

PERSONNEL GOALS

The Board of Education recognizes that the school district's central goal – the education of children – is wholly dependent on the dedication and work provided by the school district's employees. The Board seeks to develop and implement personnel policies that will allow and enhance the ability of staff to educate children.

The specific goals that will guide the Board as it develops personnel policies are:

1. to hire and retain the best and most qualified staff available;
2. to ensure staff are evaluated in a rigorous and meaningful manner;
3. to grant tenure to staff who have performed at the highest level; and
4. to provide professional development and training to staff to improve their skills.

Although the Board is the employer of all staff in the district, the Board recognizes that the Taylor Law requires the district to negotiate in good faith with recognized or certified employee organizations over wages, hours, and all other terms and conditions of employment as defined by the Taylor Law or as interpreted by the Public Employment Relations Board. The school district will fully comply with the requirements of the Taylor Law.

All other employees in the district who are not represented by a recognized or certified employee organization will receive fair compensation and benefits for the work they provide.

In return for the compensation and benefits provided to district staff, the Board expects employees to render the quality of service that enables children to learn at the highest level possible and seek continuous improvement in the service they provide.

Cross-ref: 0100, Non-Discrimination and Equal Opportunity

Ref: Education Law §§1604(8); 1709(16); 2503(3); 2554(2); 3012(1)(a) (Board's authority to hire employees)
 Education Law §3012(2) (Board's authority to grant tenure to teachers)
 Civil Service Law §204 ("Taylor Law" requires school district to negotiate with unions)

8 NYCRR §§100.2(o)(2) (school district required to evaluate teachers);
 100.2(dd)(2)(ii)(a) (school district required to provide professional development)

Adoption date: February 6, 2019

WORKPLACE SEXUAL HARASSMENT

The Board of Education recognizes that harassment of employees (including all staff, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, regardless of immigration status) and certain “non-employees” (which includes contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) on the basis of sex, gender and/or sexual orientation is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which employees and “non-employees” can work productively.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of actual or perceived or self-identified sex, sexual orientation, gender identity, gender expression, and transgender status.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, when:

- a. submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
- c. the conduct has the purpose or effect of unreasonably interfering with an employee's or "non-employee's" work or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes.

The Board is committed to providing an educational and working environment that promotes respect, dignity, and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's employment in a way that violates their legal rights, including when employees and "non-employees" travel on district business, or when harassment is done by electronic means (including on social media). Sexual harassment is considered a form of employee misconduct.

Retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful. Remedial and/or disciplinary action will be taken against all those who engage in sexual harassment, and against supervisory and managerial personnel who knowingly allow such behavior to continue or engage in retaliation.

Sexual harassment may subject the district to liability for harm done to targets. Harassers may also be individually subject to civil liability if sued in a court of law or criminal liability if prosecuted.

Under various state and federal laws, employees and “non-employees” have legal protections against sexual harassment in the school environment as described above. Those laws are listed in the references section. Additionally, local laws (e.g., county, city, town, village) may apply to the district. The district’s Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, whether formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

Complaints will be investigated based upon the totality of circumstances noting that not all unacceptable conduct will rise to the level of sexual harassment. Behaviors must be sufficiently severe and/or pervasive (and may even be based upon a single severe incident), and objectively offensive in the context of this policy to give rise to findings of sexual harassment.

Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to a Title VII Compliance Officer.

If, after appropriate investigation that should be conducted within a 30 calendar day time period, absent exigent circumstances, the District finds that a an employee, “non-employee” or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law. Individual nondisclosure agreements may only be used as permitted by law, described in the accompanying regulation. Mandatory arbitration clauses are prohibited in all district contracts and agreements.

All complainants and those who participate in sexual harassment complaints or the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind, when they do so with a good faith belief that sexual harassment has occurred. Such prohibited retaliation can include, but is not limited to, discipline, discrimination, demotion, denial of privileges, or any action that would keep a person from coming forward to make or support a sexual harassment claim. Such actions need not be job- or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation.

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this policy. In addition, training programs shall be established annually for employees, to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment.

This policy shall be posted in a prominent place in each district facility, on the district’s website, and shall also be published in staff informational materials, employee handbooks, and other appropriate school publications.

A committee of administrators, teachers, parents and the school attorney shall be convened periodically to review this policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to Board.

External Remedies

In addition, targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR). The OCR can be contacted at (800) 421-3481, 400 Maryland Avenue SW, Washington, DC 20202-1100, or at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

Employee targets also have the right to register complaints with the federal Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights (DHR). The DHR can be contacted at (888) 392-3644, www.dhr.ny.gov/complaint, or at 1 Fordham Plaza, Fourth Floor, Bronx, NY 10458. The EEOC can be contacted at (800) 669-4000, <https://www.eeoc.gov/employees/howtofile.cfm>, info@eeoc.gov, or at 33 Whitehall Street, 5th Floor, New York, NY 10004 or 300 Pearl Street, Suite 450, Buffalo, NY 14202.

Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court, or to contact law enforcement officials if the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, which may constitute a crime. No district contract or collective bargaining agreement entered into after July 11, 2018 may include a binding arbitration clause for sexual harassment requiring arbitration before bringing the matter to court.

Cross-ref: 5020.1, Sexual Harassment Policy for Students

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*
 Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*
 Executive Law §296-d (prohibition of sexual harassment of non-employees)
 Labor Law §201-g (required sexual harassment policy and training)
 Civil Practice Law and Rules §§5003-b (nondisclosure agreements optional); 7515 (mandatory arbitration prohibited)
 General Obligations Law §5-336 (nondisclosure agreements optional)
Davis v. Monroe County Board of Education, 526 U.S. 629, 652 (1999)
Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)
 Office for Civil Rights *Revised Sexual Harassment Guidance (January 19, 2001)*
 Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment Issues (2006)*
 Office for Civil Rights, *Dear Colleague Letter: Bullying (October 26, 2010)*

Adoption date: December 5, 2018

Readopted: February 6, 2019,

Revision date: October 2, 2019

WORKPLACE SEXUAL HARASSMENT REGULATION

This regulation is intended to create and preserve an educational and working environment free from unlawful sexual harassment on the basis of sex, gender and/or sexual orientation in furtherance of the district's commitment to provide a healthy and productive environment for all employees (including staff, applicants for employment, both paid and unpaid interns, part-time, seasonal and temporary workers, regardless of immigration status) and others in the school environment conducting business with the district (i.e., contractors, subcontractors, vendors, consultants, persons providing services pursuant to a contract and their employees) (“another or others in the school environment”) that promotes respect, dignity and equality.

Sexual Harassment Defined

"Sexual harassment" is a form of discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of actual or perceived or self-identified sex, sexual orientation, gender identity, gender expression and transgender status. Sexual harassment occurs when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's employment, or another person in the school environment's work or employment; or
2. submission to or rejection of that conduct or communication by an individual is used as the basis for decisions affecting an employee's employment, or another in the school environment's work or employment; or
3. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's work performance, or creating an intimidating, hostile or offensive working or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes.

Unacceptable Conduct

School-related conduct that the district considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:

1. Rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
2. Unwelcome sexual advances, invitations or requests for sexual activity, including, but not limited to, those in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc. or when accompanied by an implied or overt threat concerning the target's work, employment or school evaluations, other benefits or detriments;
3. Unwelcome or offensive public sexual display of affection, including kissing, hugging, making out, groping, fondling, petting, inappropriate touching of one's self or others (.e.g., pinching, patting, grabbing, poking), sexually suggestive dancing, and massages;

4. Any unwelcome communication that is sexually suggestive, sexually degrading or derogatory or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc.;
5. Unwelcome and offensive name calling or profanity that is sexually suggestive or explicit, sexually degrading or derogatory, implies sexual intentions, or that is based on sexual stereotypes or sexual orientation, gender identity or expression;
6. Unwelcome physical contact or closeness that is sexually suggestive, sexually degrading or derogatory, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal body hugs, etc.;
7. Unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies" or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups," "spiking" or "panting" (pulling down someone's pants or swim suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
8. Unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading or derogatory, or imply sexual motives or intentions;
9. Clothing with sexually obscene or sexually explicit slogans or messages;
10. Unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading or derogatory, or that imply sexual motives or intentions, or that are based on sexual stereotypes;
11. Unwelcome written or pictorial display or distribution (including via electronic devices) of pornographic or other sexually explicit materials such as signs, graffiti, calendars, objects, magazines, videos, films, Internet material, etc.
12. Other hostile actions taken against an individual because of that person's sex, sexual orientation, gender identity or expression, or transgender status, such as interfering with, destroying or damaging a person's work or school area or equipment; sabotaging that person's work or school activities; bullying, yelling or name calling; or otherwise interfering with that person's ability to work or participate in school functions and activities; and
13. Any unwelcome behavior based on sexual stereotypes and attitudes that is offensive, degrading or derogatory, intimidating, or demeaning, including, but not limited to:
 - a. disparaging remarks, slurs, jokes about or aggression toward an individual because the person displays mannerisms or a style of dress inconsistent with stereotypical characteristics of the person's sex;
 - b. ostracizing or refusing to participate in group activities with an individual during class projects, physical education classes or field trips because of the individual's sex, gender expression or gender identity;
 - c. taunting or teasing an individual because they are participating in an activity not typically associated with the individual's sex or gender

For purposes of this regulation, action or conduct shall be considered "unwelcome" if the employee or others in the school environment did not request or invite it and regarded the conduct as undesirable or offensive.

Sexual harassment may occur on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside of the district, or outside the school setting if the harassment impacts the individual's education, employment or work in a way that violates their legal rights, including when employees or others in the school environment travel on district business, or when harassment is done by electronic means, including on social media.

Title VII/IX Officers

The Pine Plains Central School District's Title VII/IX Officers are Brian Timm, Janine Babcock, Gian Starr and Lindsey Lowry. They are charged with investigating and/or overseeing the investigation of sexual harassment complaints. They can be reached by calling 518-398-7181; by mail: Pine Plains Central School District, 2829 Church Street, Pine Plains, NY 12567 or by email at the following email addresses: b.timm@ppcsd.org, j.babcock@ppcsd.org, g.starr@ppcsd.org or l.lowry@ppcsd.org.

Determining if Prohibited Conduct is Sexual Harassment

Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. In many cases (other than quid pro quo situations where the alleged harasser offers academic or employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be sufficiently severe, pervasive and objectively offensive to be considered sexual harassment. If the behavior doesn't rise to the level of sexual harassment, but is found to be objectionable behavior, the individual will be educated and counseled in order to prevent the behavior from continuing.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:

1. the degree to which the conduct altered the conditions of the employee's or other individual's working environment;
2. the type, frequency and duration of the conduct;
3. the identity of and relationship between the alleged harasser and the subject of the harassment (e.g., sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by a student or a co-worker);
4. the number of individuals involved;
5. the age and sex of the alleged harasser and the subject of the harassment;
6. the location of the incidents and context in which they occurred;
7. other incidents at the school; and
8. incidents of gender-based, but non-sexual harassment.

Reporting Complaints

Any person who believes he or she has been the target of sexual harassment is strongly encouraged to report complaints as soon as possible after the incident in order to enable the district to promptly and effectively investigate and resolve the complaint.

Any person who witnesses or is aware of sexual harassment in the school environment is also strongly encouraged to submit the complaint in writing using the attached form, Exhibit 9020.1-E; however, complaints may be filed verbally. In such cases, the supervisor or Title VII/IX Officer performing the intake of the complaint shall reduce the information to writing using the form.

Complaints should be filed with the Building Principal or one of the designated Title VII/IX coordinators.

Any school employee who receives a complaint of sexual harassment shall inform the complaining party of the employee's obligation to report the complaint to the school administration, and then shall immediately notify the Principal and/or a Title VII/IX coordinator. Supervisory and managerial personnel are required to report complaints of sexual harassment received by staff, and will be subject to discipline for failing to report suspected or reported sexual harassment, knowingly allowing sexual harassment to continue, or engaging in retaliation.

In order to assist investigators, targets should document harassment as soon as it occurs and with as much detail as possible including: the nature of the harassment; dates, times, places it has occurred; name of harasser(s); witnesses to the harassment; and the target's response to the harassment.

