must be on file by October 1 or within forty-five (45) days of employment in order to receive the salary modification for the current contract period. Grade cards for each summer's work will be accepted temporarily until an official transcript can be secured. It is the teacher's responsibility to obtain the transcript.
- C. National Teacher Examination (NTE) Scores: All teachers employed after July 1, 1994, must have on file in the central administration office a copy of their NTE scores. Scores must be considered "passing" as established by the State Board of Education.

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3.38 TRAVEL, PER DIEM, AND MILEAGE PAYMENTS

The Superintendent shall be responsible for determining the necessity for reimbursable travel by employees.

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Procedure 3.38-1

TRAVEL, PER DIEM, AND MILEAGE PAYMENTS

- A. Out-of-state travel must receive approval from the Superintendent two weeks prior to the date of departure unless extenuating circumstances prevent prior notification.
- B. Approved travel reimbursement will be calculated at the statutory maximum rate allowed in the most current New Mexico Department of Finance and Administration rule.
- C. Reimbursement shall be made for travel on public conveyances at the most economical rate available.
- D. Travel in privately-owned vehicles shall be reimbursed to the owner of the vehicle not to exceed the statutory limit. If a school vehicle is not available, prior approval by the Superintendent is required.

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3.39 EMAIL, INTERNET, & COMPUTER USAGE

A. Email Usage Policy

1. The purpose of this policy is to ensure the proper use of Tularosa Municipal School's GroupWise system. All messages distributed via GroupWise, even personal emails, are Tularosa Municipal School's property. You must have no expectation of privacy in anything that you create, store, send or receive on the company's email system. Your emails can be monitored without prior notification if Tularosa Municipal School deems this necessary. If there is evidence that you are not adhering to the guidelines set out in this policy, the company reserves the right to take disciplinary action, including termination and/or legal action. If you have any questions or comments about this Email Policy, please contact your supervisor.
2. It is strictly prohibited to:
 - Send or forward emails containing libelous, defamatory, offensive, racist or obscene remarks. If you receive an e-mail of this nature, you must promptly notify your supervisor.
 - Forward a message or copy a message or attachment belonging to another user without acquiring permission from the originator first.
 - Send unsolicited email messages or chain mail.
 - Forge or attempt to forge email messages, or disguise or attempt to disguise your identity when sending mail.

3. Duty of Care

Users must take the same care in drafting an email as they would for any other communication. Confidential information should not be sent via email.

4. Personal usage

Although the GroupWise system is meant for business use, Tularosa Municipal School allows personal usage if it is reasonable and does not interfere with work.

5. Disclaimer

All messages will be appended with the following disclaimer: 'This message is intended only for the named recipient. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.'

6. Declaration for Employee Form

"I have read, and agree to comply with, the guidelines set out in this policy and understand that failure to do so might result in disciplinary or legal action."

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3.39 Continued - 2

B. Internet

The Tularosa Municipal Schools' internet service has been established and is limited to educational purposes. The term "educational purpose" includes classroom activities, career development, research, and limited high-quality self-discovery activities. The District reserves the right to place reasonable restrictions on the materials staff accesses or posts through the system. Staff members should complete research and discovery activities during their prep time and before and after school. Internet access by students on the teacher workstation is not permitted. Utilization of the internet during class time should be done on student stations, not teacher workstations.

C. Computer Usage

Student use of teacher workstations is not permitted. Because computer systems are networked, it is absolutely imperative that security codes/passwords be protected. This security information is vital to the protection of confidential student record information, and all management issues. Security issues are the responsibility of personnel assigned to the network. A breach of security may result in termination of employment.

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3.40 PROHIBITING PHYSICAL MISTREATMENT OF STUDENTS (CORPORAL PUNISHMENT)

- L. Introduction: Part of the educational mission of the schools is to instill in students a sense of respect for themselves and for others. In keeping with that purpose, the Board of Education has determined that there is no place for violence in a learning environment, neither by students nor against students. Accordingly, the Board has determined that it is in the educational interests of the school community that corporal punishment and any form of physical mistreatment of students be prohibited.

In carrying out that determination through this policy, the Board has taken account of the circumstances employees may face from time to time that call for extraordinary action. In addition, teachers, counselors, and other education professionals frequently observe the educational value of friendly physical contact to reward or encourage students as appropriate in view of the students age and sex. It is not the purpose of this policy to prohibit or inhibit the types of appropriate friendly contact between professional staff and students that frequently takes place as part of the educational process--for example, pats on the back, shoulder, arm, or head. The Board believes professional staff members can readily distinguish between appropriate and inappropriate contact in the exercise of sound professional judgment, as well as pursuant to the terms of this policy. To the extent any uncertainty exists on the part of individual staff members, questions should be directed to the administration for clarification.

