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Section 5000 – Personnel

5010 Goals and Objectives

5010

The goals of the personnel policies set forth in this policy and rule section are to create the best possible educational climate for the students of the District. To this end, these personnel policies are designed to prevent misunderstanding by District personnel about their duties and privileges. In order to develop, further, a climate of trust and understanding, the Board seeks the involvement of all personnel in the development of policies affecting their positions.

Approved: May 16, 2011

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5020 Equal Employment Opportunity

5020

The Board shall be an equal opportunity employer. The objective of the Board is to attract and retain individuals qualified and/or trainable for the positions in the system by virtue of job-related standards of education, training, experience, and personal qualifications.

The Superintendent is responsible for ensuring compliance and continued implementation of this policy.

Approved: May 16, 2011

LEGAL REF: 42 USCA 2000e-8, 2000e-12; 44 USCA 3501 *et seq.*; 42 USCA 12117 (The Equal Employment Opportunities Act); 29 USCA §§627, 630 (Age Discrimination in Employment Act); 42 USCA §1981 *et seq.* (Civil Rights Act); 28 CFR §42.405 (Title VI of the Civil Rights Act); 42 USCA §2000e, *et seq.* (Title VII of the Civil Rights Act); 20 USCA §1681; 34 CFR §106.8; 34 CFR §106.9 (Title IX of the Education Amendments); MCL 37.1101-1607 (Person's with Disabilities Civil Rights Act); 37.2101-2804 (Elliott-Larsen Civil Rights Act); Michigan Constitution Article I, §2

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5025 Multiracial Understanding

5025

The District recognizes that racism is an instructional and societal problem and, therefore, shall strive to create and maintain an atmosphere of mutual understanding and respect among students, employees, and the public. This will be reflected through all its programs and practices that shall actively promote cultural awareness, inter-group relations, and the understanding of racial and ethnic groups within the District.

Approved: May 16, 2011

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5030 Non-Discrimination and Complaint Procedure (Cf. 2450, 8015)

5030

The District will not discriminate against any person based on sex, race, color, national origin, religion, height, weight, marital status, handicap, age, or disability. The Board reaffirms its long-standing policy of compliance with all applicable federal and state laws and regulations prohibiting discrimination including, but not limited to, Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d. et seq.; and 42 U.S.C. §§ 2000e, et seq.; Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681, et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; The Americans With Disabilities Act of 1990, 42 U.S.C. §§ 1210, et seq.; The Persons with Disabilities Civil Rights Act, MCL §§ 37.1101, et seq.; and The Elliott-Larsen Civil Rights Act, MCL §§ 37.2101, et seq.

The administrator in charge of Special Education is appointed the Civil Rights Coordinator regarding complaints of disability/handicap discrimination involving educational services, programs and activities. The Superintendent is appointed the Civil Rights Coordinator regarding discrimination complaints made by students (grades Pre-K through 12) and/or their parent(s)/guardian(s), and involving sex, race, color, national origin, religion, height, weight, age, or marital status. The Superintendent is appointed the Civil Rights Coordinator regarding all other complaints of discrimination. In the event the complaint is against the Superintendent of Schools, the Vice-President of the Board of Education is appointed the Civil Rights Coordinator.

Inquiries or complaints by students and/or their parent(s)/guardian(s) related to discrimination based on disability/handicap should be directed to:

The Administrator in Charge of Special Education
Climax-Scotts Community Schools
372 S. Main St.
Climax, MI 49034
Phone: (269) 746-2400

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5030 Non-Discrimination and Complaint Procedure (Cf. 2450, 8015)

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Inquiries or complaints made by students (grades Pre-K through 12) and/or their parent(s)/guardian(s) related to discrimination based on sex, race, color, national origin, religion, height, weight, age, or marital status should be directed to:

The Superintendent of Schools
Climax-Scotts Community Schools
372 S. Main St.
Climax, MI 49034
Phone: (269) 746-2400

In the event a complaint is against the Superintendent of Schools, the complaint should be directed to:

The Vice-President of the Board of Education
Climax-Scotts Community Schools
372 S. Main St.
Climax, MI 49034
Phone: (269) 746-2400

All other inquiries related to discrimination should be directed to:

Superintendent of Schools
Climax-Scotts Community Schools
372 S. Main St.
Climax, MI 49034
Phone: (269) 746-2400

The Civil Rights Coordinators, as specified herein, are designated to receive and resolve complaints from any person who believes that he/she may have been discriminated against in violation of this policy. Any person who believes he/she has been discriminated against in violation of this policy should file a written complaint with the Civil Rights Coordinator within ten (10) calendar days of the alleged violation. The Civil Rights Coordinator will take, then, the following action: First, cause an investigation of the complaint to be commenced. Second, arrange for a meeting to occur with the complainant, which may include school District staff who are knowledgeable of the facts and circumstances of the particular complaint or who have particular expertise that will assist in resolving the complaint.

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5030 Non-Discrimination and Complaint Procedure (Cf. 2450, 8015)

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Third, complete the investigation of the complaint and provide, in writing, a reply to the complainant. If the Civil Rights Coordinator determines that a violation has occurred, he/she shall propose a fair resolution of the complaint and deliver the determination to the complainant and the Superintendent. In the event the complaint is against the Superintendent, a copy of the determination shall be delivered to the President of the Board of Education. The complainant may appeal the Civil Rights Coordinator's determination to the Superintendent, or, in the case of a complaint against the Superintendent, to the President of the Board, by so notifying the Superintendent or Board President in writing within the (10) calendar days of the Civil Rights Coordinator's determination. The Superintendent or Board President may conduct additional investigation of the facts and circumstances surrounding the complaint.

The Board Vice-President or President may elect to secure the services of an outside party to investigate the facts and circumstances surrounding any complaint against the Superintendent.

The Superintendent, or Board President in the case of a complaint against the Superintendent, shall affirm or reverse the Civil Rights Coordinator's decision and, if warranted, implement the Civil Rights Coordinator's proposed resolution or a modification thereof. The Superintendent or Board President's decision shall be final.

Upon completion of, or at any point in, the grievance process, complainants have the right to file a complaint with the Office for Civil Rights, US Department of Education, Washington, D.C. 20201. The complainant should first be directed to the following address:

Office for Civil Rights
600 Superior Avenue, Suite 750
Cleveland, OH 44114
(216) 522-4970 phone
(216) 522-2573 fax

Approved: May 16, 2011
LEGAL REF: Included in Text

Climax-Scotts Community Schools

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5035 Discriminatory Harassment of Employees or Applicants

5035

Discriminatory harassment of School District elected officials, employees, or applicants for employment by Board of Education Members, School District employees, vendors, contractors or other doing business with the School District, students, parent(s)/guardian(s), invitees, volunteers or guests will not be tolerated.

Discriminatory harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct relating to an individuals' sex, race, color, national origin, age, religion, height, weight, marital status or handicap/disability when:

- Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment;
- Submission to, or rejection of, such conduct or communication by an employee/applicant is used as a factor in decisions affecting such employee/applicant's employment; or
- Such conduct or communication has the purpose or effect of substantially interfering with an employee's employment, or creating an intimidating, hostile, or offensive employment environment, or otherwise adversely affects an employee's employment opportunities.

Any employee or applicant who believes that he or she has suffered harassment shall immediately report the incident(s) to:

Superintendent of Schools
Climax-Scotts Community Schools
372 S. Main Street
Climax, Michigan 49034
269-746-2400

The School District guarantees that an employee or applicant for employment, reporting an incident of discriminatory harassment will not suffer any form of reprisal.

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5035 Discriminatory Harassment of Employees or Applicants

5035-2

In determining whether the alleged conduct constitutes discrimination or harassment, the totality of the circumstances, the nature of the harassment and the context in which the alleged incident(s) occurred will be investigated. The Administrator in Charge of Personnel and Employee Relations has the responsibility of investigating complaints of discriminatory harassment of employees or applicants. In cases where the alleged harassment involves a member of the Board of Education, the School District will appoint outside legal counsel to investigate the complaint. The results of an investigation and any action taken thereon will be communicated to the complaining person.

In the event the complaint is against the Superintendent, the Vice-President of the Board shall be automatically designated as the recipient and investigator for such complaints. The Vice-President of the Board may elect to employ District legal counsel or other qualified, independent investigators to assist him/her in the investigation, at his/her sole discretion. The Vice President's findings and determination shall be delivered to the President of the Board.

The School District considers discriminatory harassment based on religion, race, color, national origin, age, sex, height, weight, marital status, handicap, or disability to be a major offense, which will result in disciplinary action of the offender. Disciplinary action against a School District employee may include termination of employment. Disciplinary action against a student may include expulsion. Disciplinary action against a Board of Education member may range from Board of Education public censure to removal of the Board Member from an officer position and/or any committee memberships or chairperson positions he/she may hold.

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5035 Discriminatory Harassment of Employees or Applicants

5035-3

Notification

Notice of this policy will be periodically circulated to all school buildings and departments within the District, and incorporated in teacher, student, and parent/guardian handbooks. All new hires of the District will be required to review and sign off on this policy and its related complaint procedure.

Training sessions on this policy and the prevention of sexual harassment shall be held for all Board members, administrators, teachers, and employees of the District. In addition, students will have available as part of their curriculum and instructional program, sessions on this policy and the prevention of student-to-student sexual harassment.

See Appendix A of this section for examples of sexual harassment.

Approved: May 16, 2011

LEGAL REF: MCL 37.2101 *et seq.*, (Elliott-Larsen Civil Rights Act); 380.11a; 20 USCA §1681; 34 CFR §106.8; 34 CFR §106.9 (Title IX of the Education Amendments)

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5035-R Discriminatory Harassment of Employees or Applicants

5035-R

Federal Title Programs

If any person believes the District or an employee of the District has inadequately applied the principles and/or regulations of a federal Title program or believe they have been discriminated against, that person may make a complaint to the local Title coordinator at the following address:

District Title Coordinator
Climax-Scotts Community Schools
372 S. Main Street
Climax, Michigan 49034
269-746-2400

The person who believes they have a valid basis for the complaint shall discuss the matter informally and verbally with the local Title coordinator, who shall investigate the complaint and answer the complaint within two business days. If this reply is not acceptable to the complainant, the complainant may initiate formal procedures according to the following steps:

Step I:

A written statement of the complaint signed by the complainant shall be submitted to the local Title coordinator within five business days of receipt of answers to the informal complaint. The coordinator shall further investigate the complaint and reply in writing to the complainant within ten school days.

Step II:

If the complainant wishes to appeal the decision of the local Title coordinator, that person may submit a signed appeal to the Superintendent within five business days after receipt of the local coordinator's response. The Superintendent shall meet with all parties involved, attempt to arrive at a solution, and respond in writing to the complainant within five school days.

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5035-R Discriminatory Harassment of Employees or Applicants

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Step III:

If the complainant remains unsatisfied, the complainant may appeal in a signed, written statement to the Board within five business days of receipt of the Superintendent's response in Step II. The Board shall meet with the concerned parties and their representatives within 15 days of receipt of the appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten business days of the meeting.

Step IV:

Upon completion of, or at any point in, the grievance process, complainants have the right to file a complaint with the Office for Civil Rights, US Department of Education, Washington, D.C. 20201. The complainant should first be directed to the following address:

Office for Civil Rights
600 Superior Avenue, Suite 750
Cleveland, OH 44114
(216) 522-4970 phone
(216) 522-2573 fax

Sexual Harassment and Intimidation

Any person who alleges sexual harassment by a Board member, staff member or student in this District, may use the procedure detailed in the appropriate current negotiated agreement, faculty handbook, or student handbook, or may complain directly to his/her immediate supervisor, building Principal, school counselor, District Title IX coordinator or grievance officer. Filing a grievance or otherwise reporting sexual harassment will not reflect upon the individual's status, nor will it affect future employment, grades, or work assignments.

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5035-R Discriminatory Harassment of Employees or Applicants

5035-R-3

The right to confidentiality, for both the accuser and the accused, will be respected consistent with the District's legal obligations and with the necessity to investigate allegations of misconduct and to take corrective action when this conduct has occurred.

Grievance Procedure

Upon completion of, or at any point in, the grievance process, complainants have the right to file a complaint with the Office for Civil Rights, US Department of Education, Washington, D.C. 20201. The complainant should first be directed to the following address:

Office for Civil Rights
600 Superior Avenue, Suite 750
Cleveland, OH 44114
(216) 522-4970 phone
(216) 522-2573 fax

Any Board member, employee, or student in the District who believes that he/she has been subjected to discriminatory and/or sexual harassment shall report the incident(s), in the case of an employee, to the Superintendent, immediate supervisor, Title IX coordinator, or grievance officer; in the case of a student, to the building Principal, guidance counselor, Title IX coordinator or grievance officer; in the case of a Board member, to the Superintendent, Title IX coordinator, or grievance officer.

Should a building or central office administrator be the subject of the immediate complaint or have an apparent conflict of interest in relation to it, he or she will not participate in any way in the investigation of or the decision regarding the complaint.

Upon the filing of a complaint, the grievance officer shall conduct a prompt and complete investigation. The officer shall attempt to resolve the problem through the following steps:

1. Interview the complainant and document the interview.
 - a. Request that the complaint be put in writing, if possible.

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- b. Obtain the names of witnesses who can be contacted to substantiate the charges being made and secure permission of the complainant to interview them.
2. Interview the accused and document the interview.
 - a. Re-emphasize the Board’s policy regarding insult, intimidation, and harassment without making judgments at this stage.
 - b. Keep the identity of the complainant confidential, if possible.
3. Interview all witnesses identified by the parties and document the interview.
4. Review the personnel files or student records/files of the complainant and the accused for any history of problems.
5. Make a determination on the merits of the complaint.

■ **If the investigation shows that the complaint is without merit, the following action will be taken:**

1. The investigation will be closed.
2. The grievance officer’s findings and reasons for them will be discussed with the complainant.
3. Consideration will be given to disseminating the results of the investigation to employees or students who have knowledge of it.
4. All references to the complaint will be removed from the accused party’s personnel file.
5. The Board’s policy regarding discriminatory and/or harassment and the mechanism for complaint resolution will be reiterated to all employees or students involved in the investigation.

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5035-R Discriminatory Harassment of Employees or Applicants

5035-R-5

6. All documentation regarding the complaint and the investigation will be maintained in a separate confidential file in the event that litigation is commenced or a charge is filed with the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights.