Confidentiality

It is district policy to respect the privacy of all parties and witnesses to complaints of sexual harassment. To the extent possible, the district will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. The request may limit the district's ability to respond to his/her complaint;
2. District policy and federal law prohibit retaliation against complainants and witnesses;
3. The district will attempt to prevent any retaliation; and
4. The district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of students, other employees or others in the school environment.

Investigation and Resolution Procedure

A. Initial (Building-level) Procedure

The Principal or the Title VII/IX coordinator or investigator shall conduct a preliminary review when they receive a verbal or written complaint of sexual harassment, or if they observe sexual harassment. Except in the case of severe or criminal conduct, the Principal or Title VII/IX coordinator should make all reasonable efforts to resolve complaints informally at the school level. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint. All persons involved in an investigation (complainants, witnesses and alleged harassers) will be accorded due process to protect their rights to a fair and impartial investigation. The investigation shall be prompt and thorough, and shall be completed as soon as possible.

Upon receipt of a complaint, whether filed verbally or in writing, the Title VII/IX Officer shall promptly conduct an intake interview and explain the following options for resolution:

- Registering an informal complaint verbally or in writing; or
- Registering a formal complaint verbally or in writing; or
- Engaging in voluntary facilitated mediation to arrive at a resolution of the matter (this shall not be used when allegations involve sexual violence or sexual assault); or
- Placing the District on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

Informal complaints will be promptly reviewed and documented in writing by a Title VII/IX Officer, who shall issue a written report to the Superintendent within seven (7) calendar days. The Superintendent shall take such further action necessary to reasonably deter any further act prohibited by this policy. Such further action may include referring the matter to a Title VII/IX Investigator as if it had been filed as a formal complaint.

All formal complaints shall be received in writing or reduced to writing by a Title VII/IX Officer who shall, personally or by referring the matter to a designee on the Board's approval list

Immediately, but no later than two working days following receipt of a complaint, the Principal or Title VII/IX coordinator will begin an investigation or refer the matter to a Title VII/IX investigator to begin the investigation of the complaint according to the following steps:

1. Interview the target and document the conversation. Instruct the target to have no contact or communication regarding the complaint with the alleged harasser. Ask the target specifically what action he/she wants taken in order to resolve the complaint. Refer the target, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the target. If the target has not prepared written documentation, ask the target to do so, providing alternative formats for individuals with disabilities and young children, who have difficulty writing and need accommodation. If the complainant refuses to complete a complaint form or written documentation, the Principal or Title VII/IX coordinator will complete a complaint form based on the verbal report (see Exhibit 9110.2-E).
3. Request, review, obtain and preserve relevant evidence of harassment (e.g., documents, emails, phone records, etc.) if any exist.

4. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
5. Instruct the alleged harasser to have no contact or communication regarding the complaint with the target and to not retaliate against the target. Warn the alleged harasser that if he/she makes contact with or retaliates against the target, he/she will be subject to immediate disciplinary action.
6. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential. Employees may be required to cooperate, as needed, in investigations of suspected sexual harassment.
7. Review all documentation and information relevant to the complaint.
8. Where appropriate, suggest mediation as a potential means of resolving the complaint.* In addition to mediation, use appropriate informal methods to resolve the complaint, including but not limited to:
 - a. discussion with the accused, informing him or her of the district's policies and indicating that the behavior must stop;
 - b. suggesting counseling and/or sensitivity training;
 - c. conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
 - d. requesting a letter of apology to the complainant;
 - e. writing letters of caution or reprimand; and/or
 - f. separating the parties.

* Mediation is inappropriate if allegations include sexual assault in any form.
9. Employee/Other Individual in the School Environment Involvement and Notification
 - a. The Principal or Title VII/IX coordinator or investigator shall submit a copy of all investigation and interview documentation to the Superintendent within seven (7) days.
 - b. The investigator shall report back to both the target and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The investigator shall instruct the target to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
 - c. The investigator shall notify the target that if he/she desires further investigation and action, he/she may request a district level investigation by contacting the Superintendent of Schools. The investigator shall also notify the target of his/her right to contact the U.S. Department of Education's Office for Civil Rights and/or a private attorney. Employees should be advised that they may also contact the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, and, in certain cases, local law enforcement authorities.
10. Create written documentation of the investigation, maintained in a secure and confidential location, containing:
 - a. A list of all documentation and other evidence reviewed, along with a detailed summary;

- b. A list of names of those interviewed along with a detailed summary of their statements;
- c. A timeline of events;
- d. A summary of prior relevant incidents, reported or unreported; and
- e. The final resolution of the complaint, together with any corrective action(s).

If the initial investigation results in a determination that sexual harassment did occur, the investigator will promptly notify the Superintendent, who shall then take prompt disciplinary action in accordance with district policy, the applicable collective bargaining agreement or state law.

If a complaint received by the Principal or Title VII/IX coordinator contains evidence or allegations of serious or extreme harassment, such as employee to student harassment, criminal touching, quid pro quo (e.g., offering an academic or employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent. In addition, where the Principal or Title VII/IX coordinator has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the Superintendent, who shall then contact appropriate child protection and law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee shall be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Principal or Title VII/IX coordinator may request a district-level investigation by submitting a written complaint to the Superintendent within 30 days.

B. District-level Procedure

The Superintendent shall promptly investigate and resolve all sexual harassment complaints that are referred to him/her by a Principal or Title VII/IX coordinator, as well as those appealed to the Superintendent following an initial investigation by a Principal or Title VII/IX coordinator. In the event the complaint of sexual harassment involves the Superintendent, the complaint shall be filed with or referred to the Board President, who shall refer the complaint to a trained investigator not employed by the district for investigation.

The district level investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Superintendent or Board President.

In conducting the formal district level investigation, the district will use investigators who have received formal training in sexual harassment investigation or that have previous experience investigating sexual harassment complaints.

If a district investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent (or in cases involving the Superintendent, the Board-appointed investigator) will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice during sexual harassment investigations and hearings at their own expense, subject to applicable law and collective bargaining agreements.

C. External Remedies

In addition, targets have the right to register sexual harassment complaints with the U.S. Department of Education's Office for Civil Rights (OCR). The OCR can be contacted by telephone at (800) 421-3481, 400 Maryland Avenue SW, Washington, DC 20202-1100, or at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

Employee targets also have the right to register complaints with the federal Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights (DHR). The EEOC can be contacted by telephone at (800) 669-4000, online at <https://www.eeoc.gov/employees/howtofile.cfm>, info@eeoc.gov, or by at 33 Whitehall Street, 5th Floor, New York, NY 10004 or 300 Pearl Street, Suite 450, Buffalo, NY 14202. The DHR can be contacted by telephone at (888) 392-3644, online at www.dhr.ny.gov/complaint, or at 1 Fordham Plaza, Fourth Floor, Bronx, NY 10458.

Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court, or to contact law enforcement officials if the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, which may constitute a crime. No district contract or collective bargaining agreement entered into after July 11, 2018 may include a binding arbitration clause for sexual harassment requiring arbitration before bringing the matter to court.

Nondisclosure Agreements

The district may include a nondisclosure agreement (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution only if it is the complainant's preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have 21 days to consider any such nondisclosure provision before it is signed by the parties and shall have seven (7) days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after this seven-day period has passed.

Retaliation Prohibited

Any act of retaliation against any person who opposes sexually harassing behavior, or who has filed a complaint in good faith, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has, in good faith, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property,

spreading rumors, stalking, harassing phone calls, discipline, discrimination, demotion, denial of privileges, any action that would keep a person from coming forward to make or support a sexual harassment claim, and any other form of harassment. Such actions need not be job-related or education-related, or occur in the workplace or educational environment, to constitute unlawful retaliation. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

Discipline/Penalties

Any individual who violates the sexual harassment policy by engaging in prohibited sexual harassment will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to the following:

Employees: Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

Volunteers: Penalties may range from a warning up to and including loss of volunteer assignment.

Other Individuals in the School Environment (i.e., contractors, subcontractors, vendors, consultants and other persons providing services to the district pursuant to a contract, or their employees): Penalties may range from a warning up to and including loss of district business.

Others: Penalties may range from a warning up to and including denial of future access to school property.

False Complaints

False or malicious complaints of sexual harassment may result in corrective or disciplinary action taken against the complainant.

Training

All employees shall be informed of this policy in employee handbooks, if any, and on the district website. A poster summarizing the policy shall also be posted in a prominent location at each school. The district shall provide current employees with either a paper or electronic copy of the district's sexual harassment policy and regulations, and shall provide same to new employees before the employee starts his/her job.

All new employees shall receive training on about sexual harassment and this regulation at a new employee orientation or as soon as possible after starting their job, unless he/she can demonstrate that they have received equivalent training within the past year from a previous employer. All other employees shall be provided training at least once a year regarding the district's commitment to a harassment-free learning and working environment. Principals, Title VII/IX coordinators, and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive yearly training on these policies, the implementing regulation and related legal developments.

Annual employee training programs shall be interactive and include: (1) an explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor and NYS Division of Human Rights; (2) examples of conduct that is unlawful sexual harassment; (3) information on federal and state laws about sexual harassment and remedies available to victims of sexual harassment; (4) information concerning employees' right to make complaints and all available forums for investigating complaints; and (5) address the conduct and responsibilities of supervisors.

Principals in each school and program directors shall be responsible for informing staff on a yearly basis of the terms of the district's sexual harassment policies, including the procedures established for investigation and resolution of complaints, general issues surrounding sexual harassment, the rights and responsibilities of students and employees, and the impact of sexual harassment on the target.

Adoption date: December 5, 2018

Readopted: February 6, 2019

Revision date: October 2, 2019

WORKPLACE SEXUAL HARASSMENT**SEXUAL HARASSMENT COMPLAINT FORM**

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for targets to report alleged incidents of sexual harassment. This form is intended to be used by employees.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form to the best of your ability and submit it to *[insert title, person or office designated; contact information for designee or office; how the form can be submitted]*. You will not be retaliated against for filing a complaint. If you are more comfortable reporting verbally or in another manner, the district should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>.

YOUR INFORMATION (for employees):

Your Name: _____
 Home Address: _____
 Home or Cell Phone: _____
 Email Address: _____

Work Address (for employees): _____
 Job Title (for employees): _____
 Preferred Communication Method (please circle one): phone email mail in person

SUPERVISOR INFORMATION (for employees)

Immediate Supervisor's Name: _____
 Supervisor's Title: _____ Work Phone: _____
 Supervisor's Work Address: _____

COMPLAINT INFORMATION (for all persons making a complaint)

- Your complaint of Sexual Harassment is made against:
 Name: _____
 Job Title (if an employee): _____
 Work Location (if known): _____
 Phone (if known): _____
 Relationship to you (please circle one below):(for employees)
 Supervisor / Subordinate / Co-Worker / Student / Other: _____

(Please use additional sheets of paper if the complaint is against multiple people.)

2. Please describe what happened and how it is affecting you and your work or education. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) and location(s) sexual harassment occurred: _____

Is the sexual harassment continuing? ____ Yes ____ No

4. Please list the name and contact information (if known) of any witnesses or individuals who may have information related to your complaint:

The following question is optional, but may help the district's investigation.

5. Have you previously complained about or provided information (verbal or written) about sexual harassment or related incidents to the district?

____ Yes ____ No

If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information: _____

Print Name: _____

Signature: _____

Date: _____

Instructions for the District

If you receive a complaint about alleged sexual harassment, you must follow the district's sexual harassment prevention policy by investigating the allegations through actions including:

- Speaking with the complainant
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible. Document findings of the investigation and basis for your decision along with any corrective actions taken, and notify the complainant (if the complainant is a student, also notify the parent/guardian) and the individual(s) against whom the complaint was made. This may be done via email.

CONFLICT OF INTEREST

The Board of Education is committed to avoiding any situation in which the existence of simultaneous, conflicting interests in any officer or employee may call into question the integrity of the management or operation of the school district. Therefore:

No person employed by the district shall hire, supervise, evaluate, promote, review or discipline any other employee who is a member of the same family. In the event that marriage, promotion, or reorganization results in a situation not in compliance with this policy, reassignment or transfer will be effected, in accordance with the applicable provisions of any collective bargaining agreement, to correct the situation.