- M. Physical Mistreatment Prohibited: The Board of Education forbids physical mistreatment by any employee of any student, including the administration of corporal punishment by any employee upon any student. Employees are prohibited from physically mistreating students themselves and from directing or suggesting physical mistreatment of a student by another student.
- N. Definition of "physical mistreatment": For purposes of this policy, physical mistreatment is defined as any form of corporal punishment or any action administered upon or directed to the body, including, but not limited to:
1. spanking, paddling, striking, squeezing or pinching any part of the body, or forcefully grabbing the body or clothing of a student, or pushing a student;
 2. requiring a student to assume uncomfortable positions (*e.g.*, hands held over head);
 3. restraining or restricting physical movement through binding or tying;
 4. enclosing a student in a confining space such as a closet, locker, or similar cubicle;
 5. using exercise as a punishment (*e.g.*, pushups, laps); *provided*, that reasonable exercise may be used as a disciplinary or motivational measure for students in physical education classes, or for students participating in athletic programs, provided such activity is appropriate to the physical and emotional condition of each student.

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- O. Exceptions: The following actions are excepted from this policy, and will not constitute a violation of the policy:
1. An employee may reasonably restrain a student whose conduct is violent or physically disruptive *if*
 - the student's conduct is directed toward any person, including, but not limited to, any employee, another student, any third person on school premises, or the student himself or herself, or
 - the student's conduct is directed toward school property or the property of another on school premises.
 2. In any instance in which a student has refused valid directives to proceed to, to leave, or to avoid entering any part of the school premises, and the student's refusal creates a disruption or potential disruption of the operations of the school, it is not a violation of this policy for an employee to exercise a reasonable grasp upon, or restraint of, the student for the purpose of moving or removing the student, or for the purpose of preventing the student from entering the premises.
 3. It is not a violation of this policy for a teacher or administrator to use reasonable physical work as a punishment, analogous to the concept of "community service," including such tasks as sweeping, cleaning, etc., provided, no student shall be assigned to do any heavy or strenuous labor, nor any work unsuitable to the student's age, gender, and physical or emotional capacity.
- P. Interpretation: In assessing an employee's conduct under this policy, consideration will be given to the totality of the circumstances, including what the employee reasonably perceived, what the employee reasonably intended, and whether the employee's conduct was reasonable under the circumstances and in view of the employee's professional status.
- Q. Discipline: An employee who is found to have violated this policy shall be subject to discipline, which may include suspension, termination or discharge for any violation. In addition, instances of physical mistreatment of students by employees will be referred to law enforcement and child protective agencies as required by law.

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3.41 Social Networking Website Use

- A. **Purpose.** The policy enacted herein is intended to establish guidelines for the Tularosa Municipal School District (School District) employee use of Internet social networking websites, including but not limited to Facebook, MySpace, YouTube or similar Internet- based websites, whose functions may include sharing personal information and directly communicating with other members or participants in a web-based format (collectively, Social Networking Websites).
- B. **Official Policy.** This Social Networking Website Use Policy (Policy) supersedes and rescinds all previous Social Networking Website use policies, statements, or practices and is the official Tularosa Municipal School District Social Networking Website Use Policy. This policy is intended to supplement existing policy and guidelines relating to acceptable use of the School District computer system, computer network and all electronic resources made available to School District employees and students for use in performing employment-related duties or academic functions. It is also intended to establish an appropriate standard of conduct for school employees in their contacts and communications with students outside of school hours or school programs.
- C. **Use of Social Networking Websites.** Since a School District employee's interactions or dialogue with students on a Social Networking Website could be viewed as a representation of the School District by viewers and since communications on such websites are not subject to the same levels of supervision, structure or formality as the school or classroom environment, the School District strongly discourages its employees' use of Social Networking Websites as a means of conducting School District business or communicating with students, except as permitted by paragraph 6 below.
- D. **Interactions with Students.** State statutes and regulations and School Board-adopted ethical and professional policies and standards require that professional educators and School District employees establish strict, appropriate and professional boundaries in their conduct and communications with students. To that end, School District employees shall not use Social Networking Websites as a means of communication with any School District student for purposes unrelated to the school curriculum or school programs, and in the absence of approval as specified in paragraph 6 below.
- E. **Class Activities/Assignments.** School District employees shall limit any Internet-based classroom activities or assignments to School District-sanctioned on-line tools which are based upon or directly related to the School District's adopted and approved curriculum.
- F. **No Posting of School District Material Without Consent.** School District employees shall not use Social Networking Websites to distribute or publish pictures, videos, or any other School-District curriculum-related material as an element of a classroom activity or assignment, without the Superintendent's prior written approval.

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G. **Disciplinary Action.** School District employees who violate this Policy shall be subject to discipline, up to and including suspension, termination, or discharge, in accordance with Board policy, negotiated agreements, and applicable law.