■ **If the investigation shows that the complaint has merit, the following action will be taken:**

1. The investigation will be closed.
2. The grievance officer will confer with the Board and Superintendent to determine what action is necessary to resolve the complaint and prevent recurrence.
 - a. The complainant should be made whole: in the case of an employee, for any lost earnings, employment opportunities, personnel records should be corrected; in the case of a student, lost educational opportunities, extracurricular opportunities, student records updated; in the case of a Board member; lost opportunities of public service, such as chair of special committees, appointments or professional development opportunities.
 - b. The potential for continuing problems should be alleviated by reassignment where possible.
3. The parties will be advised of the results of the investigation and the actions to be taken.
4. Appropriate discipline will be imposed, as required by the strength of the evidence, the severity of the incident, and the position and prior record of the offender.
5. All actions will be documented and a record placed in the offender's permanent personnel file or student discipline records.

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5035-R Discriminatory Harassment of Employees or Applicants

5035-R-6

6. The Board's policy regarding discriminatory and/or sexual harassment and the mechanism for complaint resolution will be reiterated to all Board members, employees, or students involved in the investigation.
7. All documentation regarding the complaint and the investigation will be maintained in a separate confidential file in the event that litigation is commenced or a charge is filed with the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights.

All complaints, interviews, and investigations will be treated with the strictest confidentiality and utmost discretion. Only those Board members, employees, or students whose participation in the investigation of a complaint was essential to its resolution will be informed of it.

The Board reserves the right to contact outside investigators for sensitive and/or extensive complaints of harassment.

Sanctions

- a. A substantiated charge against a staff member in the District shall subject that staff member to disciplinary action, up to and including discharge.
- b. A substantiated charge against a student in the District shall subject that student to disciplinary action, which may include suspension or expulsion, consistent with the student discipline code.
- c. A substantiated charge against a Board member in the District shall subject that Board member to any legal and disciplinary action allowed under current law.

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5040 Retaliation and Whistle-Blowing

5040

Employees are encouraged to report suspected illegal activity to appropriate School District administrators, or the Board of Education. The Board of Education will not tolerate any form of reprisal, retaliation, or discrimination against:

- Any employee, or applicant for employment, because he/she opposed any practice that he/she reasonably believed to be made unlawful by federal or state laws prohibiting employment discrimination on the basis of sex, race, color, national origin, age, religion, height, weight, marital status, handicap or disability;
- Any employee, or applicant for employment, because he/she filed a charge, testified, assisted or participated, in any manner, in an investigation, proceeding or hearing under federal or state laws prohibiting employment discrimination on the basis of sex, race, color, national origin, age, religion, height, weight, marital status, handicap or disability or because he/she reported a suspected violation of such laws according to this policy; or
- Any employee or applicant because he/she reported, or was about to report, a suspected violation of any federal, state or local law or regulation to a public body (unless the employee knew that the report was false) or because he/she was requested by a public body to participate in an investigation, hearing or inquiry held by that public body or a court.

An employee or applicant for employment who believes that he/she has suffered reprisal, retaliation, or discrimination in violation of this policy shall report the incident(s) to the Administrator in Charge of Personnel and Employee Relations. The Board of Education guarantees that no employee or applicant for employment who makes such a report will suffer any form of reprisal, retaliation, or discrimination for making the report.

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5040 Retaliation and Whistle-Blowing

5040-2

The Board of Education considers violations of this policy to be a major offense that will result in disciplinary action against the offender, regardless of the offender's position within the School District.

Approved: May 16, 2011

LEGAL REF: MCL 15.361 - 369, "The Whistleblowers' Protection Act."

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5140 Policies and Rules Development Involvement

5140

In the development of personnel policies, rules and regulations, which are not mandatory subjects of negotiations under the Public Employee Relations Act, the Board may, to the fullest extent possible, utilize and involve the employees of the District with respect to their ideas, comments, and criticism.

Approved: May 16, 2011

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5160 Qualifications and Duties

5160

A job description for each classification of employees shall be developed by the Superintendent. Such job description shall be on file in the central office and not incorporated within the Board policy handbook.

Approved: May 16, 2011

Section 5000 – Personnel

5170 Recruitment

5170

The Superintendent shall have the authority to establish a procedure for the recruitment of well-qualified personnel to staff the schools. The Superintendent may request building Principals or other staff members to assist in this effort.

Identity and Employment Status

All potential employees of the District shall verify their identity and employment status to the Superintendent.

The Superintendent shall maintain a file on all of the District's employees hired after November 6, 1986, proving that each employee has verified his or her identity, employment status, U.S. citizenship, or legal alien status to the Superintendent's satisfaction. Evidence to be used to verify identity, employment status, U.S. citizenship, or legal alien status should include at least two of the following documents, one of which contains a current photo of the employee: U.S. birth certificate, social security card, and a current driver's license; a state or military identification card; or one of the following: U.S. passport, certificate of U.S. citizenship, certificate of naturalization, unexpired foreign passport, or resident alien card.

Non-Discrimination

The Board shall not discriminate in its policies and practices with respect to compensation, terms or conditions of employment because of such individual's race, color, religion, sex, national origin, height, weight, age, marital status, political belief, disability, or handicap which does not impair an individual's ability to perform adequately in that individual's particular position or activity.

The Superintendent shall have in place all appropriate procedures relative to the Americans with Disabilities Act. This statement of non-discrimination shall be published and disseminated to all students, parent(s)/guardian(s), employees, applicants and the public in a manner determined by the Superintendent.

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5170 Recruitment

5170-2

Title I Compliance

The Superintendent shall insure that the District complies with the provisions of Title I, the No Child Left Behind Act. Manuals and handbooks shall comply with federal law as to the qualifications for instructional personnel. Notice of professional qualifications shall be provided to parent(s)/guardian(s) of students in Title I schools and staffing pattern reviews as required by law shall be conducted annually.

Approved: May 16, 2011

LEGAL REF: 42 USCA §1981 *et seq.* (Civil Rights Act); 42 USCA 2000e-8, 2000e-12; 44 USCA 3501 *et seq.*; 42 USCA 12117 (The Equal Employment Opportunities Act); 42 USCA §2000e, *et seq.* (Title VII of the Civil Rights Act); 20 USCA §1681; 34 CFR § 106.8; 34 CFR §106.9 (Title IX of the Education Amendments); 42 USCA 12116 (The Americans with Disabilities Act); MCL 37.1101-1607 (Person's with Disabilities Civil Rights Act); 37.2101-2804 (Elliott-Larsen Civil Rights Act); 20 USCA 6311(h)(6)(A) (No Child Left Behind Act)

Section 5000 – Personnel

5170-R Recruitment

5170-R

The Superintendent will ensure that all employee manuals or handbooks comply with federal law and include:

- The education and experience required of all new instructional employees;
- Any credentials that current instructional employees must acquire;
- A timetable for the satisfaction of any new requirements;
- The consequences for employees who fail to comply.

All employees are to be advised of the revisions of the handbooks or manuals and of any implications for existing personnel.

The Superintendent will ensure that parent(s)/guardian(s) of students in Title I schools are informed of their right to know the professional qualifications of their child's teacher and will describe where and how this information may be obtained. The Superintendent will monitor Title I schools to ensure that parent(s)/guardian(s) of all students are notified when those students are taught for 4 or more consecutive weeks by a teacher who is not highly qualified as defined by law.

Staffing patterns will be reviewed annually to ensure that poor and minority students are not, at higher rates than are other children in the District, taught by inexperienced, unqualified, or out-of-field teachers. If such patterns are noted, strategies to correct the problem will be developed.

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5175 Criminal History and Background Checks

5175

All potential employees of the District shall verify their identity and employment status to the Superintendent. This will comply with all federal and state laws and regulations.

Upon an offer of initial employment by the Board or upon learning that an individual has been assigned to regularly and continuously work under contract in any of the District's schools, the individual shall have undergone both a criminal history and records check performed by the State Police and FBI. The results shall have been received before the individual is employed unless, under the guidelines in current law, the person may be employed prior to the results being received.

No later than July 1, 2008, the Board shall have requested both a criminal history and records check through the State Police and the FBI for all individuals, as of January 1, 2006, employed by the District or assigned to work under contract regularly and continuously in any of the District's schools.

Only those persons who have been offered a position or contract by the Board and/or Superintendent must undergo a criminal history and records check, not all applicants.

No individual shall be employed, in any capacity, who has been convicted of a listed offense under the Michigan Sex Offenders Registration Act.¹

¹ A listed offense includes any of the following:

- 1) Accosting or soliciting a child for immoral purposes (MCL 750.145a-c);
- 2) Sodomy if the victim is an individual less than 18 years of age (MCL 750.158);
- 3) A third or subsequent violation of any combination of the following:
 - a. Being engaged in indecent or obscene conduct in a public place (MCL 750.167(1)(f))
 - b. Indecent exposure (MCL 750.335a)
 - c. A local ordinance of a municipality substantially corresponding to the above;
- 4) Except for a juvenile disposition or adjudication, gross indecency between males, females, or between a male and female, if the victim was under 18 years of age (MCL 750.338-338b);
- 5) Kidnapping (MCL 750.349);
- 6) Kidnapping under age 14 (MCL 750.350);
- 7) Soliciting and accosting (MCL 750.448);
- 8) Pandering (MCL 750.455);
- 9) 1st, 2nd, 3rd and 4th degree criminal sexual assault, and second or subsequent offenses (MCL 520b-e);
- 10) Assault with intent to commit criminal sexual assault (MCL 750.520g);
- 11) Sexually delinquent persons (MCL 750.10a);
- 12) The attempt or conspiracy to commit any of the above offenses;
- 13) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age; and (Continued next page)

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5175 Criminal History and Background Checks

5175-2

An individual shall not be employed, in any capacity, who has been convicted of a felony, unless the Superintendent and the Board specifically approve the work assignment in writing.

If the District obtains notice from an authoritative source that an individual has been convicted of a listed offense, the individual shall not be employed, in any capacity, or allowed to work under contract regularly and continuously in any of the District's schools.

If the District is notified or learns that a teacher employed with the District has been convicted of a crime listed in MCL 380.1535a(1)-(2), the Superintendent or Board President shall notify the Superintendent of public instruction within 15 days after learning of the conviction.²

14) Any offense substantially similar to the above offenses under a law of the United States, any state, or any country or under tribal or military law.

² MCL 380.1535a(1) includes a conviction for *any felony* and any of the following misdemeanors: 1) criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree; 2) child abuse in the third or fourth degree, or any attempt to commit child abuse in the third or fourth degree; 3) a misdemeanor involving cruelty, torture, or indecent exposure involving a child; 4) a misdemeanor violation of Section 7410 of the Public Health Code (concerning distribution of marijuana to minors near school property); 5) a violation of section 115, 141a, 145a, 335a, or 359 of the Michigan Penal Code (concerning breaking and entering; consumption or possession of alcohol by minors, or controlled substances at social gatherings; soliciting a child for immoral purposes; indecent exposure; and damage to vacant buildings); or a misdemeanor violation of section 81, 81a, or 145d of the Michigan Penal Code (including assault and battery; domestic assault; assault and infliction of serious injury; and using the Internet to commit a crime against a minor); 6) a misdemeanor violation of Section 701 of the Michigan Liquor Control Act (concerning the prohibition of liquor sales to minors); 7) any misdemeanor that is a listed offense; and 8) a violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States – as amended by 2005 PA 130.

MCL 380.1535a(2) includes the following offenses:

- a) Criminal sexual conduct in any degree, assault with the intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree;
- b) Felonious assault on a child², child abuse in the first degree, or an attempt to commit child abuse in the first degree;
- c) Cruelty, torture, or indecent exposure involving a child;
- d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the Public Health Code (concerning unlawful manufacture, delivery, or possession of controlled substances or controlled substance analogues; distribution of marijuana to minors near school property; and recruiting or inducing a minor to commit a felony);
- e) A violation of section 83, 89, 91, 145a-c, 316-17, 350, 448, 455, or 529 of the Michigan Penal Code (concerning assault with intent to commit murder or to steal while armed; attempt to murder; consumption or possession of alcohol by minors, or controlled substances at social gatherings; first and second degree murder; armed robbery; and using the Internet when committing a crime against a minor);
- f) A violation of section 158 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning crimes against nature or sodomy);
- g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning gross indecency between males, females, and between males and females);
- h) A violation of section 349 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning kidnapping);

Section 5000 – Personnel

5175 Criminal History and Background Checks

5175-3

Criminal history and records checks shall be used for employment purposes only. No Board member or employee shall disclose the report or its content, except a felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person other than those directly involved in evaluating the applicant's qualifications for employment.³

Background Checks - Employment History - Unprofessional Conduct

Upon an offer of initial employment by the Board, all persons shall have undergone an unprofessional conduct background check. A staff person may be hired prior to the results of the unprofessional conduct background check following the guidelines in current law.

The Superintendent will promulgate appropriate administrative rules regarding the procedures to be followed in obtaining criminal history and background checks.

Approved: May 16, 2011

LEGAL REF: MCL 380.1230; 380.1230a; 380.1230b; 380.1230c; 380.1535a(9)

-
- i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person – any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16;
 - j) An attempt or conspiracy to commit an offense listed in (a) or (e-i);
 - k) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States; Any crime listed in 1535(1), if the superintendent of public instruction determines the public health, safety or welfare requires emergency action based on the circumstances underlying the conviction.

³ Any person that violates this policy may be found guilty of a crime.

Section 5000 – Personnel

5175-R Criminal History and Background Checks

5175-R

All applicants, employees, and individuals assigned to work under contract regularly and continuously in any of the District's schools shall give written consent for the District to request a criminal history and records check from both the State Police and the FBI.

The Superintendent shall make all requests for criminal records checks on a form and in a manner prescribed by the State Police.

If it is necessary to hire an individual during the school year or within 30 days before the beginning of that school year, the District may employ the individual without first receiving a criminal history or records check from the State Police if:

1. A criminal records check is requested before employing the individual conditionally; and
2. The individual signs a statement identifying all crimes for which he or she has been convicted, and agreeing that if the criminal history and records check is not consistent with the statement, the employment contract is voidable.