No person employed by the district shall negotiate or execute any contract on behalf of the district for the purchase, sale or lease of real or personal property, services of any nature, nor for insurance without first having determined the common price for such property, services or insurance, or requesting bids from all potential providers of such property, services or insurance.

No person employed by the district shall allow any matter, concern or interest, personal, financial or otherwise, to influence or interfere with the performance of his or her duties. Should such a matter, concern or interest arise, the employee shall bring the matter to the attention of his or her supervisor or the Board to seek ways to reduce or eliminate the influence or interference.

The employment of a person as a teacher who is related by bloodline or legal process (including marriage) to any member of the Board of Education shall be subject to the consent of two-thirds of the members of the Board of Education to be determined at a Board meeting and to be entered upon the proceedings of the Board.

The Board shall take the same stance in the hiring of professional staff other than teachers.

The Board affirms its commitment to adhere scrupulously to all applicable provisions of law regarding material conflicts of interest.

Knowing or willful violation of this policy by any employee may result in disciplinary action up to and including dismissal.

Any officer, employee or member of the public noting or suspecting a violation of this policy is encouraged to bring the matter, either in confidence or in public, to the Board or the Superintendent of Schools.

Cross-ref: 2160, School District Officer and Employee Code of Ethics

Ref: Education Law §§410; 3016
 General Municipal Law Art. 18, §§801-813
 Labor Law §201-d
Dykeman v. Symonds, 54 AD2d 159 (4th Dep't 1976)

Adoption date: February 6, 2019

STAFF COMPLAINTS AND GRIEVANCES

The Board of Education recognizes that staff complaints and grievances regarding work rules arise from time to time. In many instances the complaint process is covered by collective bargaining agreements, and in those instances, the grievance procedure outlined in the agreement shall be used. In order to address staff complaints not covered by bargaining agreements, and/or for those employees not covered by such an agreement, the Board establishes this policy. The Board acknowledges that staff members have the right to present complaints and grievances in accordance with these procedures free from coercion, interference, restraint, discrimination or reprisal.

The district shall implement a multi-stage grievance procedure and an appellate stage for the settlement of grievances pursuant to the General Municipal Law.

This policy and regulation shall be filed with the District Clerk and the State Civil Service Commission within 15 days of adoption and/or amendment, as required by law.

Staff complaints that are not covered under the General Municipal Law, or cannot be resolved under procedures of policies 0100, Non-Discrimination and Equal Opportunity, or 9110.2, Workplace Sexual Harassment, shall be subject to the discretion of the Board of Education as to the method by which the complaint may be brought.

Cross-ref: 0100, Non-Discrimination and Equal Opportunity
9110.2, Workplace Sexual Harassment

Ref: General Municipal Law, Article 15-c
Civil Service Law, Article 14
Matter of Gatje, 24 EDR 191 (1984)

Adoption date: February 6, 2019

STAFF COMPLAINTS AND GRIEVANCES REGULATION

It is the Board's intention to work toward resolving complaints at the level closest to their origin and to take reasonable steps to avoid litigation. Generally, the procedure outlined below should be followed.

Definitions

1. *Grievant* shall mean an employee who alleges a grievance.
2. *Grievance* shall mean any alleged violation of laws, regulations, rules or governing procedures which relates to employee health or safety, physical facilities, materials or equipment furnished. It does not include complaints regarding compensation or benefits.

This regulation and accompanying policy (9140.1) provide grievance procedures for those employees not covered by collective bargaining agreements or whose negotiated agreements do not include grievance procedures. The resolution of staff complaints shall be dealt with in the following manner:

Stages

A. Stage I—Supervisor

1. Within 30 days after the events giving rise to the grievance, the grievant shall present the grievance orally to their supervisor. The supervisor may informally discuss the grievance with the grievant. He/she shall promptly investigate the complaint. All employees of the school district shall cooperate with the supervisor in such investigation.
2. Within 15 days of hearing of the grievance, the supervisor shall make a finding in writing that there has or has not been a violation of the applicable work rule or other governing procedure. In the event the supervisor finds that there has been a violation, he/she shall propose a resolution of the complaint.
3. If the grievant is not satisfied with the finding of the supervisor, or with the proposed resolution of the grievance, the grievant may, within 15 days after he/she has received the report of the supervisor, file a written request for review by the Superintendent of Schools.

B. Stage II--Superintendent of Schools

1. The Superintendent may request that the grievant, the supervisor, or any member of the school district staff present a written statement to him/her setting forth any information that such person has relative to the grievance and the facts surrounding it.
2. The Superintendent shall notify all parties concerned as to the time and place when an informal hearing will be held where such parties may appear and present oral and written statements supplementing their position in the case. The grievant may be accompanied by representation.

Such hearing shall be held within 15 school days of the receipt of the appeal by the Superintendent.

3. Within 15 days of the hearing, the Superintendent shall render his/her determination in writing. Such determination shall include a finding that there has or has not been a violation of the applicable work rule or other governing procedure and a proposal for equitably resolving the complaint.
4. If the grievant is not satisfied with the determination of the Superintendent, the grievant may, within 15 days after its receipt, file with the Clerk of the Board of Education, a written request for review by the Board.

C. Stage III--Board of Education

1. When a request for review by the Board has been made, the Superintendent shall submit all written statements and other materials concerning the case to the President of the Board.
2. The Board shall notify all parties concerned of the time and place when a hearing will be held. Such hearing will be held within 15 school days of the receipt of the request of the grievant. All parties concerned shall have the right to present further statements and testimony at such hearing.
3. The Board shall render a decision in writing within 15 days after the hearing has been concluded.

Adoption date: February 6, 2019

STAFF-STUDENT RELATIONS

The Board of Education requires that all School District employees maintain a professional, ethical relationship with District students that is conducive to an effective, safe learning environment; and that staff members act as role models for students at all times, whether on or off school property and both during and outside of school hours. Staff must establish appropriate personal boundaries with students and not engage in any behavior that could reasonably lead to even the appearance of impropriety.

Staff members are prohibited, under any circumstances, to date or engage in any improper fraternization or undue familiarity with students, regardless of the student's age and/or regardless of whether the student may have "consented" to such conduct. Further, employees shall not entertain students or socialize with students in such a manner as to create the perception that a dating relationship exists. Similarly, any action or comment by a staff member which invites romantic or sexual involvement with a student is considered highly unethical, in violation of District policy, and may result in the notification of law enforcement officials and the filing of criminal charges and/or disciplinary action by the District up to and including termination of employment.

Inappropriate employee behavior includes, but is not limited to, flirting; making suggestive comments; dating; requests for sexual activity; physical displays of affection; giving inappropriate personal gifts; frequent personal communication with a student unrelated to course work or official school matters; providing alcohol or drugs to students; inappropriate touching; and engaging in sexual contact and/or sexual relations. ("Frequent personal communication with a student unrelated to course work or official school matters" means any form in which that personal communication may occur including, but not limited to, voice or text-based communication via phone, e-mail, instant messaging, text messaging or through social networking Web sites.)

Even if the student participated "willingly" in the activity (regardless of the student's age), inappropriate fraternization of staff with students is against District policy and may be in violation of professional standards of conduct and New York State Law. However, inappropriate employee conduct does not need to rise to the level of criminal activity for such conduct to be in violation of District rules and subject to appropriate disciplinary sanctions.

Any student who believes that he/she has been subjected to inappropriate staff behavior as enumerated in this policy, as well as students, school employees or third parties who have knowledge of or witness any possible occurrence of inappropriate staff-student relations, shall report the incident to any staff member or either the employee's supervisor, the student's Principal or the District's designated Complaint Officer. In all events such reports shall be forwarded to the designated Complaint Officer for further investigation. Anonymous complaints of inappropriate fraternization of staff members with students shall also be investigated by the District. Investigations of allegations of inappropriate staff-student relations shall follow the procedures utilized for complaints of harassment within the School District. Allegations of inappropriate staff-student behavior

shall be promptly investigated and will be treated as confidential and private to the extent possible within legal constraints.

Any employee having knowledge of or reasonable suspicion that another employee may have engaged in inappropriate conduct with a student that may constitute child abuse (specifically, child abuse in an educational setting) must also follow the District's reporting procedures for such allegations; and such information will be reported by the designated administrator as required by state law to law enforcement officials, the State Education Department and/or Child Protective Services as may be applicable.

If a student initiates inappropriate behavior toward a staff member, that employee shall immediately document the incident and report it to his/her Building Principal or Supervisor.

The District shall promptly investigate all complaints of inappropriate staff-student relations, and take prompt corrective action to stop such conduct if it occurs.

Prohibition of Retaliation

The Board of Education prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of allegations of inappropriate staff-student relations. Follow-up inquiries and/or appropriate monitoring shall be made to ensure that the alleged conduct has not resumed and that all those involved in the investigation have not suffered retaliation. Any act of retaliation is subject to appropriate disciplinary action by the District.

District Responsibility/Training

The Principal of each school and/or program supervisor shall be responsible for informing students, staff and volunteers of the requirements of this policy, including the duty to report and the procedures established for investigation and resolution of complaints. Further, staff training shall be provided to facilitate staff identification of possible behavior that may constitute inappropriate staff-student relationships. Students shall be provided such training in an age appropriate manner.

The District's policy (or a summary thereof) shall be disseminated as appropriate to staff, students and parents. Further, this topic shall be addressed in the District Code of Conduct.

Disciplinary Sanctions

Any staff member who engages in inappropriate conduct with a student, prohibited by the terms of this policy, shall be subject to appropriate disciplinary measures up to and including termination of employment in accordance with legal guidelines, District policy and regulation, and the applicable collective bargaining

agreement. A violation of this policy may also subject the employee to criminal and/or civil sanctions as well as disciplinary action by the State Education Department.

Ref: Title IX, 20 USC §1681 et seq.
Education Law Article 23-B
Social Services Law §§411-428
8 NYCRR Part 83

Adoption date: February 6, 2019

EMPLOYEE PERSONNEL RECORDS AND RELEASE OF INFORMATION

Information about staff is required for the daily administration of the school district, for implementing salary and other personnel policies, for budget and financial planning, for responding to appropriate inquiries about employees, and for meeting Board of Education, state and federal educational reporting requirements. To these ends, the Board authorizes and directs the Superintendent of Schools to develop and implement a comprehensive and efficient system of personnel records maintenance and control under the guidelines which follow.

1. A personnel file will be accurately maintained in the central administrative office for each present and former employee. These files will contain applications for employment; references; and records relative to compensation, payroll deductions, evaluations and such other matters as may be considered pertinent to the purposes of this policy as cited above.
2. The Superintendent will be the records manager for personnel files and will have the overall responsibility for maintaining and preserving the confidentiality of the files when such confidentiality is legally required. The Superintendent may, however, designate another official to perform the duties of records management on the understanding that this official is to be held responsible for granting or denying access to records on the basis of these guidelines.
3. Except for information required to be disclosed under the Freedom of Information Law, all personnel records will be considered confidential and not open to public inspection, and access to files will be limited to school and governmental officials authorized by the Superintendent to use the files for purposes of this policy as cited above. No other persons or agencies may have access to information in a staff member's file except when the staff member has given written consent for the release of specific information to a specific person or agency, or when such information is subpoenaed or ordered for release by a court of law.
4. Lists of district employees' names and home addresses will be released only to governmental agencies as required for official reports.
5. A present or former staff member may have access to his/her own personnel file at all reasonable times (i.e., during regular school hours) but with the exception that access will not be granted to references provided to the district on a confidential basis prior to employment. The right of access includes the right to make written objections to any information contained in the file. Any written objection must be signed by the staff member and will become part of the staff member's file. In cases when file information is proved to be in error, correction will be made.
6. No complaint, commendation, suggestion, or evaluation may be placed in the evaluation section of a file unless it meets the following requirements:
 - a. the comment is signed by the person making the complaint, commendation, suggestion or evaluation; and
 - b. the Superintendent or employee's Principal or other supervisor has notified the employee that the comment is available in the district office for inspection prior to its placement in the evaluation section.

