

5000—PERSONNEL

5010	Goals and Objectives
5020	Equal Employment Opportunity
5025	Multiracial Understanding
5030	Non-Discrimination and Complaint Procedure (Cf. 2450, 8015)
5035	Discriminatory Harassment of Employees or Applicants Notification
5040	Retaliation and Whistle-Blowing
5170	Recruitment Title I Compliance
5175	Criminal History and Background Checks
5180	Unauthorized Release of Information
5185	Social Security Number Confidentiality (Cf. 5180)
5190	Staff Development Opportunities In-Service Education
5201	Student Supervision and Welfare (Cf 2125)
5203	Use of District Equipment, Supplies, Property, and Materials (Cf. 9250)
5205	Possessing, Transporting, or Transmitting Dangerous Weapons (Cf. 8300) Facsimile Weapons
5220	Staff-Student Relations Threats to Students
5230	Conflict of Interest (Cf. 4005, 5695)
5300	Personnel Records
5330	Travel Expenses (Cf. 1168, 3600)
5340	Staff Health and Safety (Cf. 5370)
5345	Staff Smoking and Tobacco Products
5350	Alcohol and Drug-Free Workplace
5357	Family and Medical Leave
5358	Bus Driver Alcohol and Drug Testing
5360	Bus Driver Criminal History Background Check (Cf. 5175)
5370	Communicable Diseases – Staff and Students (Cf. 8510)
5410	Professional Staff Contracts (Cf. 2400) <u>SN Scope of category determined by actual agreements in force. See Handbook</u> Compensation and Benefits
5430	Hiring (Cf. 5020)
5500	Teaching Staff Probation and Tenure Tenure Administrative Tenure Administration of Tenure
5510	Staff Reductions/Recalls
5512	Teacher Placement
5520	Professional Staff Evaluation
5538	Teacher Discipline or Dismissal

- 5540 Suspension and/or Dismissal of Professional Staff
 - Teacher Convictions
 - Reporting Crimes and Convictions
- 5560 Resignation of Professional Staff
 - Resignation
- 5640 Non-School Employment – Certified Staff
- 5685 Arrangement for Substitutes (Cf. 7840)
- 5695 Ethics (Cf. 5230)
SN An information category since ethics are usually determined by a profession and not imposed upon it.
- 5710 Compensation Guides and Contracts – Non-Certified Staff
 - Definition
 - Pay Rates
- 5715 Fair Labor Standards Act Compliance
- 5830 Suspension and Dismissal of Non-Certified Staff
 - At-Will Employees
- 5850 Resignation of Non-Certified Staff (Cf. 5560)
- 5920 Non-School Employment – Non-Certified Staff (Cf. 5640)
- 5935 Military Leave

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: February 8, 2010

Section 5000 – Personnel

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: February 8, 2010

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 FCR §4241; 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

Section 5000 – Personnel

5025 Multiracial Understanding

5025

The District recognizes the importance of the acceptance of diversity 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: February 8, 2010

Section 5000 – Personnel

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 Business Manager 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 Business Manager 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:

Business Manager
Allendale Public Schools
10505 Learning Lane
Allendale, MI 49401
616-892-5570

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:

Section 5000 – Personnel

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

5030-2

Business Manager
Allendale Public Schools
10505 Learning Lane
Allendale, MI 49401
616-892-5570

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
Allendale Public Schools
10505 Learning Lane
Allendale, MI 49401
616-892-5570

All other inquiries related to discrimination should be directed to:

Business Manager
Allendale Public Schools
10505 Learning Lane
Allendale, MI 49401
616-892-5570

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. 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

Section 5000 – Personnel

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

5030-3

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: February 8, 2010
LEGAL REF: Included in Text

Section 5000 – Personnel

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:

Business Manager
Allendale Public Schools
10505 Learning Lane
Allendale, MI 49401
616-892-5570

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

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

Section 5000 – Personnel

5035 Discriminatory Harassment of Employees or Applicants

5035-2

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.

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: February 8, 2010

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)

Section 5000 – Personnel

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.

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: February 8, 2010

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

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, ensuring all legal requirements are met. The Superintendent may request building Principals or other staff members to assist in this effort.

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: February 8, 2010

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

5175 Criminal History and Background Checks

5175

Criminal History Checks

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, all persons, in either certified or support positions, shall have undergone both a criminal history and a records check performed by the State Police and FBI. The results shall have been received before the individual is employed.

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 regularly and continuously work under contract in any of the District's schools.