No later than July 1, 2008, the Superintendent shall do both of the following for each individual who, as of January 1, 2006, is either a full- or part-time employee of the District, or is assigned to work under contract regularly and continuously in any of its schools:

1. Request a criminal history check on the individual from the State Police.
2. Request a criminal records check through the FBI.

An individual shall be required to submit his or her fingerprints to the State Police for purposes of obtaining these reports. The State Police may charge a fee for conducting the criminal records check.

Section 5000 – Personnel

5175-R Criminal History and Background Checks

5175-R-2

If a District applicant is a substitute teacher, a criminal records report received by another District, ISD, Public School Academy, or nonpublic school or a report maintained by the Department of Education may be used. If no such report is available, a report shall be requested from the State Police.

If a District applicant is being considered for employment by more than one district and the applicant agrees in writing to allow the District to share his or her criminal records report with another District, ISD, Public School Academy, or nonpublic school, the District may satisfy its requirement by obtaining a copy of the report from another institution. If no such report is available, one shall be requested from the State Police.

Section 5000 – Personnel

5180 Unauthorized Release of Information

5180

Employees of the District may have ongoing opportunities to access confidential information or records that are only available to the public on a limited review basis. Much of the information processed by District employees is confidential, and law governs its release; for example, driver record and vehicle registration information, confidential student records, criminal history background check information, information obtained pursuant to Family Independence Agency intervention, and professional misconduct background checks.

It is the policy of the Board that employees are prohibited from divulging information contained in the records and files of the District, except to other, authorized employees who may need such information in connection with their duties and to authorized persons in accordance with law, District policies, and administrative rules.

If an employee is approached to provide information inappropriately, the employee must refuse to release the requested information unless authorized by his/her supervisor or otherwise required to release the information under law or court order. In all cases, the employee's immediate supervisor shall be informed, immediately, of any requests.

Any employee who inappropriately releases information, or uses confidential information obtained in the course of his/her employment with the District for personal reasons or private gain, will be disciplined in accordance with Board policies, collective bargaining agreements, and District procedures. Disciplinary action may include severe penalties, up to, and including, discharge.

The District shall apply the requirements set forth in this policy, equally, to any data processing subcontractor employed. Data processing subcontractors shall, as a condition of their contractual agreement with the District, be required to adopt this, or a similar policy, regarding their own employees.

Section 5000 – Personnel

5180 Unauthorized Release of Information

5180-2

The Superintendent shall promulgate appropriate administrative rules to help assure the confidentiality of records and, particularly, those records obtained through electronic means.

Approved: May 16, 2011

LEGAL REF: Federal Driver Privacy Protection Act of 1994 (18 USC 2721 et seq.);
MCL 257.208c - 208d; MCL 257.903

Section 5000 – Personnel

5180-R Unauthorized Release of Information

5180-R

Employee Competence

1. The District will take steps, through the interview, selection, assignment, and hiring process, to see that any employee, or data processing Subcontractor employee, if any, who is authorized to access driver, vehicle and related records, or who has access to information regarding criminal background checks or unprofessional conduct checks and related records will:
 - 1.) Be adequately trained to access such records;
 - 2.) Be competent to perform that task; and
 - 3.) Conduct each record inquiry in accordance with the standards of technical competency that are generally recognized in the data service industry.

Security of Data

The District will implement the following security requirements whenever and wherever records and/or information obtained through any means, electronic or otherwise, is accessed, stored or disseminated:

1. Use software and hardware that is technologically adequate to prevent unauthorized access to the information.
2. Establish operational programs to prohibit unauthorized inquiries from any terminal or other access site.
3. Institute operational programs to detect unauthorized attempts to penetrate the District's system of electronic records.
4. Provide for the physical security of the District's computer system, with procedures and devices designed to protect against the theft of records and information.

Section 5000 – Personnel

5180-R Unauthorized Release of Information

5180-R-2

5. Secure from each employee (or Subcontractor employee) a signed and approved System Access Request form (or other equivalent form) that grants authority and permission to access driver, vehicle, criminal, or related records directly.

Notice of Information Security Breach

Protection and Prevention

The District will take reasonable security measures to guard against the foreseeable loss or exposure of restricted personal information about staff, students, and parents.

The Superintendent shall oversee a process to identify the following information to be kept on file in the Central Office:

- What information is considered restricted?
- Where does it currently reside?
- How is it protected?
- As included in the District budget, what is the maximum amount to be spent in notifying individuals of a breach? And,
- Who is responsible for providing each level of security for each piece of restricted information?

Restricted personal information is defined as that information protected under federal or state law (FERPA, HIPAA, Michigan Freedom of Information law, etc.). Examples of restricted personal information includes, but is not limited to, social security or other identification number (see policy 5185), financial account access information, medical records, computer passwords and security codes. Restricted personal information does not include information that is lawfully made available to the public pursuant to state or federal law or regulation.

Section 5000 – Personnel

5180-R Unauthorized Release of Information

5180-R-3

A breach of information security refers to an unauthorized acquisition of data in either electronic or paper format. Good-faith acquisition of such information by an employee is not a security breach if the information is not used or is not disclosed to others without authorization.

Incident Response Plan

The District shall consider developing an incident response plan to provide direction in the event of a suspected information breach. That plan should be reviewed annually by staff designated by the Superintendent. In determining whether restricted personal information is reasonably believed to have been acquired by a person without valid authorization, appropriate action should be taken after the following have been considered:

1. Indications that the information is in the physical possession and control of an unauthorized person such as, but not limited to, a lost or stolen computer or document, file or other record containing personal information;
2. Indications that the information has been downloaded or copied;
3. Indications that the information has been used by an unauthorized person to establish fraudulent accounts or instances of identity theft; and
4. Any other factors that the District deems appropriate and relevant to such a determination.

Notice of Information Security Breach

Notification of Breach

Notice of a breach of information security should be provided to the individual whose restricted personal information has been acquired by an unauthorized person. Notification will be made in the most expedient period possible and without unreasonable delay, except when a law enforcement agency advises the District that notification will impede criminal investigation.

Section 5000 – Personnel

5180-R Unauthorized Release of Information

5180-R-4

Notification should be provided to the individual within three (3) working days of discovery of the breach but no later than thirty (30) working days.

Depending on the number of people to be contacted, notification may be in the form of a face-to-face meeting, phone call, posting on a Web site, or sending a written notice to each affected person's home. Notice should include the specific information involved and, when known, an estimate of how long it has been exposed, to whom the information has been released and how the breach occurred. In addition, the individual should be advised whether the information remains in the physical possession of an unauthorized person, if it has been downloaded or copied, and/or, if known, whether it was used by an unauthorized person for identify theft or fraud purposes.

Section 5000 – Personnel

5185 Social Security Number Confidentiality (Cf. 5180)

5185

Pursuant to both state and federal law, it is the policy of this School District to protect the confidentiality of social security numbers. No person shall knowingly disclose, transfer, or unlawfully use the social security number of any employee, student, or other individual.

The Superintendent shall establish rules and regulations to implement this policy. The Superintendent shall ensure that:

1. The confidentiality of social security numbers is maintained to the extent practicable;
2. The unlawful disclosure of social security numbers is prohibited;
3. Access to information or documents containing social security numbers is limited; and
4. Documents containing social security numbers are disposed of properly.

This policy and its rules shall be published in the appropriate handbooks, manuals, and other similar documents. The published document(s) may also be made available electronically.

Persons who violate this policy, or the rules that implement it, may be subject to disciplinary action up to and including suspension or expulsion for students and termination for employees.

Approved: May 16, 2011

LEGAL REF: MCL 445.81 *et seq.*; 18 USC 1028; 5 USC 552a (The Privacy Act of 1974)

Section 5000 – Personnel

5185-R Social Security Number Confidentiality

5185-R

Public Records

Where a social security number is contained within a document subject to FOIA release, the social security number shall be redacted.

Information Collected

Social security numbers should only be collected where required by federal or state law. If a unique personal identifier is needed, then a substitute for the social security number shall be used such as a District-created student identification number not using the social security number.

Whenever the District collects a social security number, the District shall inform the individual of the purpose for the collection, the intended use, whether the law requires the number to be provided, and the consequences of not providing the number.

Public Display

Social security numbers shall not be placed on identification cards, badges, time cards, employee rosters, bulletin boards, or any other materials or documents seen by others widely.

Documents, materials, or computer screens that display social security numbers or other sensitive information shall be kept out of public view at all times.

Social security numbers shall not be required for a District employee, student, or staff member to gain access to the Internet or network.

Mailed or Transmitted Documents

Documents containing social security numbers shall only be sent where permitted by state law.⁴

⁴ A social security number may be included in a mailed document where: 1) It is sent as part of an application or enrollment process initiated by the individual. 2) It is sent to establish, confirm the status of, service, amend, or terminate an account, contract, employee, or health insurance benefit - or to confirm the accuracy of a social security number of an individual who has a account, contract, policy, or employee or health insurance benefit. 3) It is contained in a public record and is mailed in compliance with the freedom of information act. 4) It is a copy of a vital record, which was recorded according to law, and is mailed to a person entitled to receive that record. 5) It is mailed by, or at the request of, an individual whose social security number appears in the document or information or his or her parent or legal guardian.

Section 5000 – Personnel

5185-R Social Security Number Confidentiality

5185-R-2

Documents containing social security numbers, that are sent through the mail, shall not reveal the number through the envelope window or otherwise be visible from outside the envelope or package.

Social security numbers shall not be sent through email unless the connection is secure or the number is encrypted.

No individual shall be required to send his or her social security number through email unless the connection is secure or the number is encrypted.

Telephonic Communications

District employees shall not disclose any social security number over the telephone or leave a voice mail message disclosing any social security number. If a social security number must be faxed, the Fax message shall be accompanied by a transmittal sheet, which includes the District's name, a “Confidential Notice” stating that the information included is intended to be privileged and confidential, and that it is only intended for the use of the individual or entity named on the transmittal sheet.⁵

Access to Social Security Numbers

Only those persons authorized by the Superintendent or building Principal shall have access to social security numbers or other sensitive information. Under no circumstances will any student have access to social security number information for either students or staff.

Storage and Disposal

All documents or files that contain social security numbers or other sensitive material shall be stored in a physically secure manner.

Social security numbers shall not be stored on computers or other electronic devices that are not secured against unauthorized access.

⁵ Cf. 4260

Section 5000 – Personnel

5185-R Social Security Number Confidentiality

5185-R-3

Documents or other materials that contain social security numbers or other sensitive information shall not be thrown away in the trash; they shall be discarded or destroyed only in a manner that protects their confidentiality, such as shredding.

When erasing social security numbers or sensitive information from computers, it shall be ensured that the information is erased completely.

The Superintendent shall establish regular intervals when unneeded sensitive information is disposed of properly.

Improper Disclosures

Any individual who suspects that an improper disclosure of a social security number has been made shall inform the Superintendent.

If the Superintendent suspects that an improper disclosure has been made, he/she shall contact the appropriate authorities.

Policy Availability

All current and future District employees shall be given a copy of the above rules. The District Privacy Policy shall be published in an employee handbook, procedural manual, or another similar document, that may be made available electronically.

Accountability

Any person who fails to comply with the District's Privacy Policy shall be subject to appropriate discipline as determined by the Superintendent.

Section 5000 – Personnel

5190 Staff Development Opportunities

5190

The Board supports the concept of personal development for the staff and to this end, may authorize funding for various activities in its budget.

Personal development opportunities shall follow any guidelines found in the current negotiated master contract(s).

In-Service Education

The Superintendent, in consultation with various groups of the District's staff, shall develop programs of in-service education that will promote the continuous development and improvement of on-the-job performance of its personnel.

Technology

The Board requires that any staff member who uses a computer or an advanced piece of technological hardware or software shall be provided in-service training in its utilization. Newly hired instructional staff must be computer literate.

Approved: May 16, 2011

LEGAL REF: MCL 380.1254; 380.1525; 380.1526

Section 5000 – Personnel

5190-R Staff Development Opportunities

5190-R

Technology

Whenever possible, District staff shall be provided appropriate in-service activities on the use of technology. Such in-service may include: on-site in-service from the manufacturer or vendor, regional in-service from the manufacturer or vendor, travel reimbursement for in-service training, contracted in-service training from individuals or organizations, and in-service training among the District's staff.

Section 5000 – Personnel

5200 Staff Conduct

5200

All staff members have the responsibility to become familiar with, and abide by, the laws of the state of Michigan as they affect their work, the policies of the Board, and the administrative regulations designed to implement them. All staff members shall be expected to carry out their assigned duties, support and enforce Board policies and administrative regulations, submit required reports, protect District property, oversee students, and contribute to the education and development of the District's students.

The Superintendent and building Principals shall assume the major responsibility for interpreting this policy.

Federal Compliance

All employees will be provided with an explanation of both their responsibilities and their rights under law in terms of the actions they may take to maintain order, discipline, and an appropriate educational environment. Training will be provided that defines approved actions, and informs employees that they may be liable for harm when they engage in criminal, grossly negligent or reckless conduct, or act with flagrant indifference to the rights and safety of another person who suffers harm as a result. The Superintendent will develop rules that prescribe the circumstances under which the District administration and/or parent(s)/guardian(s) are to be notified of actions taken, any written documentation of actions taken that is necessary, and other appropriate procedures including staff training.

Staff Appearance

Staff dress and grooming must not disrupt the educational process, interfere with the maintenance of a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.

Approved: May 16, 2011
LEGAL REF: NCLB

Section 5000 – Personnel

5203 Use of District Equipment, Supplies and Materials (Cf. 9250)

5203

Permission must be gained from the appropriate building Principal or immediate supervisor before any District equipment, supplies, or materials may be removed from school grounds.

The building Principal or immediate supervisor may authorize staff members to utilize District-owned equipment, supplies, and materials to develop software and associated documents outside of their work assignment, provided the development of the software is in the best interests of the District. Staff using District equipment, supplies, materials, and software shall comply with all copyright laws. Staff members authorized to use District equipment assigned to them for use off school grounds (such as, but not limited to, laptop computers, cellular telephones, printers or the like) shall assume responsibility for said equipment. Unless specifically authorized otherwise, all such equipment issued to teachers or administrators shall be returned to the District at the end of their annual work year.

In no case shall employees be authorized to borrow, remove, or utilize District equipment, materials, or supplies in connection with any outside employment or any other personal interest. Violations of this policy will result in disciplinary action up to and including discharge and/or the filing of criminal charges.⁶

Recognized bargaining units may use District equipment as provided for in the current negotiated master contract.