The employee may offer a denial or explanation of the complaint, commendation, suggestion or evaluation, and any such denial or explanation will become a part of the evaluation section.

The Board has the right of access to personnel records of district employees pursuant to the procedures set out in Part 84 of the Regulations of the Commissioner of Education.

Release of Personnel Information

All staff should receive an employee directory containing names, addresses, and phone numbers of all employees. Any employee wishing a complete or partial exclusion from the directory should make a request to the Human Resources Office.

Release of Information Concerning Former Employees

The district shall not release information concerning the employment records, personnel file or past performance of a former employee, unless such information is required to be disclosed by law. Only the initial and final dates of employment and the position held shall be provided through a written response to a written request. The former employee may authorize the release of any additional information.

Cross-ref: 1120, School District Records
8635, Information Security Breach

Ref: Education Law §3020-a
8 NYCRR Part 84

Adoption date: February 6, 2019

MEALS AND REFRESHMENTS

The Board of Education recognizes that, occasionally, it may be appropriate to provide refreshments and/or meals at district meetings or events, which are being held for a district or educational purpose. Prior approval of the Superintendent of Schools/designee must be obtained for food and beverages provided at meetings or activities which will be charged to the District. Meal requests may be approved when:

- officers and/or employees of the district will be prevented from taking time off for food consumption due to a pressing need to complete the business at hand;
- the district is faced with business of an immediate nature and meetings of district employees are essential at mealtime;
- the district wishes to recognize the services provided by volunteers or other unsalaried members of the district (in such cases, however, only the meals of those being recognized may be reimbursed and the cost of the meals must be reasonable).

An example of an authorized expenditure would be refreshments and/or meals for staff assigned to participate in assessment day grading of standardized tests.

Any such expenditures must be appropriately documented with an itemized receipt and information showing the date and purpose of the meeting, food served, who attended the meetings and why the attendees needed food and/or refreshments to conduct School District business. These requirements must be met for meals/refreshments provided by the school lunch fund or local vendors, charged to District credit cards and/or reimbursed to a School District official.

Ref: NY Constitution, Art. VIII, §1 (constitutional prohibition against gifts)
Education Law §2118
Ops. St. Compt. 77-667; 79-522; 82-66; 82-213 82-298; 83-57; 98-2

Adoption date: February 6, 2019

STAFF USE OF PERSONAL ELECTRONIC DEVICES FOR WORK-RELATED DUTIES

The Board of Education authorizes staff use of personal electronic devices to access the district's computer network to carry out job duties in accordance with this policy. Any other staff use of personal electronic devices must not interfere with performance of work responsibilities or disrupt school operations.

If a staff member wishes to use his/her personal device the following is required:

- Register the device with the Director of Technology using the appropriate district procedure. Abide by the rules of acceptable network use outlined in policy 8630, Computer Resources and Data Management and its associated regulation.
- Use only the district's network to access the Internet or district applications while on school grounds; do not use other gateways to the Internet to conduct district business.

Staff members who choose to use their own personal device may be reimbursed or receive an annual/monthly allowance. In order to be reimbursed or receive the allowance, staff will submit the appropriate form to the district business official.

Maintenance and repair of personal devices is the staff person's responsibility. The district's technology department will not service or repair any personal device.

Privacy

To ensure district compliance with federal and state confidentiality requirements, the district's technology department will monitor district computer network activity. The district maintains its right to access and monitor the district's network. In order to avoid an invasion of privacy of personal devices, staff is advised to keep all district files separate from personal files by properly using the district's computer network to perform work functions and maintain district records. Employees should not have an expectation of privacy if the district's network is used for personal purposes.

Violations of Policy

Violation of this policy may result in revocation of permission to use a personal electronic device for work purposes and/or discipline of the employee in accordance with applicable negotiated agreements.

Separation from Employment

When staff leaves district employment access to the district's network will be discontinued.

The Superintendent, or his/her designee, will develop procedures and maintain records to implement and monitor this policy.

Cross-ref: 1120, District Records
5500, Student Records
8630, Computer Resources and Data Management

Adoption date: February 6, 2019

RECRUITING AND HIRING

The Pine Plains Board of Education believes that the quality of the district's employees in large part determines the quality of the education offered to the district's students. As the employer for the school district, the Board will provide and maintain qualified and certified instructional and support personnel to carry out the educational programs of the district.

The Superintendent of Schools shall implement and maintain a high-quality recruiting and hiring program to attract, secure and retain the best-qualified staff to meet the needs of students and the district.

New or Revised Positions

The Superintendent will develop recommended qualifications for all new positions in the district and review the qualifications for all existing positions as necessary. The Board must approve the qualifications for all new positions in the district and revisions of the qualifications for existing positions.

The Superintendent shall refer all proposals for the creation or reclassification of all unclassified (non-instructional) positions and a statement of the duties for these positions to the Dutchess County Department of Human Resources for classification.

The Superintendent shall develop job descriptions that incorporate the qualifications and job duties for all positions in the school district.

Recruiting

The district will seek the most qualified candidates for vacant positions by recruiting from a variety of sources, including present staff. District employees may apply for all positions for which they meet the certification and other stated qualifications.

The Board and its employees will adhere to the practice of recruiting and hiring personnel without regard to age, color, creed, disability, marital status, national origin, race, religion, sex or any other status protected by federal or state law.

The Board will practice due diligence in finding the most qualified persons for any open positions. The Board recognizes that some specialized positions are difficult to fill because of shortages of qualified candidates. In rare instances, the Board may need to hire a retired public employee, in which case it will follow the Commissioner's regulations for securing a §211 waiver. When recruiting for an open position the Board will first undertake a thorough and good faith search for a certified and qualified individual who will not require such a waiver for employment

Hiring

Through standard recruiting and hiring procedures, the Superintendent will ensure that candidates for district employment meet all the qualifications set for the position sought. The district will comply with all the requirements of the Education and Civil Service laws, including any fingerprinting requirements.

The Superintendent will recommend individuals for employment in the school district. The Board must approve of all individuals who are employed by the school district.

Ref: Age Discrimination in Employment Act (ADEA), 29 USC §§ 621 *et seq.* (prohibiting discrimination on the basis of age)
 Americans with Disabilities Act (ADA), 42 USC §§ 12101 *et seq.* (prohibiting discrimination on the basis of disability)
 Civil Rights Act of 1964 (Title VII), 42 USC §§ 2000e *et seq.* (prohibiting discrimination on the basis of color, national origin, race, religion and sex)
 Rehabilitation Act of 1973 (Section 504), 29 USC § 794 (prohibiting discrimination on the basis of disability)
 Title IX, 20 USC §§ 1681 *et seq.* (prohibiting discrimination on the basis of sex)
 New York State Constitution, article V, § 6 (requiring public employees be appointed on the basis of merit and fitness)
 Civil Service Law §§ 22, 40-44, 61(1) (rules on classified positions)
 Education Law §§ 1604(8), 1709(16), 2503(3), 2554(2), 3012(1)(a) (board's authority to hire employees)
 Education Law §§ 1604(39), 1709(39), 1804(9), 1950(4), 2503(18), 2554(25) (fingerprinting requirements)
 Executive Law §§ 290 *et seq.* (prohibiting discrimination on the basis of age, color, creed, disability, marital status, national origin, race or sex)
 8 NYCRR § 80-5.5 (§211 waiver process)

Adoption date: February 6, 2019

CONDITIONAL APPOINTMENT - STUDENT SAFETY

The Board of Education recognizes that there may be instances in which it is necessary, upon recommendation of the Superintendent of Schools, for the Board to conditionally appoint or to make an emergency conditional appointment of a prospective employee. To provide for the safety of students who have contact with an employee holding a conditional appointment or an emergency conditional appointment, the Board adopts the following policy.

No district employee who holds a conditional or emergency conditional appointment shall be in contact with students other than to provide instruction and/or other required services.

No district employee who holds a conditional or emergency conditional appointment shall teach a class or provide services to students with his/her classroom or office door closed unless the Building Principal has provided express prior permission to do otherwise.

The Building Principal or his/her designee shall, at least twice a week, monitor the activities of such employees while on school district property during the period of their conditional or emergency conditional appointment.

In addition, the district will ensure that all personnel, including conditional and emergency conditional appointed employees, are aware of and receive training regarding the prohibition against child abuse in an educational setting and of their responsibility for reporting any such abuse. All conditionally appointed and emergency conditionally appointed employees receive this training at the time of their initial contingency appointment.

For purposes of this policy, the terms “conditionally appointed” and “emergency conditional appointment” shall refer to any employee holding conditional or emergency conditional appointment, as defined in Section 1709 of the Education Law.

Cross-ref: 9620, Child Abuse in an Educational Setting

Ref: Education Law §§1125-1133; 1604(39); 1709(39); 1804(9); 1950(4)(II); 2503(18); 2554(25); 2854(3)(a-2) (As extended by L.2001, c. 147; L.2003, c. 100; L.2005, c. 127; L.2007, c. 90; L.2009, c. 179; L.2011, c. 2; L.2011, c. 58; L.2012 c. 57; L.2013 c. 57; L.2014, c. 56; L.2015, c.56; L.2016, c. 54), L.2017 c. 59; L.2018 c. 59
8 NYCRR §§100.2(hh); Part 87

Adoption date: February 6, 2019

DRUG-FREE WORKPLACE

The Board of Education prohibits the illegal, improper or unauthorized manufacture, distribution, dispensing, possession or use of any controlled substances in the workplace. "Workplace" shall mean any site on school grounds, at school-sponsored activities, or any place in which an employee is working within the scope of his/her employment or duties. "Controlled substances" shall include all drugs which are banned or controlled under federal or state law, including those for which a physician's prescription is required, as well as any other chemical substance which is deliberately ingested to produce psychological or physiological effects, other than accepted foods or beverages. The district certifies that it will:

The Superintendent of Schools or his/her designee shall implement related regulations which outline the requirements of the federal Drug-Free Workplace Act of 1988.

Ref: Drug-Free Workplace Act (DFWA), 41 U.S.C. §§702-707
Controlled Substances Act, 21 U.S.C. §812
21 CFR §§1300.11-1300.15
34 CFR Part 85 (U.S. Dept. of Ed. Regulations under the DFWA)
Civil Service Law §75
Education Law §3020-a
Patchogue-Medford Congress of Teachers v. Board of Education,
70 NY2d 57 (1987)

Adoption date: February 6, 2019

DRUG-FREE WORKPLACE REGULATION

1. The Superintendent of Schools shall certify to any federal agency making a direct grant to the district that the district will provide a drug-free workplace, in accordance with the Drug-Free Workplace Act of 1988.
2. The Superintendent or his/her designee shall establish a drug-free awareness program to inform employees about:
 - a. the dangers of drug abuse in the workplace;
 - b. the district's policy of maintaining a drug-free workplace;
 - c. any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. the penalties that may be imposed upon employees for drug abuse violations.
3. The Superintendent or his/her designee shall publish a statement notifying district employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace (as defined by district policy). The statement shall specify the actions that will be taken against employees for violations of such prohibition. Each employee shall receive a copy of this statement and the Drug-Free Workplace Act of 1988.
4. Each employee, as a condition of employment on any direct federal grant, shall:
 - a. abide by the terms of the statement; and
 - b. notify his/her immediate supervisor, who shall notify the Superintendent, of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days of such conviction.
5. The Superintendent shall notify the Board of Education of any such conviction(s), and shall notify the granting agency within 10 days after receiving notice of such conviction(s) from any source.
6. Within 30 days of such conviction(s), the district shall initiate appropriate disciplinary action against any employee so convicted in the manner provided for by law, up to and including dismissal, and/or require his/her satisfactory participation in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement or other appropriate agency.
7. The district shall make a "good faith effort" to continue to maintain a drug-free workplace through implementation of these regulations.

Adoption date: February 6, 2019

**STAFF REQUESTS FOR ACCOMMODATIONS
UNDER THE AMERICAN WITH DISABILITIES ACT AS AMENDED (ADAAA)**

The Board of Education is committed to equal opportunity and nondiscrimination (0100, Non-Discrimination and Equal Opportunity) for staff and students. The Superintendent or his/her designee is authorized to provide reasonable accommodations for qualified employees who require such in order to perform the essential functions of their job under the provisions of federal and state law.