A staff person may be hired, prior to the results of a criminal history check following the guidelines in current law.

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)
- 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.

Section 5000 – Personnel

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 regularly and continuously work under contract 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

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);
- 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.

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: February 8, 2010

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

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

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.

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

Approved: February 8, 2010

LEGAL REF: Federal Driver Privacy Protection Act of 1994 (18 USC 2721 et seq.); MCL 257.208c - 208d; MCL 257.903; MCL 380.1230

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: February 8, 2010

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

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.

Approved: February 8, 2010
LEGAL REF:

MCL 380.1254; 380.1525; 380.1526

Section 5000 – Personnel

5201 Student Supervision and Welfare (Cf. 2125)

5201

Professional staff members because of their proximity to students are frequently confronted with situations, which, if handled incorrectly, could result in liability to the District and personal liability to the professional staff member. It is the intent of the Board of Education to direct the preparation of guidelines that would minimize that possibility.

The Superintendent shall maintain and enforce the following standards:

- Each professional staff member shall maintain a standard of care for supervision, control, and protection of students commensurate with assigned duties and responsibilities.
- A professional staff member should not volunteer to assume responsibility for duties he/she cannot reasonably perform. Such assumption carries the same responsibilities as assigned duties.
- A professional staff member shall provide proper instruction in the safety matters presented in assigned course guides.
- Each professional staff member shall report immediately any accident or safety hazard he/she detects.
- Each professional staff member shall immediately report knowledge of threats of violence by students to the Principal.
- A professional staff member shall not send students on any personal errands.
- A professional staff member shall not associate or fraternize with students at any time in a manner which may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve harmful substances such as illegal drugs, alcohol, or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal prosecution and disciplinary action by the Board up to and including termination of employment.

This provision should not be construed as precluding a professional staff member from associating with students in private for legitimate or proper reasons. However, dating, romantic and/ or sexual relationships with students, regardless of their age and regardless of consent are absolutely prohibited, unless the staff member and student are legally married.

- If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family

Section 5000 – Personnel

5201 Student Supervision and Welfare (Cf. 2125)

5201-2

relationships, the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's problem. Under no circumstances should a staff member attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.

- A professional staff member shall not transport students in a private vehicle without the approval of the Principal.
- A student shall not be required to perform work or services that may be detrimental to his/her health.
- Staff members shall only use school accounts to engage in electronic communication with students via email, texting, social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., when such communication is directly related to school matters.
- Staff members are prohibited from using school accounts to electronically transmit any personally identifiable image of a student(s), including video, photographs, streaming video, etc. via email, text message, or through the use of social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., unless such transmission has been authorized by the student's legal guardian, made as part of a pre-approved curricular matter or co-curricular/extracurricular event or activity such as a school-sponsored publication or production in accordance with policy 8730.

Most information concerning a child in school other than directory information described in policy 8940 is confidential under Federal and State laws. Any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse.

Pursuant to the laws of the State and Board policy 8580, each professional staff member shall report to the proper legal authorities immediately, any sign of suspected child abuse or neglect.

Approved: November 14, 2011

LEGAL REF: MCL 722.621 et seq., 750.520b, 750.520c, 750.520d, 750.520e

Section 5000 – Personnel

5203 Use of District Equipment, Supplies, Property, 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, office/classroom space, 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, office/classroom space, 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.⁴

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

Approved: February 8, 2010
LEGAL REF: MCL 19.141; MCL 750.362

⁴ 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, (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; or (c) as otherwise allowed by law.⁵

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.⁶ 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 are 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.⁷ To comply with federal law, any such exception shall be reduced to writing.

⁵ **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](#).

⁶ 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.

⁷ 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

5205 Possessing, Transporting or Transmitting Dangerous Weapons (Cf. 8300) 5205-2

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: February 8, 2010

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

Section 5000 – Personnel

5220 Staff-Student Relations

5220

All District employees are expected to maintain relationships with members of the student body that are nothing but positive in their intent, conducive to an effective educational environment, do not violate appropriate staff/student interactions under law, or the policies of the Board, and do not create possible liabilities to the employee or the District. Employees are reminded that a “friendly” approach to students must be tempered by the fact that employees are, and should remain, authority figures in the eyes of students. 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, suspension – either with or without pay as allowable by law or collective bargaining agreements, and/or termination of employment.

Approved: February 8, 2010
LEGAL REF: MCL 380.1312

Section 5000 – Personnel

5230 Conflict of Interest (Cf. 4005, 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. (See policy 4005-R Conflict of Interest Disclosure Form).