Approved: May 16, 2011
LEGAL REF: MCL 19.141; MCL 750.362

⁶ MCL 19.141 Care, preservation, and protection of state buildings and property. The Department of Education, among others named in the act, may prescribe rules and regulations for the care, preservation, and protection of buildings and property dedicated and appropriated to the public use and the control and conduct of those coming upon the property. The act authorizes those having control over property and buildings to file a misdemeanor complaint against those who misuse the property. MCL 750.362 - Larceny by conversion. Any person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered, who shall embezzle or fraudulently convert to his own use, or shall secrete with the intent to embezzle, or fraudulently use such goods, money or other property, or any part thereof, shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided under the Michigan Penal Code. (Underlining added.)

Section 5000 – Personnel

5205 Possessing, Transporting or Transmitting Dangerous Weapons (Cf. 8300) 5205

No person shall possess, transport or transmit a dangerous weapon on School District property, property used by the School District for a school-related purpose, or in a motor vehicle used for a School District-related purpose unless: (a) Prior permission has been granted by the Superintendent; or (b) The person is an on-duty law enforcement officer or, if off duty, the officer is otherwise required by the law enforcement agency to carry a weapon (c) or as otherwise allowed by law.⁷

A dangerous weapon, within the meaning of this policy, shall include, by way of description, such things as a firearm, knife, black jack, baton, iron bar, brass knuckles, martial arts devices, and incendiary and/or explosive devices. Pursuant to federal law, the term firearm includes, but is not limited to, any weapon designed to expel a projectile by the action of an explosive, the frame or receiver of any such weapon, a muffler or silencer for such a weapon, or destructive device.⁸ Any person, including a student, who violates this policy, will be reported to law enforcement authorities. Employees who violate this policy will be severely disciplined, up to and including discharge.

The administrative rules prohibiting students from possessing dangerous weapons is contained in the Student Code of Conduct. The District, pursuant to state law, shall expel students who violate the weapons laws and rules unless one of the statutory exceptions is established.⁹ To comply with federal law, any such exception shall be reduced to writing.

5205 Possessing, Transporting or Transmitting Dangerous Weapons 5205-2

⁷ **28.425o. added Premises on which carrying concealed weapon prohibited; violation.** Sec. 5o. (1) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(f), shall not carry a concealed pistol on the premises of any of the following: (a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, “school” and “school property” mean those terms as defined in section 237a of the Michigan penal code, [1931 PA 328](#), MCL [750.237a](#).

⁸ Pursuant to federal law, the term destructive device means: any explosive, incendiary, or poison gas: bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any or the devices described in the preceding clauses.

⁹ To establish a statutory exception, state law requires clear and convincing evidence that: 1) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon, or 2) the weapon was not knowingly possessed by the pupil, or 3) the pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon, or 4) the weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

Section 5000 – Personnel

Facsimile Weapons

The Board will not tolerate employee possession of any facsimile or “look alike” weapon on school property at any time. It shall be a violation of this policy for any employee or other person to carry, display, or brandish any facsimile of a dangerous weapon with the intent to scare, terrify, alarm, threaten, or intimidate any other person.

Any employee in possession of a replica or facsimile of a dangerous weapon, in violation of this policy will be placed under immediate suspension, pending an investigation of the incident by the appropriate school or legal authorities. In accordance with applicable law and collective bargaining agreements, the Superintendent is authorized to discipline any employee who violates this policy.

Approved: May 16, 2011

LEGAL REF: MCL 380.1311; 750.237a; 18 USCA 921; 20 USCA 7151 (No Child Left Behind Act)

Section 5000 – Personnel

5210 Staff Complaints (Cf. 5030, 5040)

5210

The Board recognizes the need to provide for the orderly resolution of disagreements or complaints arising out of alleged misapplication of a Board policy. Such disagreements or complaints should be resolved at the lowest possible administrative level. The Superintendent shall assure the procedures may be utilized without fear of reprisal.

The procedure established for resolution of grievances in the master contracts negotiated with recognized employee organizations shall apply only to grievances as defined by the particular agreement.

This policy covers any item not covered by a negotiated master contract or subject to negotiations under the Public Employee Relations Act and does not apply to any complaints based upon alleged discriminatory practices.

Approved: May 16, 2011

Section 5000 – Personnel

5210-R Staff Complaints (Cf. 5030, 5040)

5210-R

Complaints by staff members concerning Board policies relating to employment or their implementation shall be resolved by the following procedures:

1. The complaint or grievance shall be discussed informally with the employee's immediate supervisor within 14 calendar days in an attempt to resolve the problem;
2. If the problem is not solved at the informal session, the employee shall formally file the complaint in writing with their immediate supervisor who shall answer in writing within five school days;
3. If the employee is not satisfied with the proposed solution he/she shall, within five school days, file the complaint in writing with the Superintendent. The Superintendent shall investigate the problem and arrange to meet with the employee (and if deemed advisable, a joint meeting with the employee and immediate supervisor), in an attempt to bring about a satisfactory solution. The Superintendent shall answer the employee in writing within ten school days;
4. If the employee is still not satisfied, he/she may, within five school days, request the Superintendent to arrange for a meeting with the Board at which time he/she may present the complaint or concern to the Board. The Superintendent shall schedule a meeting with the Board within ten school days; and
5. The Board shall answer the employee, in writing, not later than the Board's next regularly scheduled meeting, and the Board's decision shall be final. The Board reserves the right to extend the time for a written response as its needs dictate.

Section 5000 – Personnel

5220 Staff-Student Relations

5220

All District employees are expected to maintain relationships with members of the student body, which are conducive to an effective educational environment. All District employees are responsible for the regulation of student conduct.

Threats to Students

Any District employee who threatens to inflict, inflicts, or causes to be inflicted, deliberate physical pain by any means to any student, may be disciplined according to provisions which may be found in the current negotiated master contract or as prescribed by the Board.

Employees found to be in violation of this policy by the Board may be subject to: a letter of reprimand, probation, suspension – either with or without pay as allowable by law or collective bargaining agreements, and/or termination of employment.

Approved: May 16, 2011
LEGAL REF: MCL 380.1312

Section 5000 – Personnel

5230 Employee Conflict of Interest and Ethical Responsibilities (Cf. 5695) 5230

District employees are prohibited from engaging in activities which may be construed as a conflict of interest and detract from the effective performance of their duties. No employee shall attempt, during the school day or on school property, to sell or endeavor to influence any student to buy any product, article, instrument, service, or other such item, which would benefit said school employee directly or indirectly.

Any District employee shall report alleged violations of the conflict of interest policy to the Superintendent. The Superintendent shall make an initial investigation to determine whether said policy has been violated.

Approved: May 16, 2011
LEGAL REF: MCL 15.321 – 323

Section 5000 – Personnel

5230-R Employee Conflict of Interest and Ethical Responsibilities

5230-R

Annually, the Superintendent and any other District employee, deemed by the Superintendent to be in a position to influence the purchase of any goods or services, shall sign and file the "Conflict of Interest Disclosure Form" as found in 4005-R.

Section 5000 – Personnel

5235 Nepotism

5235

The Board shall not employ any teacher or other employee over 18 years of age, if such person is a member of the immediate family of the Superintendent or any member of the Board, except that the spouse of the Superintendent or a Board member may not be denied employment for the sole reason of marital status. Members of the immediate family of the Superintendent or a Board member, who are under 18 years of age, may not be denied employment solely based on their familial status.

No District employee shall be placed in a position in which he/she would be in a direct supervisory relationship with a member of his/her immediate family.

Members of the immediate family shall be defined as father, mother, brother, sister, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law and, for purposes of supervision, husband and wife.

Approved: May 16, 2011
LEGAL REF: MCL 37.2102

Section 5000 – Personnel

5245 Political Activities

5245

Staff members who intend to become candidates for political office are asked to notify the Superintendent within five days of the date on which the declaration of candidacy is filed to discuss the compatibility of the office regarding continued employment with the District.

Approved: May 16, 2011

LEGAL REF: MCL 15.181-185; 15.322; 15.401-407

Section 5000 – Personnel

5250 Employee Use of Electronic Communications Devices

5250

The Board recognizes that employees may carry electronic communications devices either District-issued or personally owned and hereby adopts this policy.

District-Issued Communications Devices

The District may elect to issue certain communications devices to employees in order to increase the efficiency of District operations. Issuance and use of District equipment shall be subject to rules promulgated by the Superintendent.

Personally Owned Communications Devices

Employees may carry and use personally owned cellular telephones or pagers/beepers on school property subject to rules and regulations promulgated by the Superintendent.

Approved: May 16, 2011

LEGAL REF: MCL 380.1303 (PA 132 of 2003)

Section 5000 – Personnel

5250-R Employee Use of Electronic Communications Devices

5250-R

While employees are allowed to possess and carry electronic communications devices on school property, such possession and use are subject to the following administrative rules:

District-Issued Communications Devices

Communication devices issued by the District may include, for example, cellular telephones, walkie-talkies, personal digital assistants (PDA's) or laptop computers with "wireless capabilities," citizens band radios, either installed in vehicles or hand-held, and pagers/beepers.

Employees in receipt of District-issued equipment shall be held responsible for the safekeeping of the equipment and exercise reasonable efforts to see that the equipment is not lost, stolen, or damaged. Reckless or irresponsible use of District equipment, resulting in loss or damage may result in the employee having to reimburse the District for any associated costs of replacement or repair.

Any such devices issued shall be with the expectation that they are to be used, almost exclusively, for District-related business purposes and are not intended for personal use except in emergencies involving employee health or safety.

District-issued equipment shall be used in a manner that does not disrupt instruction and should not be used during school-sponsored programs, meetings, in-services, or other events where there exists a reasonable expectation of quiet attentiveness unless there is a reason of personal health or safety involved.

Any District-issued equipment is to be surrendered back to the District immediately upon request.

Personally Owned Electronic Communications Devices

Employees may possess and carry cellular telephones, pagers/beepers, and PDA's or laptops with wireless capabilities during the school day on school property.

Section 5000 – Personnel

5250-R Employee Use of Electronic Communications Devices

5250-R-2

Personally owned hand-held citizens band radios, portable police scanners, and long or short-range walkie-talkies should not be used or carried by employees on school property during the school day unless by specific permission of their immediate supervisor based on a personal health or safety need.

Cellular telephones and pagers/beepers should not be used during the employee's normal duty times to send or receive messages of a personal nature, but such use is allowable during normal break times, lunch times, and preparation times. Use of cellular telephones or audible pagers/beepers should be curtailed during instructional time or at school-sponsored programs, meetings, in-services, parent(s)/guardian(s) conferences, or any other time when there would be a reasonable expectation of quiet attentiveness.

Any employee violating the above rules may be subject to disciplinary action.

Section 5000 – Personnel

5300 Personnel Records

5300

One, official personnel file shall be maintained by the District for each employee. Personnel files kept by the District concerning employees shall be kept in a secured location and under the custodianship of the appropriate District or building supervisor. Complete personnel files of employees who have left the District shall be similarly kept, but in an inactive file, for not less than seven years. A permanent record of the employee's years of work, assignments, and salary/wage paid shall be kept in perpetuity.

Approved: May 16, 2011

LEGAL REF: MCL 15.231 *et seq.*; 423.501-512

Section 5000 – Personnel

5300-R Personnel Records

5300-R

Employee files shall include, but not be limited to: Application, recommendations, college or educational credentials, transcripts, correspondence, anecdotal notes, and evaluation reports.

The Board may have access to personnel files of employees when such access is deemed necessary by the Board in the employee-employer relationship. Individual Board members shall not have access to personnel files or records except as may be allowed by law and accorded to any other citizen.

Administrators or supervisors in the course of conducting their duties shall have access to the personnel files of employees.

Additional provisions regarding employee personnel files may be found in a current copy of the negotiated master contract.

Permanent records of an employee's years of work, assignments and salary/wages paid may be retained on microfilm, computer disk, CD-ROM or the like at the discretion of the administration.

Section 5000 – Personnel

5330 Travel Expenses (Cf. 1168, 3600)

5330

The Board shall provide reimbursement for expenses incurred in travel related to the performance and duties of the District's employees when approved in advance by the Superintendent.

Approved: May 16, 2011

Section 5000 – Personnel

5330-R Travel Expenses (Cf. 1168, 3600)

5330-R

Authorization for reimbursed travel expenses will be considered by the Superintendent. Mode of travel shall be based on the availability of transportation, distance, and number of persons traveling together.

Receipts for transportation, parking, hotels or motels, meals and such other expenses for which receipts are ordinarily available shall be attached to expense vouchers. For the authorized use of a personal car, staff members shall be reimbursed at a mileage rate established by the Board.

Section 5000 – Personnel

5335 Health Records - HIPAA

5335

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) grants individuals the right to receive notice of the uses and disclosures of their protected health information (PHI) that may be made by the District, and sets forth the individual's right's and the District's legal obligations with respect to PHI. The District declares itself a hybrid entity under the law.

The District will maintain all PHI in accordance with law. Protected health information does not include information contained in student education records covered by the Family Educational Rights and Privacy Act (FERPA) or employment records held by the District in its role as an employer.

Protected health information will only be available to designated employees who need to have access to those records in their employment capacity with the District and with other authorized entities. Employees will not disclose or use PHI unless an appropriate written consent/authorization exists, an actual emergency exists, or unless otherwise authorized by law. The District will train all employees who may have contact with protected health information on the law and the District's policies and procedures as necessary and appropriate for the employee's position. Any employee failing to comply with District policies, procedure, or law may be disciplined or terminated.

The District will not intimidate, threaten, coerce, discriminate against or take other retaliatory action against any individual for exercising his or her rights; participating in any process; filing a complaint; testifying, assisting or participating in an investigation, compliance review, proceeding or hearing; or in good faith opposing any act or practice the individual believes is unlawful, in accordance with law.

The District's privacy official is:

Superintendent of Schools
Climax-Scotts Community Schools
372 S. Main Street
Climax, Michigan 49034
269-746-2400

Climax-Scotts Community Schools

Section 5000 – Personnel

5335 Health Records - HIPAA

5335-2

The District privacy official's duties include but are not limited to:

- Developing and implementing the District's policies and procedures regarding protected health information;
- Receiving and evaluating requests for amendments of protected health information;
- Answering questions regarding privacy issues;
- Providing training to District employees; and
- Reviewing and deciding appeals concerning complaints initially decided by the contact person.