Under the law, employees are responsible for notifying the district that an accommodation is needed.

In order to expedite the process, requests for such accommodations should be made in writing to the Personnel Assistant and include the following:

- reasonable documentation showing that the employee has a disability as defined by the ADAAA,
- a statement describing how this disability impacts job performance ability, and
- a statement of the accommodation the employee is seeking and explanation of how the accommodation will impact or benefit the disability.

It should be noted that while efforts will be made to comply with specific accommodation requests, some requests may impose an undue hardship on the district. The district will collaborate with the employee to attempt to find a suitable accommodation. The district will respond to requests for accommodation in a timely manner.

If an employee is dissatisfied with the district's response, complaints or grievances related to this matter shall be pursued in accordance with policy 0100, Non-Discrimination and Equal Opportunity.

Cross-ref: 0100, Non-Discrimination and Equal Opportunity
8131, Pandemic Planning

Ref: Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*
Rehabilitation Act of 1973, 29 USC §§705, 794 *et seq.* (Section 504)
Executive Law §290 *et seq.* (New York State Human Rights Law)

Adoption date: February 6, 2019

COVID-19 WORKPLACE AND STUDENT LEARNING ENVIRONMENT ACCOMMODATIONS

The Board recognizes the serious health concerns presented by the COVID-19 Pandemic for all persons in the school community. Accommodations for student and employees who are at risk for severe COVID-19 illness shall be made, to the extent practicable, through means such as: additional personal protective equipment (PPE), modified PPE (e.g. masks with transparent parts), increased social distancing, a modified work setting for employees, a modified educational setting for employees and students (e.g. more space, partitions and barriers, fewer persons present), and/or modified work schedules for employees to reduce contact situations.

Certain special education students and students who are medically fragile shall be entitled to remote instruction if the instructional program otherwise calls for in-school presence or a hybrid instructional model.

Employees who present with underlying medical conditions that warrant a need not to be present in school buildings may be assigned to telework where the essential functions of their assignments do not require an in-school presence and they are capable of performing the essential functions of their jobs remotely from their homes.

All accommodations shall be determined through an interactive process that may involve consultation with medical professionals and the state and/or local county Department of Health officials. For students with disabilities recognized under the IDEA or Title II ADA/§504 of the Rehabilitation Act of 1973, the accommodation process shall be conducted through the Committee on Special Education or §504 Team, respectively.

Those employees and students who present as being uncomfortable in the school environment due to the COVID-19 Pandemic, but who are not at an increased risk of a severe COVID-19 illness related outcome, shall be advised about the efforts undertaken to make the school environment safe in accordance with applicable New York State Department of Health and New York State Department of Education Guidelines.

Adoption date: October 21, 2020

**COVID-19 WORKPLACE AND STUDENT LEARNING ENVIRONMENT
ACCOMMODATIONS**

**Pine Plains Central School District
REQUEST FOR WORKPLACE ACCOMMODATION – COVID-19**

To be completed by Employee	
Employee: _____	Date of request: _____
Title: _____	Building: _____
Condition/limitation: Do you have a condition that places you at risk for severe COVID-19 illness, such as one of the conditions listed on Attachment “A” to this form? ___ Yes ___ No	
How does this condition/limitation affect your ability to perform the essential functions of your job? _____ _____ _____	
Workplace accommodation(s) requested: _____ _____ _____	

To be completed by Employee’s Physician									
Physician (please print): _____	Date: _____								
Physician’s signature: _____	Telephone No. _____								
Based on the Attachment “A” listing, please explain how/why the employee’s condition/limitation constitutes a vulnerability that places the employee at a severe risk in the event of COVID-19 infection (add an additional page as needed): _____ _____ _____									
Please identify the workplace accommodations that are either recommended or required for the employee to be able to perform the essential functions of his/her job (attach additional pages as needed):									
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; padding: 5px;">Accommodation(s)</th> <th style="width: 50%; padding: 5px;">Recommended or Required</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"></td> <td style="padding: 5px;"><input type="checkbox"/> Recommended <input type="checkbox"/> Required</td> </tr> <tr> <td style="height: 20px;"></td> <td style="padding: 5px;"><input type="checkbox"/> Recommended <input type="checkbox"/> Required</td> </tr> <tr> <td style="height: 20px;"></td> <td style="padding: 5px;"><input type="checkbox"/> Recommended <input type="checkbox"/> Required</td> </tr> </tbody> </table>	Accommodation(s)	Recommended or Required		<input type="checkbox"/> Recommended <input type="checkbox"/> Required		<input type="checkbox"/> Recommended <input type="checkbox"/> Required		<input type="checkbox"/> Recommended <input type="checkbox"/> Required	
Accommodation(s)	Recommended or Required								
	<input type="checkbox"/> Recommended <input type="checkbox"/> Required								
	<input type="checkbox"/> Recommended <input type="checkbox"/> Required								
	<input type="checkbox"/> Recommended <input type="checkbox"/> Required								

**COVID-19 WORKPLACE AND STUDENT LEARNING ENVIRONMENT
ACCOMMODATIONS
ATTACHMENT “A”**

Cancer

Chronic kidney disease

COPD (chronic obstructive pulmonary disease)

Immunocompromised state (weakened immune system) from solid organ transplant

Obesity (body mass index [BMI] of 30 or higher)

Serious heart conditions, such as heart failure, coronary artery disease, or
cardiomyopathies

Sickle cell disease

Type 2 diabetes mellitus

Other (based upon doctor determination)

Adoption date: October 21, 2020

**EVALUATION OF STAFF
(NOT COVERED BY 3012-C or 3012-D OF EDUCATION LAW)**

The Board of Education believes that the regular, rigorous and meaningful evaluation of all staff is necessary to continuously improve the achievement of students and the operation of the district. To this end, the Superintendent of Schools shall be responsible for ensuring that all district employees are evaluated annually and receive appropriate levels of support based upon that evaluation, if necessary, to improve their skills.

Administrators

All administrators, other than building principals who are covered by Education Law §3012-c and §3012-d, shall be evaluated annually by the Superintendent in accordance with this policy, applicable state law, regulation and collective bargaining agreements. *NOTE: The Board could insert text here describing the process if it isn't covered in a collective bargaining agreement.*

Professional Employees (not covered by 3012-c and 3012-d)

All professional employees (non-classroom teachers providing instructional services or pupil personnel services, counselors, school psychologists and social workers) shall be evaluated annually in accordance with state law and regulation, as well as any applicable collective bargaining agreement and the district's Part 100.2(o) Professional Performance Review Plan. The plan shall include the required regulatory elements such as: (a) criteria for evaluating teachers and other professional employees, (b) assessment methods, (c) how quality rating categories/criteria will be used to differentiate professional development, compensation and promotion; (d) how timely and constructive feedback from evaluations will be provided; (e) plans to improve teacher performance for those rated ineffective, and; (f) training for evaluators.

The Superintendent shall collaborate with teachers, pupil personnel professionals, administrators and parents in developing the plan, which may be a multi-year plan. The Superintendent shall be responsible for selecting those individuals with whom he or she will collaborate in the development of the plan. The Superintendent shall meet with a group of such individuals at least once each year to determine if changes are necessary after its initial adoption.

The Superintendent shall submit the district's Professional Performance Review Plan, with any recommended changes, to the Board at its organizational meeting. At that meeting, the Board may request that the Superintendent reconsider or reexamine certain aspects of the plan, in which case, the Superintendent will resubmit the plan at the Board's first regular meeting in August.

The Board will provide members of parent organizations and the president of the applicable bargaining units the opportunity to comment on the plan, prior to its adoption, at a meeting at which the plan is considered. The Board must

approve the plan before it becomes effective. The approved plan for each school year will be available in the district offices by September 10 of each year.

Each year, the Superintendent shall provide a report to the State Education Department on information related to the district's efforts to address the performance of non-classroom teachers rated ineffective.

Support Staff

Support staff (those staff not required to be evaluated under the Professional Performance Review Plan) shall be evaluated annually in accordance with any applicable collective bargaining agreement and this policy.

Reporting

The Superintendent will prepare an annual report for the Board that provides data on the evaluation ratings so that the Board can assess the effectiveness of the district's evaluation program. Data may include the number of employees evaluated, a summary of the final evaluation ratings, the rates of staff turnover and other relevant information. Personally identifiable data will not be released to the public.

Training

The Superintendent shall ensure that all staff that are required to evaluate other staff are provided appropriate and sufficient training in assessment and evaluation, in accordance with state law and regulation.

Cross-ref: 9160, Personnel Records
9700, Staff Development

Ref: Education Law §§3012-c, 3012-d
8 NYCRR § 100.2(o) (Professional Performance Review Plans)

Adoption date: February 6, 2019

COMPENSATION AND BENEFITS

The Board of Education believes that the district's employees should receive fair compensation and benefits for the work they provide in serving the children of our community. To this end, the Superintendent of Schools shall be responsible for establishing and administering the compensation and benefits provided to the district's employees, consistent with collective bargaining agreements.

The Board and the school district will comply with all applicable federal and state laws that require minimum compensation, overtime and benefits be provided to certain employees.

Determination of Employment Status

Before enrolling an individual in the district's compensation and benefits program, the district will determine the individual's employment status. In accordance with regulations issued by the State Comptroller and as set forth by the Internal Revenue Service, the District Treasurer will determine if the person is an employee and thus entitled to benefits. If the individual is not an employee based on the specified criteria, they will not be enrolled in any of the benefit programs offered by the district or the State. When the district hires an attorney, physician, engineer, architect, accountant or auditor as an employee and not an independent contractor, the Board of Education President must certify to the applicable New York State Retirement System the factors supporting that determination using the form prescribed by the State Comptroller.

The Board of Education President shall be responsible for reporting to the appropriate retirement system those individuals eligible for membership. This reporting shall take place at the time of an individual's employment, and at the intervals required by the appropriate retirement system.

Employees Covered by Collectively Negotiated Agreements

The compensation and benefits (except for State Retirement System benefits) for employees who are represented by recognized or certified employee organizations are established by collectively negotiated agreements between the employee organizations and the district. The district will negotiate in good faith over these issues, as required by law, and will fully comply with the requirements of the Taylor Law and the applicable collectively negotiated agreements.

The Board reserves its right to approve all additional funding required by the provisions of a tentative collectively negotiated agreement, in addition to any right of ratification that is secured by the district's negotiation representative(s).

Employees Not Covered by Collectively Negotiated Agreements

The compensation and benefits for employees who are not represented by recognized or certified employee organizations shall be determined by the Board of Education upon the recommendation of the Superintendent.

9500

Cross-ref: 6741, Contracting for Professional Services
6800, Payroll Procedures
9420, Recruiting and Hiring

Ref: Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), 42 USC §§ 300bb-1 *et seq.* (federal law that requires the continuation of health insurance benefits under certain circumstances)

Fair Labor Standards Act (FLSA), 29 USC §§ 200 *et seq.* (federal law that requires a minimum wage and overtime for non-exempt employees)

Family and Medical Leave Act of 1993 (FMLA), 29 USC §§ 2610 *et seq.* (federal law that requires an unpaid leave of absence for certain family and medical situations)

Civil Service Law §§ 200 *et seq.* (“Taylor Law,” requires school districts to negotiate with unions)

Education Law § 3005-b (requires a minimum sick leave allotment and accumulation for teachers)

Local Finance Law § 2.00(5)(e) (designates Board of Education President as Chief Fiscal Officer)

2 NYCRR Part 315.2 and 315.3 (criteria for determining employment status)

Adoption date: February 6, 2019

**COMPENSATION AND BENEFITS REGULATION
EMPLOYMENT STATUS DETERMINATION**

When making a determination as to whether an individual should be classified as an employee or an independent contractor for purposes of receiving district compensation and benefits, and specifically for reporting to the New York State Employees Retirement System, the district shall utilize the factors listed in the Comptroller's Regulations §315.3. Under § 315.2 of those regulations, the following definitions apply:

- a. Employee means an individual performing services for the district for which the district has the right to control the means and methods of what work will be done and how the work will be done.
- b. Independent Contractor means a consultant or other individual engaged to achieve a certain result who is not subject to the direction of the district as to the means and methods of accomplishing the result.