The District's contact person and security official is:

Superintendent of Schools
Climax-Scotts Community Schools
372 S. Main Street
Climax, Michigan 49034
269-746-2400

The District contact person/security official's duties include, but are not limited to:

- Receiving and reviewing complaints;
- Determining whether a violation of policy or procedure has occurred, determining the potential harmful effects, and deciding upon an action to minimize the harm;
- Referring violators to appropriate administrators for possible discipline;
- Providing information about matters covered in the District's privacy notices;
- Insuring that notices of privacy practices are distributed as required by law;
- Developing and implementing the District's security policies and procedures; and
- Performing tests and assessments of technology safeguards at the direction of the Superintendent or designee.

Approved: May 16, 2011

LEGAL REF: 20 U.S.C. § 1232g (FERPA); Health Insurance Portability and Accountability Act (HIPAA), 42 USCA § 210 *et seq.* (P.L. 104-191 of 1996); 45 C.F.R. §§ 160.101 *et seq.*; 164.102 *et seq.*

Climax-Scotts Community Schools

Section 5000 – Personnel

5340 Staff Health and Safety (Cf. 5370)

5340

The Board shall attempt to ensure staff health, safety, and protection during working hours.

The Board shall comply with the provisions of the federal and Michigan Occupational Safety and Health Act as they apply regarding the employee's right to know of hazardous conditions or materials. The Superintendent shall develop appropriate procedures for informing staff.

Approved: May 16, 2011

LEGAL REF: Michigan Constitution Article VIII, §3; MCL 408.1001-1094 (Michigan Occupational Safety and Health Act)

Section 5000 – Personnel

5340-R Staff Health and Safety (Cf. 5370)

5340-R

Staff Protection

An employee who has suffered assault in connection with employment shall immediately report the incident, in writing, to the building Principal, and shall make such supplemental written reports as needed.

The Board, upon recommendation of the Superintendent, shall reimburse an employee when the employee's personal property, except for automobile, is soiled, damaged, or destroyed by students or non-students through acts of personal physical assault and when such losses occur during the employee's performance of the employee's school duties. Such reimbursement shall be considered only after the employee has first been reimbursed through his/her insurance carrier and shall be limited to \$100. All such losses must be reported in writing to the Principal within 10 days.

Section 5000 – Personnel

5345 Staff Smoking and Tobacco Products

5345

District employees shall not smoke or use tobacco products in any building or on school grounds.

District employees shall not smoke or use tobacco products when they are involved with students or when supervising student activities whether on or off District property.

Approved: May 16, 2011
LEGAL REF: MCL 750.473

Section 5000 – Personnel

5350 Alcohol and Drug-Free Workplace

5350

The use, distribution, dispensation and/or manufacturing of controlled substances, as defined by state and federal law, or alcoholic or “look-alike” alcoholic beverages, by District employees on District grounds, in District buildings and/or in connection with any District activity or function, is prohibited.

Any District employee who violates the above policy may be subject to disciplinary action, up to and including termination of employment. In addition, the employee may be required to participate, satisfactorily, in an alcohol or drug assistance rehabilitation program approved by the Board in order to continue employment with the District.

Any District employee who has been found guilty of violating a criminal drug statute in the workplace shall notify the Superintendent within five days after a conviction relating to the drug offense.

The Superintendent shall notify the appropriate federal, state, or local law enforcement agency within ten days after receiving notice of a workplace related drug conviction on the part of the employee.

Approved: May 16, 2011

LEGAL REF: 49 CFR 382.601 (Anti-Substance Abuse Act)

Section 5000 – Personnel

5357 Family and Medical Leave

5357

The Board shall comply with the 1993 Family and Medical Leave Act as amended.

Employees with at least 1 full year of service and at least 1,250 hours of work in the last 12 months are entitled to unpaid leave of up to 12 weeks in any one-year period for the birth/adoption of a child or for serious personal or family health reasons. A qualified employee who is the spouse, son, daughter, parent, or next of kin to a member of the Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness, may also take up to 26 weeks of leave to care for that member of the Armed Forces. A qualified employee may take FMLA leave of up to 12 weeks in response to a covered family member's, "qualifying exigency," that arises out of a call to active duty service in support of a contingency operation.

Leaves may be continuous or intermittent with the agreement of the employee and the Superintendent. Benefits shall continue during the leave upon payment of appropriate contributions.

An FMLA leave is limited to 12 or 26 weeks in any 12-month period. The 12-month period will be measured on a "rolling" 12-month basis, from the employee's last use of FMLA leave.

Upon conclusion of the leave, the employee shall be returned to the same position or an equivalent position. If the employee does not return as scheduled, termination from the position may result.

The Superintendent shall enact rules to implement this policy and reserve all rights to require proper documentation of all leaves under the Act and this policy.

Section 5000 – Personnel

5357 Family and Medical Leave

5357-2

The Superintendent shall use and incorporate the definitions from the FMLA statutes and regulations, post appropriate notices for employees, make forms available as needed, and keep the FMLA notices and forms up to date.

Approved: May 16, 2011

LEGAL REF: 29 USCA 2601 *et. seq.*; 29 CFR 825.200 (Family and Medical Leave Act of 1993). See also: www.dol.gov/esa/whd/fmla

Section 5000 – Personnel

5358 Bus Driver Alcohol and Drug Testing

5358

The Superintendent shall be responsible for implementing an alcohol and drug-testing program for school bus drivers. The Board may enter into partnership agreements with other Districts to comply with federal law.

The purposes of the testing program are to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by a bus driver and to comply with federal law.

Bus drivers are prohibited from any alcohol use, which could affect on-the-job performance. Such use includes: use of alcohol on the job; alcohol use during the four hours before driving; having prohibited concentrations of alcohol in his/her system; and alcohol use during eight hours following an accident.

Bus drivers shall not report for duty or remain on duty which requires the performance of safety-sensitive functions when the driver uses any controlled substances except when such use is pursuant to the instructions of a physician who has advised the driver that the controlled substance does not adversely affect his/her ability to safely operate a motor vehicle.

Such alcohol and drug testing shall be performed on drivers for: pre-employment (drugs only), pre-duty, reasonable suspicion, random, post-accident, return-to-duty, and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations.

An employee covered by the federal regulations may not refuse to take a required test.

Approved: May 16, 2011

LEGAL REF: 49 CFR §40.1 (Omnibus Transportation Employee Testing Act)

Section 5000 – Personnel

5370 Communicable Diseases - Staff and Students (Cf. 8510)

5370

In order to minimize the spread of contagious diseases among students and staff, the District will cooperate, fully, with the Kalamazoo County Health Department to enforce adherence to the Michigan Health Code for the prevention, control, and containment of communicable diseases.

A decision to close schools due to communicable disease outbreaks shall be made by the Superintendent, or designee, in consultation with the Kalamazoo County Health Department medical staff.

A student with or carrying a communicable and/or chronic infectious disease has all rights, privileges, and services provided by law and the District's policies.¹

Approved: May 16, 2011

LEGAL REF: MCL 333.5111; 333.5131; Family Educational Rights and Privacy Act of 1974, MDE Bulletin, September 23, 1999

¹ A student with a contagious disease is probably a "handicapped individual" under Section 504 of the Rehabilitation Act (29 U.S.C. § 794(a)). See *Thomas v Atascadero Unified School District*, 662 F. Supp.376 (C.D. Cal 1986) (a child with Aids was a "handicapped person" under Section 504).

Students with contagious diseases may also qualify for special education under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 *et seq.*)

Decisions to place a student in a class outside regular classes due to infectious disease must be based on medical evaluations indicating a need to protect the health and safety of others. *Community High School District 155 v Denz*, 463 N.E.2nd 998 (2nd Dist. 1984).

Cases involving contagious diseases are highly fact-specific. Generally, the appropriate treatment of a student depends on the severity of the disease and the risk of infecting others, but in all cases, legal counsel should be consulted.

Section 5000 – Personnel

5370-R Communicable Diseases - Students and Staff (Cf. 8510)

5370-R

- A. The Principal will not permit a student to enter school who is out of compliance with the required immunization schedule. School personnel shall assist as necessary in completing and coordinating all immunization dates, waivers, and exclusions, including the necessary Immunization Assessment Program forms, to provide for preventable communicable disease control.
- B. All reportable communicable diseases will be referred to the Kalamazoo County Health Department in accordance with Michigan statutory and administrative guidelines.
- C. The decision to close schools due to communicable disease outbreaks is at the discretion of the school District's administration. Consultation on such decisions is available from the Kalamazoo County Health Department.
- D. Mandatory screening for any of the following listed communicable diseases (see paragraph E) of all students/employees as a condition of attending work/school or as a condition for employment shall not be required.
- E. Communicable diseases considered a serious concern to the community and/or the afflicted individual will be addressed by a Communicable Disease Review Panel (C.D.R.P). This C.D.R.P. will serve as resource to the school District to provide specific procedures for the situation.
- F. When the C.D.R.P. is formed to review a situation involving a person with a communicable disease in the schools, the Board will be informed by the Superintendent. The Board shall be notified initially that the C.D.R.P. is meeting and the decision of the C.D.R.P. when a decision is made concerning the person with a communicable disease.

Communicable diseases that are serious in nature include:

1. AIDS - Acquired Immune Deficiency Syndrome.
2. ARC - AIDS Related Complex.

Section 5000 – Personnel

5370-R Communicable Diseases - Students and Staff (Cf. 8510)

5370-R-2

3. Persons infected with HTLV-III/LAV-Human T-Cell Lymphotropic Virus/Lymphadenopathy Associated Virus.
4. Hepatitis B.
5. Other like diseases that may be included by the health department that may present potentially serious health problems for those who come in contact with the disease and/or the disease carrier.

Communicable Disease Review Panel

A. Purpose

The C.D.R.P. shall serve as a resource to the local school District for specific communicable disease instruction, protocol, procedures, and to make recommendation concerning:

1. Specific serious communicable disease cases
2. Epidemic control regarding any communicable disease occurrence

B. C.D.R.P. Membership

The C.D.R.P. shall have a membership that will be limited to the following representatives:

1. The Superintendent who will serve as chairperson
2. Physician with expertise in the related disease
3. Physician treating the individual
4. A physician from the Kalamazoo County Health Department
5. Parent/Guardian (if individual student case) or the staff person affected (or his/her representative) or the affected student of 18 years of age or older (or his/her representative). It would be permissible for both parents/guardians to attend or for a person to bring a representative as long as it is with the understanding that they only have one vote.
6. The school nurse (if such a staff person is available.)

Section 5000 – Personnel

5370-R Communicable Diseases - Students and Staff (Cf. 8510)

5370-R-3

Operation Guidelines for the C.D.R.P.

- A. Upon notification of the existence or suspicion of an affected staff person/student, the Superintendent may, after consultation with a physician from the Kalamazoo County Health Department within 24 hours, inform in writing the affected staff person, parent(s)/guardian(s) of an affected student or an affected student 18 years of age or older, that the affected person may not attend work/school or any school sponsored activity until the C.D.R.P.'s or Superintendent's written recommendations have been received. Possible alternative delivery of school programs shall be made available to the affected student.
- B. The C.D.R.P. shall have access to any relevant material or testimony concerning the affected individual and his/her behavior as it relates to the communicability of the disease. The C.D.R.P. shall consider existing federal, state, and local guidelines and have the authority to consult any experts as they deem necessary.
- C. The C.D.R.P. shall make a written recommendation as to whether the affected person should continue to be involved in the public school setting.
- D. As recommended in the State Guidelines, the C.D.R.P.'s decision for students should be based on the behavior, neurological developments, and physical conditions of the child, setting, and the risks and benefits to both the affected student and others in the educational setting.

For an affected employee, the C.D.R.P. should consider in its determination:

1. The physical/mental condition of the school employee;
 2. The expected type of interaction with others in the school setting; and
 3. The impact on both the affected school employee and others in that setting.
- E. If the recommendation is to allow the person to continue in the public school setting, then the C.D.R.P shall make a written recommendation regarding whether precautions should be taken within the school environment.

Section 5000 – Personnel

5370-R Communicable Diseases - Students and Staff (Cf. 8510)

5370-R-4

- F. If the recommendation is to exclude the person from the public school setting, the C.D.R.P. shall make a written statement as to the conditions under which they would reconsider the denial.
- G. The C.D.R.P. shall make a recommendation as to the need to review the case on a periodic basis and the timelines for such a review.

Case Review Process

- A. The Superintendent shall obtain the name of the physician treating the affected person and shall request that the physician be a part of the C.D.R.P. The parent(s)/guardian(s) or affected person shall provide the school District with a release of information so that the C.D.R.P. may review the needed information.
- B. Upon notification of the existence or suspicion of an affected staff person/student, the C.D.R.P. chairperson shall, within five business days, call a meeting of the C.D.R.P., at which time the case shall be reviewed. The affected staff person, parent(s)/guardian(s) of an affected student, or an affected student 18 years of age or older will have an opportunity to present written reports and verbal testimony to the C.D.R.P.
- C. If the C.D.R.P.'s decision is unanimous, the chairperson shall, within three business days of the decision, inform in writing that decision to the affected staff person, parent(s)/guardian(s) of an affected student, or an affected student 18 years of age or older will have an opportunity to present written reports and verbal testimony to the C.D.R.P.
- D. If the C.D.R.P.'s decision is not unanimous, the Superintendent shall receive, within two business days of the conclusion of the hearing, a summary of each C.D.R.P. member's position. The Superintendent shall then make the final determination within three business days of the receipt of the C.D.R.P.'s summaries. Copies of this decision will be sent to the affected person, parent(s)/guardian(s) of an affected student, or an affected student 18 years of age or older, the Board and the C.D.R.P.