I. Employees

The following factors shall support a conclusion that an individual is an employee rather than an independent contractor:

- a. The district controls, supervises or directs the individual performing the services, not only as to result but as to how assigned tasks are to be performed;
- b. The individual reports to a certain person or department at the beginning or during each work day;
- c. The individual receives instructions as to what work to perform each day;
- d. The individual's decisions are subject to review by the district;
- e. The district sets hours to be worked;
- f. The individual works at established and fixed hours;
- g. The district maintains time records for the individual;
- h. The district has established a formal job description;
- i. The Board of Education formally created the position with the approval of the local civil service commission where necessary;
- j. The district prepares performance evaluations;
- k. The district requires that the individual attend training;
- l. The district provides permanent workspace and facilities (including, but not limited to, office, furniture and/or utilities);
- m. The district provides the individual with equipment and support services (including, but not limited to, computer, telephone, supplies and/or clerical assistance);
- n. The individual is covered by a contract negotiated between a collective bargaining unit and the district;
- o. The individual is paid salary or wages through the district's payroll system;

- p. Tax withholding and employee benefit deductions are made from the individual's paycheck; and
- q. The individual is entitled to fringe benefits (including, but not limited to, vacation, sick leave, personal leave, health insurance and/or grievance procedures).

II. Independent Contractor

The following factors shall support a conclusion that an individual is an independent contractor rather than an employee

- a. The individual has a personal employment contract with the district;
- b. The district pays the individual for the performance of services through the submission of a voucher;
- c. The individual is authorized to hire others, at the expense of the individual or a third party, to assist the individual in performing work for the district;
- d. The individual provides similar services to the public;
- e. The individual is concurrently performing substantially the same services for other public employers; and
- f. The individual is also employed or associated with another entity that provides services to the district by contract, retainer or other agreement.

When an individual is providing services to the district in the capacity of attorney, physician, engineer, architect, accountant or auditor, and is also a partner, associate (including an attorney in an "of counsel" relationship), or employee of another organization or entity that has a contract, retainer or other agreement to provide professional services to the district, it shall be presumed that the individual is an independent contractor and not an employee of the district.

Adoption date: February 6, 2019

LEAVES OF ABSENCE

In general, leaves of absence shall be administered by the Superintendent of Schools or his or her designee. The Board of Education reserves the right to grant leaves of absence for purposes or under conditions not contemplated or considered in this policy statement. Under laws and rules governing such action, the Board may undertake appropriate disciplinary action where a leave of absence is falsely requested or improperly used. Except by permission of the Superintendent, as expressed in writing, the purpose or conditions of a leave of absence may not be altered.

Contractual leaves of absence shall be granted to employees who are members of a negotiating unit. In such cases, authorization to approve requests for leaves of absence submitted shall be pursuant to provisions of contracts in effect between the district and each bargaining unit.

- In the case of employees who are not members of a negotiating unit, authorization is granted to approve requests for leaves of absence submitted by such employees where the requests are consistent with provisions of contracts in effect between the district and the bargaining unit most compatible with the employment status of the employee.
- In the case of employees who are under contract to the district, authorization is granted to implement provisions for leaves of absence contained in each such contract.

Unpaid leaves of absence not covered above shall be subject to limitations enumerated in this policy statement. Such authorization is granted for the following unpaid leaves of absence:

- For a period of time not to exceed one school year for approved graduate study, such leave to include any required internship experience.
- At the expiration of a paid sick leave of absence, to extend such a leave of absence for a period of time not to exceed the end of the school year next succeeding the school year in which the paid leave of absence commenced, unless otherwise agreed to by the Board of Education.

Unpaid leaves of absence shall not be used to extend vacation periods, to take vacations, to engage in other occupations, or to provide additional personal leaves except that the Superintendent shall have discretion, where circumstances warrant, to approve leaves of absence for such purposes.

Unpaid leaves of absence shall not be granted unless the services of a substitute employee, satisfactory in the discretion of the Superintendent, are able to be secured.

Except where it interferes with an employee's legal or contractual rights, the timing of unpaid leaves of absence will be granted at the convenience of the district.

The district will notify employees of their right to leaves as indicated by federal law, state law or regulation.

Other Leaves

Blood Donation

In accordance with state law, employees desiring to make blood donations shall be granted three (3) hours of leave in any twelve (12) month period. The leave may not exceed three (3) hours unless agreed to by the Superintendent or his or her designee. Additional leaves for the purpose of blood donation under any other provision of law shall not be prevented.

Leave granted to employees for off premises blood donation is not required to be paid leave. Leave taken by employees for “donation leave alternatives” (which is what the law terms on-site blood donation) shall be paid leave given without requiring the employee to use accumulated vacation, personal, sick or other existing leave time.

Employees wishing to utilize the leave time for offsite blood donation shall give a minimum of three (3) working days’ notice to the Superintendent or his or her designee. Employees wishing to utilize the leave time for alternate donations shall give a minimum of two (2) working days’ notice.

The district will provide reasonable accommodations in emergency situations where an employee needs to donate blood for his own surgery or that of a family member.

Cancer Screening

Employees shall be granted up to four (4) hours of leave on an annual basis to undertake a screening for cancer. This leave shall be paid leave and shall not be charged against any other leave to which the employee is entitled.

Certification of testing may be requested from the employee of the district. Verification shall be produced in a timely fashion.

Military Leave

The district will comply with state and federal laws regarding military leave and re-employment.

Leaves of absence for military spouses are granted in accordance with law and are unpaid.

Ref: Civil Service Law § 159-b
Labor Law § 202-j
Matter of Cruz et al v Wappingers CSD, slip opinion (Supreme Court, Dutchess County, July 14, 2008)
Matter of Fringuello v Wappingers CSD., slip opinion (Supreme Court, Dutchess County, July 15, 2008)

Adoption date: February 6, 2019

OFFER OF HEALTH INSURANCE

Employees whose positions are covered by collectively negotiated agreements shall be offered health insurance coverage pursuant to the terms of the covering agreement. All other employees shall be offered health insurance pursuant to individual terms and conditions of employment agreements or, in the absence of such agreements or agreement, pursuant to the provisions set forth below.

Employees other than those referenced above and other than variable hour employees (such as per diem substitutes, coaches etc.), shall be offered health insurance coverage in the district health insurance plan, at the employee's sole expense immediately following the 90th day of employment for those full-time employees as defined by the provisions of the Affordable Care Act.

For those employees who are hired as variable hour employees within the meaning of the Affordable Care Act, an offer of health insurance coverage shall be made on the first day of the first month following the administrative period that follows the conclusion of their first twelve (12) month period of employment for per diem substitute teachers, and twelve (12) month period of employment for all others. The offer to be made to full-time and variable hour employees pursuant to this policy shall be individual as well as dependent coverage, where applicable, with the health insurance premium cost being paid solely by the employee.

Adoption date: February 6, 2019

STAFF SUBSTANCE ABUSE

The Board of Education, recognizing that students are often influenced by teachers and other members of a school's staff, impresses upon staff members the importance of maintaining a high level of professionalism appropriate to their position, which, in turn, shall set a positive example for students.

Since substance abuse has become a national problem, particularly among children and teenagers, the Board believes that school employees must exemplify the positive benefits of a drug-free lifestyle. The Board therefore will not permit the illegal use, including possession, sale and/or manufacture, of alcohol or controlled substances by staff members either in the workplace, or at any time when the effects of such substance(s) may impair the performance of their duties.

The district shall maintain an employee awareness program, including information regarding substance abuse rehabilitation programs provided by local agencies.

If an employee is found to have violated the terms of this policy, he or she may be required to participate in a substance abuse rehabilitation program and/or be subject to a range of penalties up to and including dismissal.

Employee Assistance Program

The District will provide an Employee Assistance Program (EAP) for employees who are experiencing personal difficulties. The purpose of the program is to assist employees in obtaining help to resolve such problems in an effective and confidential manner. This program recognizes that the primary obligation to seek assistance and to resolve the problem rests with the employee.

The Board recognizes that the problems of alcohol and controlled substance use and abuse affect every segment of society. Therefore, the Board will establish an employee assistance program that will provide appropriate and confidential prevention, intervention, assessment, referral, support and follow-up services **for district staff. Staff members will be informed of such** services and shall be encouraged to seek such help either voluntarily or in lieu of disciplinary action.

In general, the Board will not intervene unless the employee's personal problems adversely affect his or her job performance. However, drivers subject to the Omnibus Transportation Employee Testing Act of 1991 must be referred to a substance abuse counselor for evaluation and treatment if the employee has tested positive for controlled substances, received an alcohol concentration of 0.04 or greater, or refused to take a test.

A joint district/employee organization committee will be established to assist in the implementation of this policy.

Alcohol and Controlled Substance Testing of Employees

No employee except those pursuant to policy 8414.5 shall be subjected to urinalysis or other form of alcohol or controlled substance testing without reasonable individualized suspicion that the employee has consumed alcohol or a controlled substance. The school attorney shall be consulted before any implementation of such testing. Failure to submit to required alcohol or controlled substance testing based upon reasonable individualized suspicion that the employee has violated district policy on alcohol and controlled substance use is grounds for disciplinary action up to and including dismissal.

In its effort to maintain a drug-free environment, the district shall cooperate to the fullest extent possible with local, state and/or federal law enforcement agencies.

Ref: Drug-Free Schools and Communities Act (20 U.S.C. §§3171 et seq.)
Omnibus Transportation Employee Testing Act of 1991
Civil Service Law §75
Education Law §§3012; 3020-a
Patchogue-Medford Congress of Teachers v. Board of Education,
70 NY2d 57 (1987)
Appeal of Board of Education of Community School District 19, 32 EDR
354 (1992)

Adoption date: February 6, 2019

STAFF SUBSTANCE ABUSE REGULATION

In the event that district supervisory personnel determine that a staff member has a potential problem related to alcohol or other substance use/abuse which adversely affects his/her job performance:

1. the supervisory personnel will attempt to compile information and/or document actions that have resulted in an unsatisfactory job performance, that may be related to the employee's alcohol or other substance use/abuse, including any observable signs of alcohol or substance use/abuse;
2. if the problem may adversely affect the employee's position, the district supervisory personnel will schedule a meeting with the employee to discuss possible employment concerns. Written notification regarding reasons for the meeting will be given to the employee. The employee will be entitled to have representatives of their association present;
3. the district supervisory personnel will then review the information with the employee. The employee may be subjected to urinalysis or other form of drug testing if there exists reasonable individualized suspicion that the employee has been using an illegal drug(s);
4. the employee may be asked to cooperate with an Employee Assistance Program representative; and
5. after exhausting the avenue of treatment and prevention, and if the problem still exists, the following steps may be taken:
 - a. verbal reprimand;
 - b. written reprimand; and/or
 - c. commence legal action.

The procedures set forth in this regulation will be subject to state law, civil service law and regulations, as well as terms of negotiated agreements.

Adoption date: February 6, 2019

CHILD ABUSE IN AN EDUCATIONAL SETTING

The Board of Education recognizes that children have the right to an educational setting that does not threaten their physical and emotional health and development. Child abuse by school personnel and school volunteers violates this right and therefore is strictly prohibited.

Allegations of child abuse by school personnel and school volunteers shall be reported in accordance with the requirements of Article 23-B of the Education Law.

Required Reporters

Any person holding any of the following positions shall be required to promptly report written and oral allegations of child abuse by an employee or volunteer in an educational setting:

- school administrator
- teacher
- school nurse
- school guidance counselor
- school psychologist
- school social worker
- other school personnel required to hold a teaching or administrative license or certificate
- licensed and registered physical therapist,
- licensed and registered occupational therapist,
- licensed and registered,
- speech-language pathologist,
- teacher aide,
- school resource officer,
- school board member, and
- any staff whose duties involve direct student contact and who is paid either by a school district or contracted to provide transportation services to children; or
- who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law.

For purposes of this policy, persons holding these positions shall be referred to as “required reporters.”

Definitions

"Administrator" or "school administrator" shall mean a principal of, or the equivalent title, in a public school, charter school or board of cooperative educational services, or other chief school officer.

“Child” means a person under the age of 21 enrolled in a school.

“Child abuse” means any one of the following acts committed in an educational setting by an employee or volunteer against a child:

- intentionally or recklessly inflicting physical injury, serious physical injury or death; or
- intentionally or recklessly engaging in conduct that creates a substantial risk of physical injury, serious physical injury or death; or

- any child sexual abuse as prohibited by sections 130 or 235 of the Penal Law: or
- the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to Article 235 of the Penal Law.

“Educational setting” means the buildings and grounds of the school, the vehicles provided by directly or by contract the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee and volunteer and a child has allegedly occurred.

"Employee" means any person who is receiving compensation from a school district. Additionally, for the purpose of this policy, one whose duties involve direct student contact and is receiving compensation from any person or entity that contracts with a school to provide transportation services to children or is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, whereby such services performed by such person involve direct student contact.

“Law enforcement authorities” means any officer or office of municipal, sheriffs, or division of the state police department.

“Parent” means either both of a child’s parents or other persons legally responsible for the child.

“School” generally means any school district, public school, charter school, non-public school board of cooperative educational series or special act school district and additional entities as defined by section 1125(10) of Education Law.

"Volunteer" means any person, other than an employee, who has direct student contact and provides services to a school or school district which involve direct student contact and who provides services to any person or entity which contracts with a school to provide transportation services to children

Reporting Requirements

In any case where a written or oral allegation of child abuse by an employee or volunteer in an educational setting is made to a required reporter, the required reporter shall:

- Promptly (within 24 hours unless extenuating circumstances exist) complete the required State Education Department report form; and
- Personally deliver it to the Principal of the school in which the child abuse allegedly occurred.

If the allegation involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the required reporter must promptly forward the report form to the Superintendent of the district of attendance and the Superintendent of the school district where the abuse allegedly occurred (if different).

If an allegation is made to a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such driver shall promptly report to his or her supervisor.

If an allegation is made to a supervisor of a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall promptly complete a written report on the attached form (9620-E.1) and shall personally deliver it to the school district superintendent employed by the school district where the child abuse occurred.

If an allegation is made which involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, shall be notified if the allegation.

Upon receiving a written report, the Principal shall determine whether there is reasonable suspicion to believe that an act of child abuse has occurred. In those circumstances where the Superintendent receives the written report directly, he or she will be responsible for making the reasonable suspicion determination.

In any case where the employee the allegation is being made against is the superintendent or the administrator, the report of such allegations shall be made to the Director of Curriculum and Instruction.

If the Principal/Superintendent determines there is reasonable suspicion to believe that an act of child abuse has occurred, he or she shall promptly notify the parent of the alleged child victim (assuming that the parent is not the person who originally reported the alleged abuse) that an allegation of child abuse in an educational setting has been made and promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Regulations of the Commissioner of Education.

If the person making the allegation of abuse is someone other than the child or the child's parent, the Principal/Superintendent shall contact the person making the report to learn the source and basis for the allegation.

The Principal shall also promptly provide a copy of the written report to the Superintendent and send a copy to the appropriate law enforcement authorities. In no event shall the Principal delay in sending the report to law enforcement because of an inability to contact the Superintendent.

The Superintendent shall send to the Commissioner of Education any written report forwarded to the local law enforcement authorities where the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the department.

Rights of Employees and Volunteers

Any employee or volunteer against whom an allegation of child abuse has been made and against whom the district intends to take adverse action shall be entitled to receive a copy of the report and to respond to the allegations. In addition, such persons are entitled to seek disclosure of reports involving them under the Freedom of Information Law.

Confidentiality

All reports, photographs, and other written material submitted pursuant to this policy and Article 23-B of the Education Law shall be confidential and may not be disclosed except to law

enforcement authorities involved in investigating the alleged abuse or except as expressly authorized by law or pursuant to a court-ordered subpoena. The Principal and Superintendent shall exercise reasonable care to prevent unauthorized disclosure.

Willful disclosure of a written record required to be kept confidential to a person not authorized to receive or review such record is a class A misdemeanor.

Penalties

Willful failure of an employee to prepare and submit a written report of alleged child abuse required by Article 23-B of the Education Law shall be a class A misdemeanor.

Willful failure of any Principal or Superintendent to submit a written report of alleged child abuse to an appropriate law enforcement authority, as required by Article 23-B of the Education Law, shall be a class A misdemeanor. In addition, the Commissioner of Education may, following an administrative determination, impose a civil penalty of up to five thousand dollars on any administrator who fails to submit a report of child abuse to an appropriate law enforcement authority.

The law further prohibits any Principal or Superintendent from agreeing to withhold from the appropriate law enforcement authorities, a superintendent or the Commissioner of Education, where appropriate, an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by law, in return for the resignation or voluntary suspension of the alleged perpetrator. Violation of this prohibition can result in a class E felony charge and a civil penalty of up to \$20,000.

Record Retention

Any report of child abuse by an employee or volunteer that does not result in a criminal conviction shall be expunged from the records kept by the district with respect to the subject of the report after five years from the date the report was made.

Training

The Superintendent shall be responsible for establishing and implementing on an ongoing basis a training program for all current and new required reporters on the procedures required under Article 23-B. The program shall include at a minimum information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including but not limited to, when and how a report must be made, what other actions the reporter is can and should take, the legal protections afforded reporters, and the consequences for failing to report, and any other elements as specified in Commissioner's regulations.

Further, all persons employed on or after July 1, 2019 as a school bus driver employed by any person or entity that contracts with a school to provide transportation services to children shall be required to complete two hours of coursework or training (from an approved provider) regarding the identification and reporting of child abuse and maltreatment. The

coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment, reporting requirements including but not limited to, when and how a report must be made, what other actions the reporter is can and should take, the legal protections afforded reporters, and the consequences for failing to report. Each employee in such titles shall provide the school administrator of the school with documentation showing that he or she completed the required training. In addition, each school bus driver shall provide such contracting person or entity with documentation showing that he or she completed the required training. The department shall be authorized to request such records on a periodic basis and may publish a list of any persons or schools who are not in compliance with this subdivision on its website.

The coursework or training required by this section shall not apply to those persons already required to undergo coursework or training regarding the identification and reporting of child abuse and maltreatment pursuant to sections three thousand three and three thousand four of this chapter.

Ref: Education Law §§1125-1133
Penal Law §§130, 235, 263
8 NYCRR §100.2 (hh) (Reporting of Child Abuse in an Educational Setting)
Appeal of S.S., 42 EDR 273 (2003)

Adoption date: February 6, 2019
Revised: May 8, 2019

**CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT -
CONFIDENTIAL REPORT OF ALLEGATION**

SUBJECT CHILD	PARENT OF SUBJECT CHILD
Name _____ Last First MI	Name _____
Address _____ _____	Address (if different) _____ _____
School _____	
Grade _____ Sex (M, F, Unknown) _____	
Age or Birthday (Mo/Day/Yr) _____	

SOURCE OF ALLEGATION (Check as Appropriate)
<input type="checkbox"/> Child <input type="checkbox"/> Parent <input type="checkbox"/> Other – Name _____ Relationship to Child (if any) _____

ALLEGED PERPETRATOR (EMPLOYEE OR VOLUNTEER)
Name _____ School District _____
School Building _____ School Position _____

SPECIFIC ALLEGATION
Use this space to provide information to describe or explain the circumstances surrounding the allegation. (attach additional sheets if necessary)

REPORTER INFORMATION
Name _____ School District _____
School Address _____ School Telephone _____
Relationship to Child (if any) _____
<input type="checkbox"/> Teacher <input type="checkbox"/> School Guidance Counselor <input type="checkbox"/> School Nurse <input type="checkbox"/> School Psychologist
<input type="checkbox"/> Administrator <input type="checkbox"/> School Board Member <input type="checkbox"/> School Social Worker
<input type="checkbox"/> School personnel required to hold teaching or administrator license or certification
Date Submitted to Administrator ____/____/____/ Signature _____

FOR ADMINISTRATOR USE ONLY	FOR SUPERINTENDENT OF SCHOOL USE ONLY
Reasonable Suspicion ____ Yes ____ No	Reasonable Suspicion ____ Yes ____ No
Date Submitted to Superintendent ____/____/____	Date Submitted to Law Enforcement ____/____/____
Name/Signature _____	Name/Signature _____
Date Submitted to Law Enforcement ____/____/____	Date Submitted to Commissioner ____/____/____
Name/Signature _____	Name/Signature _____

Child Abuse in an Educational Setting Definitions

Definitions contained in §1125 of Article 23-B, Title I of the Education Law.

1. “Child abuse” shall mean any of the following acts committed in an educational setting by an employee or volunteer against a child:
 - a. intentionally or recklessly inflicting physical injury, serious physical injury or death, or
 - b. intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death, or
 - c. any child sexual abuse as defined in this section, or
 - d. the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to Article 235 of the Penal Law.
2. “Child” shall mean a person under the age of 21 years enrolled in a school.
3. “Employee” shall mean any person; (i) who is receiving compensation from a school or (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children, or (b) who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such school, its students or employees, directly or through contract.
4. “Volunteer” shall mean any person, other than an employee, who has direct student contact and : (i) provides services to a school or (ii) provides services to any person or entity that contracts with a school to provide transportation services to children.
5. “Educational setting” shall mean the building and grounds of a school, the vehicles provided directly or by contract the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities, both on and off school grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee or volunteer and a child has allegedly occurred.
6. “Administrator” or “school administrator” shall mean a principal of a school, or other chief school officer.
7. School shall include a school district, public school, charter school, nonpublic school, board cooperative educational services, special act school district as defined in section four thousand one of this chapter, approved preschool special education program pursuant to section forty-four hundred ten of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the

8. laws of nineteen hundred seventy-six, or state-operated or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.
9. “Law enforcement authorities” shall mean a municipal police department, sheriff’s department, the division of state police or any officer thereof. Notwithstanding any other provision of law, law enforcement authorities shall not include any child protective service or society for the prevention of cruelty to children as such terms are defined in section four hundred twenty-three of the social services law.
10. “Parent” shall mean either or both of a child’s parents or other persons legally responsible for the child.
11. “Child sexual abuse” shall mean conduct prohibited by article one hundred thirty or two hundred sixty-three of the penal law.

Adoption date: February 6, 2019
Revised: May 8, 2019

CHILD ABUSE IN AN EDUCATIONAL SETTING EXHIBIT - NOTICE/REPORTING REQUIREMENTS

Duties of Employees

The law imposes reporting requirements on teachers, administrators, school nurses, school guidance counselors, school psychologists, school social workers, school board members and other school personnel required to hold a teaching or administrative license or certificate, licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides, school resource officers, any staff whose duties involve direct student contact and who is paid either by a school district or contracted to provide transportation services to children, or who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law. When these employees of the district or to a school bus driver employed by a person or entity that contracts with a school to provide transportation services receive an allegation of child abuse by an employee or volunteer in an educational setting, they must take the following steps:

- a. Upon receipt of an oral or written allegation of child abuse in an educational setting, the employee must promptly complete the “Child Abuse in an Educational Setting” report form (attached).
- b. Upon completion of the report form, the employee must personally deliver it to the school building administrator of the school in which the child abuse allegedly occurred.
- c. If the allegation(s) involves a child who was allegedly abused by an employee or a volunteer of a school in another school district, the employee must promptly forward the report form to the superintendent of schools of the school district of attendance and the school district where the abuse allegedly occurred.

Duties of School Building Administrators

In all cases, upon receipt of a report form, the school building administrator must review the form and determine if there is reasonable suspicion to believe that an act of child abuse, as defined by law, has occurred. If he or she finds reasonable suspicion to believe that an act of child abuse has occurred, additional steps must be taken which differ depending upon the individual who has made the allegation.

Child makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner’s regulations (8 NYCRR §100.2(hh)).
- c. Promptly provide a copy of the completed report form to the superintendent.

- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Parent Makes the Allegation

- a. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly provide a copy of the completed report form to the superintendent.
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the report form.
- d. Promptly provide a copy of the completed report form to the superintendent.
- e. Promptly forward a copy of the completed report form to appropriate law enforcement authorities. The report to law enforcement may not be delayed by reason of inability to contact the superintendent.