Section 5000 – Personnel

5370-R Communicable Diseases - Students and Staff (Cf. 8510)

5370-R-5

- E. If the affected person/student's parent(s)/guardian(s) do/does not accept the decision of the C.D.R.P./Superintendent, such persons may file, within five business days, a written request to the Board asking it to hear their appeal. The Board shall establish a date for such a hearing within two business days upon receipt of said appeal. Upon the conclusion of the hearing, the Board shall render its decision within five business days and send copies of their decision to the affected staff member, the parent(s)/guardian(s) of the affected student or to an affected student 18 years of age or older.
- F. If the decision of the C.D.R.P is not unanimous and if a majority of the members of the C.D.R.P. does not agree with the decision of the Superintendent, they may appeal that decision on their own behalf to the Board. All timelines for such an appeal will be the same as outlined in the appeal process in paragraph E above.
- G. If the student is a special education student, a copy of the C.D.R.P.'s decision shall be sent to the Director of Special Education. The Director shall then convene an Individual Educational Planning Conference (IEPC) within three business days of the receipt of the report. The IEPC shall consider the recommendation of the C.D.R.P. in determining the program and services. If the parent(s)/guardian(s) request(s) a hearing as a result of the IEPC recommendation, a placement of the student in the interim will be based upon the recommendation of the C.D.R.P.
- H. All persons involved in these procedures will be required to treat all proceedings, deliberations, and documents in compliance with the provisions of the Family Education Rights and Privacy Act (FERPA), the Freedom of Information Act, and the Employees Right to Know Act. Any employee found to have violated the confidentiality of any proceedings connected with policy 5370, or these rules, will be subject to disciplinary action up to and including discharge.

Section 5000 – Personnel

5410 Professional Staff Contracts (Cf. 2400)

5410

The employment of teachers shall be secured through written contracts according to their status as a probationary or tenured teacher.

The Superintendent is authorized to sign teacher contracts on behalf of the Board. All provisions of individual contracts shall comply with the negotiated master agreement.

Compensation and Benefits

Provisions of this section are generally covered in the negotiated master agreement and/or staff contract.

Approved: May 16, 2011
LEGAL REF: MCL 380.1224; 380.1231

Section 5000 – Personnel

5430 Hiring (Cf. 5020)

5430

The Board has the legal responsibility of approving the staffing levels for all categories of District personnel. In addition, they are responsible for the formal approval of all teacher and administrative contracts. Once the Board through the budget adoption process has approved staffing levels, the Board delegates to the Superintendent the authority to recruit, screen, select, and recommend the employment of all staff members to fill the positions approved in the budget, and to sign employment contracts on the Board's behalf.

In carrying out this responsibility, the Superintendent may involve appropriate administrative and/or non-certified staff members, school Board members, as well as community members in the interview process as needed. Use of special criteria developed by the Board and/or the staff can be used as appropriate.

It is the intent of the Board to honor, in most instances, the recommendations of the Superintendent regarding teachers or administrators to be hired and contracted by the Board. However, the Board reserves the option to proceed on its own in such matters should it so desire.

Approved: May 16, 2011

LEGAL REF: MCL 380.601(a) (1) (d), MCL 380.1229 and MCL 380.1231

Section 5000 – Personnel

5430-R Hiring (Cf. 5020)

5430-R

To aid in obtaining the best available staff members for the District's schools, the District shall use the following general criteria in the selection process for initial employment:

- Teaching candidates, if selected, will be assigned to teach primarily their major field and/or major subject area, with elementary education defined as a major field; and
- Staff enhances the highest quality of instruction when they have a wide variation in educational preparation, background, and previous experience. Therefore, candidates recommended for employment shall reflect the best efforts of the administration to recognize this fact, subject to the available pool of candidates.

The employment of any staff member is not final or official until an actual contract is offered by the Superintendent and is signed by both the Superintendent and the candidate.

The employment sequence shall be as follows:

- The written offer of employment to the candidate;
- Verification by the candidate of receipt of the offer to employ;
- Superintendent's recommendation to the Board that the candidate be contracted;
- Board approval of the contract for administrators;
- Issuance of the actual contract to the candidate and candidate's acceptance signified by a signed contract returned within two weeks to the Superintendent. The Superintendent, in unusual circumstances, can extend the two-week deadline.

Section 5000 – Personnel

5500 Teaching Staff Probation and Tenure

5500

All teachers during the first four full school years of employment shall be on probation, unless he or she has previously received tenure at another Michigan School District.

During this probationary period, the Board will ensure that the teacher is provided with an individualized development plan (IDP) and given an annual year-end performance evaluation, as provided for under current law. While it is not a requirement of law that an IDP be provided during a teacher's first year of employment, the District may elect to provide an IDP during that year. Additional performance evaluations or classroom observations, in addition to those required under the Teachers' Tenure Act, may be required as noted in the current negotiated agreement.

Tenure

Teachers attain continuing tenure, as a matter of law, after the satisfactory completion of their probationary period. Once tenure has been attained, the teacher shall remain on continuing tenure as provided for under current law.

The Board may recommend the discharge or demotion of a continuing tenure teacher only for reasonable and just cause and only as provided for under current law.

Continuing tenure will not be granted to any annual assignment of extra duty for extra pay.

Administrative Tenure

Administrators or teachers employed in assignments other than that of classroom teacher, shall be employed without continuing tenure in their other position, but will retain continuing tenure status in their teaching position. The Superintendent is responsible for seeing that appropriate stipulations to this effect shall be provided in all contracts of employment executed by the Board with such employees.

Section 5000 – Personnel

5500 Teaching Staff Probation and Tenure

5500-2

Administration of Tenure

Provisions for evaluation of administrators and teachers are a priority of the Board. The Superintendent is responsible for developing procedures in agreement with the current negotiated agreement for meeting these priorities.

Approved: May 16, 2011
LEGAL REF: MCL 38.71 *et seq.*

Section 5000 – Personnel

5520 Evaluation

5520

Any evaluation procedures found in the negotiated agreement shall be followed in the development, maintenance, or change of the District's evaluation policy, rules, regulations, or procedures.

The evaluation instrument adopted by the Board governing evaluation of the teaching staff is on file in the central office and shall be published in the teachers' handbooks.

Availability of Evaluation Documents

The evaluation instrument shall be available to the Superintendent, evaluating administrator, or supervisor under whose direct supervision the teacher will work and others authorized by law.

Approved: May 16, 2011
LEGAL REF: MCL 38.71 *et seq.*; 15.268

Section 5000 – Personnel

5525 Master Teachers

5525

The Board has established the following qualifications in determining who shall be eligible to serve as master/mentor teachers in the District:

It is expected that the master/mentor teacher will:

- Have demonstrated excellence in teaching and/or knowledge of a specific field of study;
- Have three to five years teaching experience, and have participated in professional development to remain current and maintain a high level of expertise;
- Be an active and open listener, sensitive and responsive to the ideas of others;
- Be an active participant in the role as mentor for the duration of the probationary period;
- Be competent in communication skills and have demonstrated successful “people skills”; and
- If possible, be a practitioner in the same certification or specialty area as the new teacher with whom she/he is paired, and be located in the same building.

Approved: May 16, 2011
LEGAL REF: MCL 380.1526

Section 5000 – Personnel

5540 Suspension and/or Dismissal of Professional Staff

5540

The Board may discipline, or proceed with charges to dismiss or demote, any probationary teacher, or recommend dismissal of any tenured teacher or administrator upon recommendation by the Superintendent in accordance with the Michigan Tenure Act and/or within the provisions of law and/or the current negotiated master contract.

The Superintendent or building Principal shall make written recommendations to the Board concerning an employee on probation that, in his/her judgment should be considered for dismissal or to proceed on charges against any tenured teacher being considered for a recommendation for dismissal.

Any action for non-renewal of the Superintendent's contract or the contract of any Assistant Superintendent, Principal, Assistant Principal, Guidance Director, and other administrators who do not assume tenure in that position shall be under the provisions of law. (MCL 380.1229)

The Superintendent is authorized by the Board to suspend from active duty any teacher against whom formal charges are anticipated being filed or have already been filed, until a decision is rendered or unless the Board acts to reinstate said teacher.

Teacher Convictions

Generally, if a teacher is suspended, the teacher's salary shall continue during the suspension.

However, if a teacher is suspended and

- The teacher is convicted of a felony that is not a listed offense or a misdemeanor that is a listed offense, upon the Board's discretion, the teacher's salary may be discontinued upon the date of conviction.¹⁰

¹⁰ A listed offense includes any of the following:

- 1) Accosting or soliciting a child for immoral purposes (MCL 750.145a-c);
- 2) Sodomy if the victim is an individual less than 18 years of age (MCL 750.158);
- 3) A third or subsequent violation of any combination of the following:
 - a. Being engaged in indecent or obscene conduct in a public place (MCL 750.167(1)(f))
 - b. Indecent exposure (MCL 750.335a)
 - c. A local ordinance of a municipality substantially corresponding to the above;
- 4) Except for a juvenile disposition or adjudication, gross indecency between males, females, or between a male and female, if the victim was under 18 years of age (MCL 750.338-338b);
- 5) Kidnapping (MCL 750.349);
- 6) Kidnapping under age 14 (MCL 750.350);

Section 5000 – Personnel

5540 Suspension and/or Dismissal of Professional Staff 5540-2

- The teacher is convicted of a felony that is a listed offense; the Board shall discontinue the teacher’s salary upon the date of conviction.
- The teacher pleads guilty, no contest, or is convicted of a crime listed in MCL 380.1535a(2), the Board shall discontinue the teacher’s salary.¹¹

Under such circumstances, all discontinued wages shall be held in an escrow account until the Superintendent of Public Instruction makes a final determination of whether or not to suspend or revoke the individual’s teaching certificate.

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-
- 7) Soliciting and accosting (MCL 750.448);
 - 8) Pandering (MCL 750.455);
 - 9) 1st, 2nd, 3rd and 4th degree criminal sexual assault, and second or subsequent offenses (MCL 520b-e);
 - 10) Assault with intent to commit criminal sexual assault (MCL 750.520g);
 - 11) Sexually delinquent persons (MCL 750.10a);
 - 12) The attempt or conspiracy to commit any of the above offenses;
 - 13) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age; and (Continued next page)
 - 14) Any offense substantially similar to the above offenses under a law of the United States, any state, or any country or under tribal or military law.

¹¹ MCL 380.1535a(2) includes the following offenses:

- a) Criminal sexual conduct in any degree, assault with the intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree;
- b) Felonious assault on a child¹¹, child abuse in the first degree, or an attempt to commit child abuse in the first degree;
- c) Cruelty, torture, or indecent exposure involving a child;
- d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the Public Health Code (concerning unlawful manufacture, delivery, or possession of controlled substances or controlled substance analogues; distribution of marijuana to minors near school property; and recruiting or inducing a minor to commit a felony);
- e) A violation of section 83, 89, 91, 145a-c, 316-17, 350, 448, 455, or 529 of the Michigan Penal Code (concerning assault with intent to commit murder or to steal while armed; attempt to murder; consumption or possession of alcohol by minors, or controlled substances at social gatherings; first and second degree murder; armed robbery; and using the Internet when committing a crime against a minor);
- f) A violation of section 158 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning crimes against nature or sodomy);
- g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning gross indecency between males, females, and between males and females);
- h) A violation of section 349 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning kidnapping);
- i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person – any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16;
- j) An attempt or conspiracy to commit an offense listed in (a) or (e-i);
- k) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States; Any crime listed in 1535(1), if the superintendent of public instruction determines the public health, safety or welfare requires emergency action based on the circumstances underlying the conviction.

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If the individual's teaching certificate is suspended or revoked, all wages will be forfeited. If the individual's teaching certificate is not suspended or revoked, the individual shall be paid all withheld wages without interest. Should a person's conviction be reversed on appeal, that person shall be treated in a manner consistent with applicable law.

Reporting Crimes and Convictions

All District employees shall disclose criminal charges or convictions to the Superintendent as prescribed by law.

Failure to report being charged or convicted of a crime may result in dismissal.

The Superintendent will promulgate appropriate administrative rules regarding the procedures to be followed in the event of any complaints or criminal charges being filed against members of the professional staff.

Approved: May 16, 2011

LEGAL REF: MCL 38.71-121; 380.1229; 380.1230d; 380.1535a; 380.1539b

Section 5000 – Personnel

5540-R Suspension and/or Dismissal of Professional Staff

5540-R

General Procedure for Handling Complaints about a Member of the Professional Staff (Cf. 9450)

Complaints will be investigated fully and fairly, and the employee's rights to due process¹² shall be protected at all times under these rules, applicable law, or in compliance with appropriate collective bargaining agreements.

Whenever a complaint is made directly to the Board as a whole or to a Board member as an individual, it shall be referred to the administration for study and possible solution. The employee involved will be informed and shall be given every opportunity for explanation, comment and presentation of the facts as the employee sees them. The employee shall also be given the opportunity to meet with the person(s) making the complaint if the employee so desires.

The employee involved may request a closed session of the Board for a full study and decision by this body. Statutory provisions for closed sessions of the Board shall be observed.

Generally all parties involved, including the administration, will be asked to attend such a meeting to present additional facts and clarify the issues. Hearsay and rumor shall be disregarded as will any emotional display.

The Board shall conduct such meetings in as fair and just a manner as possible. The Board may request a disinterested third party to act as moderator to help the Board reach a mutually satisfactory solution.

¹² Due process includes both substantive and procedural due process. Substantive due process protects employees from arbitrary, capricious, irrational, or unreasonable action (requires that a rule or a disciplinary decision must be rationally related to a legitimate state interest). Procedural due process includes the concepts of proper notice to the accused and the right to a hearing before a property interest is taken away. The extent of the procedures due depends on the nature of the interest being taken away, i.e., the more that could potentially be taken away, the more procedural protections must be provided. If the maximum penalty that could be imposed is relatively small, only a small amount of procedural due process is required.

Section 5000 – Personnel

5540-R Suspension and/or Dismissal of Professional Staff

5540-R-2

Reporting Crimes and Convictions

Pursuant to law, any person employed by the District, who has applied for a position with the District, or who regularly and continuously works under contract in any of the District's schools that is charged with a crime listed in MCL 380.1535a(1) shall notify the District and the Department of Education that he or she has been charged with the crime.¹³

Any person who reports being charged with a crime, and who is subsequently not convicted, may request that the District and the Department of Education delete the report from its records. Upon such request, the District shall delete the report.

Any person employed by the District or who regularly and continuously works under contract in any of the District's schools that pleads guilty, no contest, or is convicted of a crime listed in MCL 380.1535a(1) shall immediately notify the court and prosecuting attorney that he or she is employed with the District. The person must also notify the Superintendent and the Department of Education that he or she has been convicted of the crime.