Duties of Superintendent

In most cases, the school building administrator will receive the completed report form from an employee and make the reasonable suspicion determination. However, there are situations in which the superintendent will receive the report form directly and he or she will be responsible for making the reasonable suspicion determination such as:

- a. Where the school building administrator receives the oral or written allegation and is required to complete the report form;
- b. Where it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district where the child attends.

In addition, a superintendent may receive an oral or written allegation of child abuse in an educational setting from local law enforcement officials or from child protective services. In these cases, the superintendent would be responsible for completing the report form and, subsequently, making the reasonable suspicion determination.

If the superintendent finds reasonable suspicion to believe that an act of child abuse has occurred, as defined by law, additional steps must be taken which differ depending on the individual who has made the allegation.

Child makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

Parent Makes the Allegation

- a. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- b. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

Person other than the Parent or the Child Makes the Allegation

- a. Promptly notify the parent of the child that an allegation of child abuse in an educational setting has been made.
- b. Promptly provide the parent with the written statement setting forth parental rights, responsibilities and procedures prepared in accordance with the Commissioner's regulations (8 NYCRR §100.2(hh)).
- c. Ascertain from the reporting employee the source and basis for the allegation and complete that portion of the form.
- d. Promptly forward a copy of the completed report form to the appropriate law enforcement authorities.

In all cases where a completed report is forwarded to the appropriate law enforcement authorities and the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by the Department, the superintendent must also refer such report to the Commissioner of Education.

Expungement

A report that does not, after investigation, result in a criminal conviction shall be expunged from any record which may be kept by a school or school district with respect to the subject of such a report after a period of five years from the date of the making of such report or at such earlier time as such school or school district determines.

Penalty Provisions

The requirements set forth within the law are mandatory. Willful failure of an employee to prepare and submit a report form as required by the law is a Class A misdemeanor. The law also provides that a willful failure of a school

building administrator or superintendent to forward a copy of the report form to the appropriate law enforcement authority is a Class A misdemeanor. In addition, the Commissioner of Education can also fine a school building administrator or a superintendent up to \$5,000 for failure to forward a copy of the completed report form to the appropriate law enforcement authorities.

Immunity Provisions

The law provides immunity from civil liability for employees, volunteers, school building administrators and superintendents who reasonably and in good faith make a report of child abuse in an educational setting in the manner described in the law. The law also provides immunity from civil liability to school building administrators and superintendents who reasonably and in good faith forward a copy of the report form to a person or agency as required by law and in the manner described in the law.

Confidentiality of Records

In general, the only persons authorized to receive the written report form and any related materials are the school building administrator and the superintendent. The law requires that all reports, records, photographs and other material submitted remain confidential and may not be disclosed except to law enforcement authorities involved in the criminal investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. Willful disclosure of a written record required to be confidential, to a person not authorized to receive or review such record is a class A misdemeanor. The law requires that school building administrators and superintendents exercise reasonable care to prevent unauthorized disclosure.

Duties of District Attorneys

Where a criminal investigation is undertaken in response to a report forwarded to the appropriate law enforcement authorities, the district attorney must notify the superintendent of the school district where the acts of child abuse occurred and the superintendent of the school district where the child attends, if different, of the following:

- an indictment;
- the filing of an accusatory instrument;
- the disposition of the criminal case; or,
- the suspension or termination of the investigation.

Where a criminal conviction is obtained for a crime involving child abuse in an educational setting by a licensed or certified school employee, the district attorney is required to notify the Commissioner of Education, as well as the superintendent of the school district in which the acts of child abuse occurred and the superintendent of the school district where the child attends, if different.

Duties of the Commissioner of Education

Upon receiving notification of conviction from a district attorney, the Commissioner of Education must begin proceedings against the convicted individual pursuant to Part 83 of the Commissioner's regulations to determine whether the individual possesses good moral character. The determination may result in additional action taken against the individual related to his or her license or certification.

The Commissioner has also issued the attached form that must be used for the recording and transmission of allegations of child abuse in educational settings.

The Commissioner and the Board of Regents also promulgated §100.2(hh)(2), which sets forth the training requirements relating to child abuse in an educational setting.

Unreported Resignations or Voluntary Suspensions

The law prohibits school building administrators or superintendents from agreeing to withhold from the appropriate law enforcement authorities, a superintendent or the Commissioner of Education, where appropriate, an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by law, in return for the resignation or voluntary suspension of the alleged perpetrator. Violation of this prohibition can result in a class E felony charge and a civil penalty of up to \$20,000.

Adoption date: February 6, 2019
Revised: May 8, 2019

DISCLOSURE OF WRONGFUL CONDUCT (Whistleblower Policy)

The Board of Education expects officers and employees of the district to fulfill the public's trust and to conduct themselves in an honorable manner, abiding by all district policies and regulations and by all applicable state and federal laws and regulations.

However, when district officers or employees know or have reasonable cause to believe that serious instances of wrongful conduct (e.g., mismanagement of district resources, unethical behavior, violations of law or regulation, and/or abuse of authority) have occurred, they should report such wrongful conduct to the Board or one of its designated officers.

For purposes of this policy, the term "wrongful conduct" shall be defined to include:

- theft of district money, property, or resources;
- misuse of authority for personal gain or other non-district purpose;
- fraud;
- actions that compromise the security and integrity of the district's or state's testing program;
- violations of applicable federal and state laws and regulations; and/or
- serious violations of district policy, regulation, and/or procedure.

Disclosure and Investigation

Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred shall report such mismanagement, fraud or abuse to the Superintendent of Schools, the School Attorney or the Independent Auditor. Each of these Board-designated officers, upon receiving a report of alleged wrongful conduct, shall take immediate steps to conduct an investigation.

Staff members who suspect that a violation of state testing procedures has occurred by a certified educator, or non-certified individual involved in the state testing program, must report their concerns to the State Education Department (SED) in the manner prescribed by the Commissioner of Education, and must also report concerns to the Superintendent or Board of Education. Any Building Principal receiving such a report shall relay this information to the Superintendent.

The Superintendent, School Attorney or the Independent Auditor shall maintain a written record of the allegation, conduct an investigation to ensure that the appropriate unit (auditors, police, SED, etc.) investigates the disclosure, and notify the Board when appropriate to do so.

Except as otherwise provided in either state and/or federal law, the Board-designated officer shall make all reasonable attempts to protect the identity of the employee making the disclosure in a confidential manner, as long as doing so does not interfere with conducting an investigation of the specific allegations or taking corrective action.

The district shall not take adverse employment action against an employee who has notified the district of wrongdoing, allowing the district the opportunity to investigate and correct the misconduct. The district shall not take adverse action against an employee who has reported misconduct when mandated to do so by federal or state law or regulation.

Complaints of Reprisal

An employee who has been subject to an adverse employment action based on his or her prior disclosure of alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the Board President. The Board President, or his/her designee, will review the complaint expeditiously to determine:

- whether the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken;
- whether the responding party could reasonably have been construed to have had knowledge of the disclosure and the identity of the disclosing employee;
- whether the complainant has in fact suffered an adverse employment action after having made the disclosure; and
- whether the complainant alleges that adverse employment action occurred as a result of the disclosure.

If the designee determines that all of the above elements are present, he or she shall appoint a review officer or panel to investigate the claim and make a recommendation to the Board. At the time of appointment, the designee shall inform the complainant and the respondent, in writing, of:

- the intent to proceed with an investigation;
- the specific allegations to be investigated;
- the appointment of the review officer or panel; and
- the opportunity of each party to support or respond, in writing, to the allegation.

Once the review officer or panel has conducted a review and considers the investigation to be complete, the officer or panel will notify the designee of its completion. From the date of that notice, the review officer 30 days to report his or her findings and make any recommendations he or she deems appropriate to the designee. The designee, in conferral with the appropriate administrator shall issue a letter of findings to both the complainant and the respondent.

The decision of the review officer or panel is binding.

Nothing in this policy is intended to interfere with legitimate employment decisions.

The Superintendent of Schools shall establish regulations necessary to implement this policy.

This policy and accompanying regulations shall be published in employee handbooks, posted in employee lounges and given to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

The Superintendent of Schools, the Auditor, the School Attorney and others involved in implementing this policy shall meet with the Board once a year to evaluate the effectiveness of this policy and to make appropriate adjustments, if any, to the policy and accompanying regulations.

Ref: Civil Service Law §75-b
Labor Law §740
8 NYCRR §§102.3; 102.4 (testing misconduct)
Garrity v. University at Albany, 301 A.D. 2d 1015 (3rd Dept. 2003)
(Article 75-b protections only apply if employee first discloses wrongdoing to employer, allowing for investigation and correction prior to disclosure to outside agencies)
Matter of Brey v. Bd. of Educ., 245 A.D. 2d 613 (3rd Dept. 1997)
(termination based on work deficiency, not retaliation)

Adoption date: February 6, 2019

STAFF DEVELOPMENT

The Board of Education believes that staff training and development help ensure the success of educational programs and improve the efficiency of the district. Therefore, the district will provide development opportunities to staff to increase their effectiveness and job performance. The Superintendent of Schools shall be responsible for implementing and administering staff development programs for the district's employees.

Administrators

All administrators in the school district will receive appropriate training and professional development in accordance with law, regulation or any applicable collective bargaining agreement. The Superintendent will be responsible for providing such training and development.

Teachers

All teachers will be provided with substantial professional development opportunities directly related to student learning in accordance with any applicable collective bargaining agreement and the district's Professional Development Plan. Level III teaching assistants and long-term substitute teachers (employed for more than 40 days in a school year) shall have the opportunity to participate in the district's professional development program. The plan shall include:

- A needs analysis, goals, objectives, strategies, activities and evaluation standards for professional development in the district and a description of how the district will provide all teachers substantial professional development activities directly related to student learning needs identified in school report cards and other sources.
- A description of how the professional development provided will align with New York standards and assessments, teacher capacities and student needs, including linguistic, cultural diversity and special needs. Activities must be articulated across grade levels and subject areas and show how they will be provided and measured in a continuous manner.
- A description of how it will provide teachers and Level III teaching assistants with opportunities to maintain their certificate in good standing by successfully completing 100 hours of professional development every five years.
- A mentoring program to provide support for new teachers in order to ease the transition from teacher preparation to practice, thereby increasing retention of teachers in the public schools, and to increase the skills of new teachers in order to improve student achievement.
- Unless granted an exemption by the Commissioner of Education, a description of how the district will provide professional development to teachers and Level III teaching assistants to address the needs of English Language Learners.

The Board shall establish a Professional Development Team to review and revise the district's Professional Development Plan annually. The Board shall appoint members to the team at the first regular Board meeting in September.

Any changes in the plan must be submitted and approved by the Board of Education by September 1st annually. The Board reserves the right to make changes to the revised plan.

Other Professional Staff and Support Staff

Holders of professional certificates in educational leadership service (i.e., school building leader, school district leader, school district business leader) are required to complete at least 100 hours of continuing education during every 5 year registration period. Unless the district is granted an exemption by the Commissioner of Education, at least 15 percent of those hours shall address the language acquisition needs of English Language Learners.

The district will provide staff development activities for other professional staff and support staff within the financial constraints of the district budget and in accordance with applicable collective bargaining agreements.

Other Staff Development Opportunities

The Board recognizes that many staff development opportunities are provided through non-school district sources. Within budgetary restraints, district employees may attend conferences, workshops, study councils, in-service courses, summer study grants, school visitations, and other relevant staff development opportunities.

Released time and reimbursement for such activities will be available upon approval of the Superintendent and in accordance with applicable collective bargaining agreements. The Superintendent may establish regulations pursuant to this policy to establish the circumstances under which such released time and reimbursement may be available. Staff members who attend such activities will be required to prepare a report or summary of the activity attended.

Cross-ref: 9420, Staff Evaluation

Ref: Education Law §§ 3006-a (required hours); 3604(8) (Superintendent conference days)
8 NYCRR §§ 80-6.3 (required hours); 100.2(o)(2)(iii)(b)(5) (required training on conducting staff evaluations); 100.2(dd) (Professional Development Plans)

Adoption date: February 6, 2019