The Superintendent shall provide notice to all employees and contractors of the duty to report criminal charges and convictions.

¹³ MCL 380.1535a(1) includes a conviction for *any felony* and any of the following misdemeanors: 1) criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree; 2) child abuse in the third or fourth degree, or any attempt to commit child abuse in the third or fourth degree; 3) a misdemeanor involving cruelty, torture, or indecent exposure involving a child; 4) a misdemeanor violation of Section 7410 of the Public Health Code (concerning distribution of marijuana to minors near school property); 5) a violation of section 115, 141a, 145a, 335a, or 359 of the Michigan Penal Code (concerning breaking and entering; consumption or possession of alcohol by minors, or controlled substances at social gatherings; soliciting a child for immoral purposes; indecent exposure; and damage to vacant buildings); or a misdemeanor violation of section 81, 81a, or 145d of the Michigan Penal Code (including assault and battery; domestic assault; assault and infliction of serious injury; and using the Internet to commit a crime against a minor); 6) a misdemeanor violation of Section 701 of the Michigan Liquor Control Act (concerning the prohibition of liquor sales to minors); 7) any misdemeanor that is a listed offense; and 8) a violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States – as amended by 2005 PA 130.

Section 5000 – Personnel

5540-R Suspension and/or Dismissal of Professional Staff

5540-R-3

Hearing Procedure – Complaints against Employees

The formal hearing provided for in Board policy shall be conducted in accordance with the following procedures and the employee shall have the following rights under the hearing procedure:

- The right of the employee to have counsel of their own choice present and to receive the advice of counsel or other person the employee may select;
- The right of the employee and his/her counsel or advisor to hear or read a full report of testimony of witnesses against the employee;
- The right of the employee and/or his/her counsel to confront and cross-examine witnesses who appear in person at the hearing;
- The right of the employee to present his/her own witnesses;
- The right of the employee to testify in his/her own behalf and give reasons for his/her conduct and address the accusations against him/her;
- The right of the employee to have an orderly hearing; and
- The right of the employee to a fair and impartial decision based on substantial evidence.

In these procedures, “counsel” means any person the employee selects to represent and advise him/her at all proceedings conducted according to these procedures.

Section 5000 – Personnel

5560 Resignation of Professional Staff

5560

Resignation

Teachers and administrators may resign by giving written notice to the Superintendent of Schools at least 60 days prior to September 1 of the ensuing school year, unless other arrangements are mutually agreed upon. The Superintendent shall immediately accept the resignation, in writing, and shall include a copy of the Michigan Teacher Tenure Act in the letter of acceptance. Any teacher or administrator discontinuing his/her service in any other manner shall forfeit any rights to continuing tenure as a teacher previously acquired, and such action shall become part of the personnel record of said teacher or administrator.

In instances where a teacher or administrator wishes to leave on shorter notice, the Superintendent may permit an earlier release on condition that satisfactory arrangements can be made for replacement. The Superintendent's decision in such matters shall be final.

Other employees may resign at any time, as conditioned by applicable collective bargaining agreements. "At will" employees may resign at any time.

Once a resignation is tendered to the Superintendent, and has been accepted, in writing, by the Superintendent, that resignation shall be considered final.

The Superintendent, at his/her option, may develop procedures for an "exit interview" of all employees who will not be returning to the District.

Approved: May 16, 2011
LEGAL REF: MCL 38.71-121

Section 5000 – Personnel

5560-R Resignation of Professional Staff

5560-R

Exit Interview Form

Completing this form is optional, and neither this form nor any information contained herein shall be placed in your personnel file. The information you provide will help the District monitor its recruiting, training, and retaining of employees. Return completed form to your immediate supervisor or to the Central Office designee.

EMPLOYEE'S NAME _____
Last Name First Name Middle Initial

JOB TITLE _____ School or DEPARTMENT _____

DATES OF EMPLOYMENT _____
Beginning Date Ending Date

WHY ARE YOU LEAVING THE DISTRICT? *Check the box that best describes your reason for leaving.*

- Retirement Resignation/New employment Termination/Dismissal

If "new employment," please check the boxes that best describe your new position.

- Promotion Better salary Better benefits More convenient location

YOUR EVALUATION OF THE DISTRICT *Check the boxes that best describe your employment with the District.*

Categories to Rank	Very Satisfied	Satisfied	Dissatisfied*	Very Dissatisfied*
Nature of job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Utilization of skills/training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Performance appraisals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Training/development programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Opportunities for advancement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Salary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Co-workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benefits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Immediate supervisor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
School/District management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
School/District policies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work load	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall, as a place to work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*If you marked any of the categories as "Dissatisfied" or "Very Dissatisfied," please write your explanation on a separate sheet of paper and attach it to this form.

Section 5000 – Personnel

5560-R Resignation of Professional Staff

5560-R-2

WHAT DID YOU LIKE LEAST ABOUT YOUR JOB?

WHAT DID YOU LIKE BEST ABOUT YOUR JOB?

IN WHAT AREAS COULD THE DISTRICT IMPROVE TO RETAIN QUALIFIED PERSONNEL?

WOULD YOU RECOMMEND THE DISTRICT AS A PLACE TO WORK? Yes No

If "no," why not?

REMINDER: *Please return keys and/or other District-provided materials before you leave.*

Employee's Signature

Date

Section 5000 – Personnel

5640 Non-School Employment/Outside Business Interests

5640

Employees shall not be permitted to engage in outside employment that, by its nature or duration, will impair the effectiveness of their instructional service, adversely affect their professional status, reflect detrimentally on the District, raises a question of conflict of interest, requires, or implies the use of any District facilities or equipment.

In addition, such employment, business, business venture, job, or other outside interest or responsibility shall not reflect on the District detrimentally, raise a question of conflict of interest, establish or imply any District sponsorship or responsibility, or require, or imply the use of the name of the District, District logos or insignia, or any District facilities, property, or equipment.

Employees are prohibited from soliciting District students during school hours or by using school personnel, facilities, equipment, records, or supplies, to promote or advertise non-School District sponsored camps, travel trips, special schools, tutoring services, or other activities through which the employee will realize financial gain or advantage. If students of the District are solicited through advertising outside the school and off school premises, but it is obvious that the activity or event is aimed at students of the District primarily, the employee will provide a written “Disclaimer Statement” to any District student and their parent(s)/guardian(s). The “Disclaimer Statement” shall state clearly that the School District is not sponsoring, approving, endorsing or otherwise participating in any way with the student activity.

Approved: May 16, 2011
LEGAL REF: MCL 15.401

Section 5000 – Personnel

5640-R Non-School Employment/Outside Business Interests

5640-R

Date:

Dear Parent/Guardian:

The Climax-Scotts Community School District is aware that (name of teacher, coach, or other employee) has organized a trip or activity independently for members of the _____ school (name of team, club, or student group) to travel to (destination) over the (spring, winter, summer) break period from (date) to (date) to attend the (statement of purpose.) Mr. /Mrs. / Ms Doe and other adult chaperones will be paid a stipend by the _____ Travel Agency for their participation in the trip.

In addition, please be advised that the trip to the (description of trip or activity) is, in no way, a District-sponsored or school-related event. The District disclaims, expressly, any responsibility for any injuries or harm of any kind to any person or damages to any property that may occur because of or during the (trip or activity) organized by (name of teacher, coach, or other employee.)

The District urges you to take the travel arrangements, including mode of transportation and supervision, into consideration before allowing your child to participate in the (trip or activity.)

If you have any questions after your review of this letter, please contact me at _____. Please return a signed and dated copy of this letter to me at least 5 days prior to the trip.

Very truly yours,

(Administrator’s Name)

(Title)

cc: (Name of teacher, coach, or other employee)

I have read and I understand this letter: _____
Signature of Parent/Guardian Date

Section 5000 – Personnel

5645 Consulting

5645

Teaching employees may be excused by the Superintendent to perform technical or instructional services as consultants to other Districts, government agencies or private industry.

Approved: May 16, 2011

Section 5000 – Personnel

5645-R Consulting

5645-R

Requests for approval to serve as a consultant shall be submitted in writing to the Superintendent, who shall forward the same together with his/her recommendation to the Board for consideration.

Section 5000 – Personnel

5650 Tutoring for Pay

5650

No teacher shall tutor his/her own students for pay unless otherwise specifically set forth as allowable in the negotiated master agreement.

Approved: May 16, 2011

Section 5000 – Personnel

5685 Arrangement for Substitutes (Cf. 7840)

5685

Substitute teachers shall be obtained to provide for a level of instruction commensurate with the regular teacher's performance as nearly as practicable. All substitutes shall be duly certified as provided for under current State Department of Education rules. The Board shall establish, as needed, a daily compensation rate for substitute personnel.

Approved: May 16, 2011

LEGAL REF: MCL 380.1236; 421.42; 421.50; OAG, 1985-1986, No 6360, p 283 (May 13, 1986)

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5685-R Arrangement for Substitutes

5685-R

Each Principal shall make suitable arrangements for securing necessary substitutes in the building.

Whenever a teacher is to be absent from teaching duties, such teacher shall notify the Principal as early as possible or shall arrange to have some other responsible person notify the Principal as early as possible of the teacher's inability to report for work. The length of the teacher's absence shall be predetermined, if possible. In any event, upon returning to duty, the teacher shall notify the Principal in time to discontinue the service of the substitute.

Section 5000 – Personnel

5695 Ethics (Cf. 5230)

5695

A teacher, in the performance of his/her duties, shall:

- Recognize basic dignities of all individuals with whom he/she interacts in the performance of his/her duties;
- Exercise due care to protect the mental and physical safety of students, colleagues and subordinates for whom he/she is responsible;
- Be accountable for maintaining his/her integrity and shall avoid accepting anything of substantial value offered by another which is known to be or which may appear to be for the purpose of influencing his/her judgment or performance of his/her duties;
- Accurately represent his/her qualifications; and
- Be responsible to present any subject matter in a fair and accurate manner.

Approved: May 16, 2011

Section 5000 – Personnel

5710 Compensation Guides and Contracts- Non-Certified Staff

5710

Definition

“Non-certified staff” shall be defined as all employees who are not required or expected to hold teacher certification or other professional licensure, nor required to complete the renewal hour requirements of state law for teachers or administrators. This classification shall include, by example, but not limitation: Teacher aides/assistants, secretarial and clerical staff, transportation staff, maintenance staff, building and grounds staff, security personnel, paraprofessionals, custodial staff, and information technology staff.

Pay Rates

Non-certified staff shall be paid according to pay rates established by the negotiated master contract and/or as the Board establishes.

No public funds will be spent by the Board in the form of wages or salary for any school employee to sponsor any religious activity. No public funds will be spent by the Board to pay any expenses of any student or school employee to attend any religious activity or conference.

Approved: May 16, 2011

Section 5000 – Personnel

5715 Fair Labor Standards Act Compliance

5715

The Superintendent shall establish administrative rules, regulations, and procedures that are necessary to keep the District in compliance with the Fair Labor Standards Act of 1938, as amended, and the federal regulations pertaining thereto.

Approved: May 16, 2011

LEGAL REF: 29 U.S.C. 201, et seq., the Fair Labor Standards Act of 1938.

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5715-R Fair Labor Standards Act Compliance

5715-R

As a District, we will put forth every effort to comply with the FLSA¹⁴ through attention to the following administrative rules and regulations.¹⁵

Any employee found to be knowingly and willfully negligent in his/her attention to these rules will be subject to appropriate disciplinary action up to and including discharge.

Employee Overtime

Under the Fair Labor Standards Act (FLSA), the federal government has required that covered employers pay one and one half times an employee's hourly wage for all hours worked in excess of 40 in one week if the employee is eligible for overtime. No employee eligible for overtime under the FLSA should be permitted to work overtime or claim "overtime" pay unless that pay has been authorized, in advance and in writing, by the employee's supervisor of record.

Supervisors are not to authorize "overtime pay" for any employee in excess of two (2) hours in any given pay period without prior approval of the Superintendent. "Overtime" should be considered a very unusual circumstance prompted only by emergencies or catastrophes and shall never be considered to be a regular employment practice of this District unless otherwise directed by the Board.

¹⁴ Under the Fair Labor Standards Act (FLSA), the federal government has required that covered employers pay one and one half times an employee's hourly wage for all hours worked in excess of 40 in one week if the employee is eligible for overtime pay.

The consequences of violating the Fair Labor Standards Act can be severe involving civil or even criminal actions against those who violate the Act.

The Department of Labor has the authority to assess a \$1,000 civil monetary penalty per employee for each repeated or willful violation of the law. The statute of limitations on FLSA claims are generally two years; however the limitations period is three years for "willful" violations. Establishing a "willful" violation is relatively easy, as the standard is whether the employer "knew" or had a "reckless disregard" for knowing whether its conduct violated its overtime obligations under the law. Allowing covered employees to work beyond 40 hours per week without added compensation or mutual agreement for compensatory time could mean, in addition, that the District is accruing liability for payment to the Michigan Public School Employees Retirement System.

Apart from civil penalties, the Department of Labor may also pursue criminal penalties for willful violations. An employer may be fined \$10,000 for a first willful offense of the Act. A second conviction may result in incarceration for up to six months. Finally, individual supervisors may be held liable under the Act subject to the penalties above.

¹⁵ The information to develop these administrative rules was provided by Mr. John Gierak, J.D. of Clark Hill, PLC, Attorneys at Law. MASB thanks Mr. Gierak and Clark Hill, PLC for giving MASB permission to use their materials in the development of these administrative rules relative to policy 5715.

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5715-R Fair Labor Standards Act Compliance

5715-R-2

Definitions

Exempt Employees

With few exceptions, to be “exempt” from FLSA coverage, an employee must (a) be paid at least \$23,600 per year (\$455 per week), and (b) be paid on a salary basis vis-à-vis hourly, and also (c) perform exempt job duties. These requirements are outlined in the FLSA Regulations (promulgated by the U.S. Department of Labor). Most employees must meet all three "tests" to be exempt.

Salary Basis: The salary basis pay requirement for exempt status does not apply to some jobs (for example, doctors, lawyers, schoolteachers, and school administrators or supervisors are exempt even if the employees are paid hourly).

Exempt executive job duties: Job duties are exempt executive job duties if the employee:

1. Supervises two or more other employees regularly, and also
2. Has management as the primary duty of the position, and also,
3. Has some genuine input into the job status of other employees (such as hiring, firing, promotions, or assignments).

Supervision means what it implies. The supervision must be a regular part of the employee's job, and must be of other employees. Supervision of non-employees does not meet the standard. The "two employees" requirement may be met by supervising two full-time employees or the equivalent number of part-time employees. (Two half-time employees equal one full-time employee.) "Mere supervision" is not sufficient. In addition, the supervisory employee must have "management" as the "primary duty" of the job. The FLSA Regulations contain a list of typical management duties. These include (in addition to supervision):

- Interviewing, selecting, and training employees;
- Setting rates of pay and hours of work;
- Maintaining production or sales records (beyond the merely clerical);

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5715-R Fair Labor Standards Act Compliance

5715-R-3

- Appraising productivity; handling employee grievances or complaints, or disciplining employees;
- Determining work techniques;
- Planning the work;
- Apportioning work among employees;
- Determining the types of equipment to be used in performing work, or materials needed;
- Planning budgets for work;
- Monitoring work for legal or regulatory compliance;
- Providing for safety and security of the workplace.

Non-Exempt Employees - Are all employees who do not meet the “exempt” employee test as set forth above.

General Business Practices

It shall be the responsibility of District staff to see that the following business practices are implemented:

1. Job descriptions are to be kept up-to-date to reflect the actual duties of employees.
2. All District policies or practices regarding compensation or overtime are to be in writing. There are to be no “informal” understandings.
3. If there are employees who work more than one job, the two jobs are not considered separately for FLSA purposes even if there are two contracts with different terms and compensation.
4. Buildings and departments are to keep accurate FLSA records.

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5715-R Fair Labor Standards Act Compliance

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5. Compensatory time – Any agreement for compensatory time must be reached in advance of the work being done, and must be reached with the employees' collective bargaining representative, if they are so represented. Under any compensatory time rule or collective bargaining agreement, the employee may only accrue up to 160 overtime hours (or 240 comp time hours), thereafter any overtime hours worked must be paid. Employees must be permitted to use comp time, if allowed at all, within a "reasonable period" after the request is made so long as using it does not "unduly disrupt" the normal operations of the District. Also, if an employee quits or is terminated all unpaid comp time must be paid to the employee.
6. Overtime will accrue for non-exempt employees who serve as volunteer coaches on a regular basis or schedule. Supervisors are to be aware of the possibility of FLSA overtime rules for such employees.
7. Bus Drivers whose routes may take longer than the hours the driver is scheduled to work are to be paid for actual hours worked. Possible violations of overtime rules are to be scrutinized by supervisors.
8. Non-exempt employees who have a 30-minute or more lunch but are expected to eat with students shall be considered to be "on duty" and must be paid accordingly. The lunch must be duty free or the employee must be compensated for the time.
9. Time records are to be retained for at least 3 years.
10. There are to be no "routine exceptions" granted to formal FLSA policies.

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5715-R Fair Labor Standards Act Compliance

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11. It is permissible for school employees to volunteer their services to assist with “occasional and sporadic” school programs or functions without accruing overtime as long as the services are not connected with their “regular” job.
12. Employees are not to be allowed to keep their own time records without supervisory oversight.
13. School employees working functions held at school, but sponsored by others may be accruing “overtime.” Such employment shall be carefully supervised and monitored to avoid possible FLSA violations.
14. Unpaid Lunches must be 30 minutes or more and must be duty free. Employees should not “work through lunch” and/or “eat at their desk” even if doing so on a supposedly “voluntarily” basis.
15. Employees that stay after scheduled hours because they have “too much work to do, etc.” are working overtime for purposes of FLSA and such overtime must be approved in advance, in writing, by the supervisor.
16. All non-exempt employees are to be required to sign their time records.
17. Non-exempt employees expected or required to attend training sessions during the summer or on weekends during the school year, are probably accruing overtime if more than 40 hours are worked that week and must be paid or mutual arrangements must be made for compensatory time.

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5715-R Fair Labor Standards Act Compliance

5715-R-6

18. Employees are to be directed to report for work at their scheduled time and leave at their scheduled time (understanding that on some days the “scheduled time to report” and the “scheduled time to leave” may be adjusted. Example: Employees who are called in early for snowplowing in the winter and, then released early so as not to exceed 8 hours.) The practices of voluntarily “coming to work early and/or staying late” in order to get more work done must be discouraged unless approved in advance.
19. Non-exempt employees are not to “take work home” nor be expected to work, or even volunteer, on a regular basis at early morning breakfast programs, or regularly participate in opening/closing school; or in setting up and cleaning up after functions/events.

Responsibilities of Administrators/Supervisors

1. The information in these administrative rules is to be included in employee handbooks.
2. Make sure the FLSA posters are in places where non-exempt employees can readily see the posters. The FLSA requires the posters to be in "conspicuous places."
3. Attend training when offered and read information distributed about how records should be completed and how records should be maintained (note: all time records should be maintained for at least three years).

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5715-R Fair Labor Standards Act Compliance

5715-R-7

4. Make sure all schools, departments, organizations, etc. keep accurate time records signed by all employees. Record keeping is the first key to FLSA compliance. It is important to understand that the records must reflect actual time worked. Recording scheduled hours for each workday wherein the employee simply initials is not sufficient time-keeping records. Make sure that all employees are notified that the time-keeping records must reflect actual time worked. Wherever possible, electronic time clocks shall be used to record time worked.
5. Review time records carefully to minimize employment for more than 40 hours per workweek by support personnel. Review should occur at least quarterly.
6. Impose appropriate discipline, if an employee works overtime without prior written approval from a supervisor.
7. Examine the structure of school-operated after-school programs and avoid employment of any personnel for a total or more than 40 hours a week in all jobs worked because in most instances, a program at school is going to be considered school employment even if the program is federally or privately funded outside of the school budget.
8. Pay for all overtime at the end of the pay period in which it is worked, or give compensatory time whether the overtime was properly approved or not.
9. Minimize (or, if possible, eliminate) dual assignments where the normal combined number of hours to be worked exceeds 40 per workweek. Adopt a system-wide policy regarding dual employment.

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5715-R Fair Labor Standards Act Compliance

5715-R-8

10. Use certified employees in coaching positions and as bus drivers, if properly licensed to drive a school bus, when possible and allowable by collective bargaining agreements for band trips, athletic events, etc.

Internal Employment Audit

At the discretion and direction of the Superintendent, the District may conduct an “Internal Employment Audit” regarding FLSA compliance on occasion. A basic audit will consist of the following:

1. A general review of all District employment policies and employee handbooks.
2. Spot checks to ensure appropriate employment postings are actually posted.
3. A spot review of employment records and retention to ensure compliance with federal and state law, as well as accuracy.
4. A brief review of the employment forms used by the District.
5. An overall review of whether, at the building or departmental level, written policies, and administrative rules are being properly followed and implemented.
6. A review of the District's job descriptions.
7. A review of the District's hiring procedures.

Results of any internal audit will be made known to the Board of Education for their information and review.

Section 5000 – Personnel

5725 Qualifications and Duties- Non-Certified Staff

5725

A job description for each classification of non-certified employees shall be developed by the District's administration. The Superintendent may involve the non-certified employees in the development of job descriptions. Job descriptions shall not be included in these policies/rules but will be filed and published in the appropriate handbook.

Approved: May 16, 2011

Section 5000 – Personnel

5730 Recruitment- Non-Certified Staff (Cf. 5020)

5730

The Board will authorize the employment of non-certified employees as the needs of the District dictate and upon recommendation of the Superintendent.

The Superintendent may recruit non-certified personnel to fill existing or proposed vacancies and recommend that the District hire the best-qualified person available.

In recruitment or filling vacancies, the Superintendent shall comply with the provisions of any applicable negotiated master contract.

Approved: May 16, 2011

Section 5000 – Personnel

5740 Non-Certified Positions

5740

All non-certified positions in the District shall be established initially by the Board.

Although positions may remain temporarily unfilled or the number of persons holding the same type of position may be reduced as a reduction in force, only the Board may abolish a position that it has created.

Approved: May 16, 2011

Section 5000 – Personnel

5750 Part-Time and Substitute Non-Certified Staff

5750

The Superintendent is authorized to employ part-time and/or substitute non-certified personnel under the provisions of the current negotiated master contract(s).

The Superintendent shall be responsible to establish procedures for arranging substitutes in case of non-certified staff absences.

Salary for non-certified substitutes shall be according to rates established as needed by the Board upon recommendation of the Superintendent or as may be provided in the current negotiated master contract(s).

Approved: May 16, 2011

Section 5000 – Personnel

5770 Non-Certified Staff Orientation

5770

The Superintendent and administrative staff shall provide for the orientation of non-certified employees.

Approved: May 16, 2011

Section 5000 – Personnel

5770-R Non-Certified Staff Orientation

5770-R

Orientation of new, non-certified staff shall not only include the specific job assignment, but also a general orientation to the District, its function, the importance of the individual and his/her job to the total District operation, and the basic premise that all employees, regardless of their positions, contribute to the education of students, and that his/her contribution is the justification for their employment. Other topics, such as training in Bloodborne pathogens, basic first aid, handling of emergencies, etc. may be included at the discretion of the administration.

Section 5000 – Personnel

5780 Non-Certified Staff Probation

5780

All non-certified staff shall be considered to be on probation during the first 90 calendar days of employment or as otherwise provided in a negotiated master agreement. The Superintendent shall provide for appropriate supervision and evaluation of the employee prior to the end of said period. If a person other than the Superintendent performs the evaluation, he/she shall make a recommendation to the Superintendent as to the continued employment of the probationary staff member.

Employees assigned to a new or different position shall be considered to be on probation in said position for the first 60 calendar days of assignment or as otherwise provided in a negotiated master agreement or as extended by the Board.

Approved: May 16, 2011

Section 5000 – Personnel

5790 Supervision of Non-Certified Staff

5790

The Superintendent has the responsibility to arrange for the supervision of all non-certified employees not directly under the supervision of a building Principal. A building Principal has the responsibility to supervise all non-certified employees who are assigned to the building, as provided for within the context of 5725.

Approved: May 16, 2011

Section 5000 – Personnel

5800 Evaluation of Non-Certified Staff

5800

Evaluation shall be based on the achievement of results specified in the employee's position description and on specific goals and objectives.

Employees may be evaluated at least twice during the probationary period with a report submitted to the Superintendent at least two weeks prior to the end of the probationary period with a recommendation as to continued employment.

Following the probationary period, non-certified employees shall be evaluated at least annually regardless of whether the employee is new to the District or serving in a new position within the District.

Approved: May 16, 2011
LEGAL REF: MCL 15.268; 380.1250

Section 5000 – Personnel

5830 Suspension and Dismissal of Non-Certified Staff

5830

The Superintendent may suspend, discipline, or dismiss non-certified staff. The Superintendent shall adhere to any relevant provisions contained in the negotiated master contract with the employee's collective bargaining unit.

The Superintendent is authorized to suspend non-certified staff with or without pay.

At-Will Employees

Non-certified employees who are not part of a recognized bargaining unit may be terminated at any time upon written notice from the Superintendent. The written notice may state the reason(s) for the termination at the option of the Superintendent.

Approved: May 16, 2011

Section 5000 – Personnel

5850 Resignation of Non-Certified Staff (Cf. 5560)

5850

Any non-certified staff member desiring to resign from his/her position with the District shall submit a written resignation to the Superintendent at least ten working days prior to the effective date of the resignation. Unless otherwise agreed to by the Superintendent, failure to give at least ten working days notice will void any potential benefits that might accrue to the employee following separation from the District.

The Superintendent is authorized to accept resignations of non-certified personnel on behalf of the Board and they become final upon his/her acceptance. The Superintendent shall present all resignations to the Board for information.

Approved: May 16, 2011

Section 5000 – Personnel

5860 Reduction of Non-Certified Staff

5860

When reduction in staff is necessary for employees where provisions are not covered in contracts, the administration shall make recommendations, which in its judgment will be beneficial to the District. Though length of service may be considered as a criterion for making such recommendations, it shall not be the sole determining factor considered.

Approved: May 16, 2011

Section 5000 – Personnel

5930 Leaves and Absences – Non-Certified Staff

5930

Leaves and absences for non-certified personnel not covered by a negotiated master contract may include provisions for: Sick leave, disability leave, personal leave, military leave, business leave, jury duty, and others as provided by the Board and current law.

Approved: May 16, 2011

LEGAL REF: 29 USCA §2619; 29 CFR §825.300; 29 CFR 825.301, 29 CFR §825.209
(Family Medical Leave Act)

Section 5000 – Personnel

5935 Military Leave

5935

Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Superintendent shall grant military leave to employees for voluntary or involuntary service in the uniformed services of the United States, upon receipt of the required notice. Benefits shall be maintained for these employees as required by law and/or collective bargaining agreements. A service member who returns to the District for work following a period of active military duty must be reinstated to the same or similar position and at the same rate of pay unless otherwise provided by law.

Time spent in active military service shall be counted in the same manner as regular employment for purposes of seniority or District service unless otherwise provided in a collective bargaining agreement.

The District will not discriminate in hiring, reemployment, promotion or benefits based upon membership or service in the uniformed services. The Superintendent may enact rules to implement this policy.¹⁶

Approved: May 16, 2011

LEGAL REF: 38 U.S.C. §§ 4301-4333 (The Uniformed Services Employment and Reemployment Act of 1994); MCL 35.351 *et. seq.*; *Borseth v City of Lansing*, 338 Mich. 53, 61 N.W.2d 132 (1953); *Wrigglesworth v Brumbaugh*, 121 F. Supp. 2d 1126 (W.D. Mich. 2000).

¹⁶ For further guidance under USERRA, please see the Department of Defense's USERRA regulations at <http://www.dol.gov/vets>.

APPENDIX TO SECTION 5000

APPENDIX A

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment, may include, but is not limited to, the following:

- Verbal harassment or abuse;
- Pressure for sexual activity;
- Repeated remarks with sexual or demeaning implications;
- Unwelcome touching;
- Sexual jokes, posters, cartoons, etc.; and/or
- Suggesting or demanding sexual involvement, accompanied by implied or explicit threats concerning one's grades, safety, job, or performance of public duties.

In addition, any form of retaliation against the complainant or witness is in itself a form of sexual harassment.