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 the policy has been violated.

Approved: February 8, 2010
LEGAL REF: MCL 15.321 – 323

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: February 8, 2010

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

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: February 8, 2010

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.

Provisions relating to this policy may be found in a current copy of the negotiated master contract.

Approved: February 8, 2010

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

Section 5000 – Personnel

5345 Staff Smoking and Tobacco Products

5345

District employees shall not, at any time, use tobacco products in any District building, District owned or leased vehicle, at any school-sponsored event, nor on school grounds.

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

Definitions

For purposes of this policy:

- A. "tobacco product" means a preparation of tobacco to be inhaled, chewed, or placed in a person's mouth.
- B. "use of a tobacco product" means any of the following:
 - 1. The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device;
 - 2. The inhaling or chewing of a tobacco product; or
 - 3. The placing of a tobacco product within a person's mouth; and/or
 - 4. The smoking of electronic, "vapor" or other substitute forms of cigarettes, clove cigarettes or other lighted smoking devices for burning tobacco or any other substance.

Approved: November 14, 2011

LEGAL REF: MCL 333.12601 et seq.; 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.

This policy shall be published annually in the District's faculty and staff handbooks.

Approved: February 8, 2010

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.

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: February 8, 2010

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: February 8, 2010

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

Section 5000 – Personnel

5360 Bus Driver Criminal History Background Check (Cf. 5175)

5360

Upon receipt of the District's formal application for employment from a person for the position of school bus driver, the District shall request from the Michigan Department of State Police a background check to determine whether the person was ever convicted of any of the following offenses:

- (a) Criminal sexual conduct in any degree.
- (b) Assault with intent to commit criminal sexual conduct.
- (c) An attempt to commit criminal sexual conduct in any degree.
- (d) Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.
- (e) A violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.⁸

The District application form for the position of school bus driver shall make note on the application form in a prominent place that all applicants will be required to undergo a criminal history background check. Any applicant objecting to having the District seek a criminal history background check shall not be considered and their application form shall not be accepted or filed.

If actually employed as a school bus driver either full or part-time, the bus driver shall fall under all laws and conditions concerning criminal history background checks as set forth in policy 5175.

Costs of all criminal background checks shall be borne by the applicant or employee.

Approved: February 8, 2010
LEGAL REF.: MCL 257.1853

⁸ MCL 750.145c: Child sexually abusive activity or material; possession of child sexually abusive material.

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 Ottawa 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 Ottawa County Health Department medical staff and/or for review to the review team.

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: February 8, 2010

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

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: February 8, 2010

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 shall involve appropriate administrative and/or non-certified staff members as needed and use special criteria developed by the Board and/or staff.

Before the issuance of an actual written contract to any new teacher or administrator, the Superintendent shall bring his/her recommendations to the Board for approval.

Unless the Board can establish that the Superintendent has violated law, the policies of the Board, or the provisions of an applicable collective bargaining agreement in the selection of candidates recommended for a contract, the Board shall approve the Superintendent's recommendations. Members of the Board shall not involve themselves, either personally or as a collective body, in the recruitment, interviewing, or selection process for any position to be filled in the District other than the position of Superintendent of Schools.

Approved: February 8, 2010

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

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.

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: February 8, 2010
LEGAL REF: MCL 38.71 *et seq.*

Section 5000 – Personnel

Allendale Public Schools Board of Education ensures that all personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position, are based on retaining effective teachers.

Teachers rated as ineffective under the district’s performance evaluation system shall not be given preference over a teacher who is evaluated as minimally effective, effective, or highly effective.

Personnel decisions shall be made based on the following factors:

1. **Performance Evaluation Rating (60%)**
2. **Significant, relevant accomplishments and contributions above normal expectations and a record of exceptional performance (20%)**
3. **Relevant special training and the integration of that training into instruction (20%)**

***If all of the above factors are considered to be equal, seniority or tenure status shall be considered as the final tiebreaker.**

Categories of Factors with Examples of Evidence		
Performance Evaluation Rating 60%	Significant Accomplishments 20%	Relevant Special Training 20%
Evidence of Student Growth (Student Growth Measures)	Schedule B Contribution(s)	Regional, State, or National Workshop/Conference Attendance
Demonstrated pedagogical skills (Domains 1 & 3)	Curriculum Contribution(s)	Training in a particular instruction, assessment, or curriculum best practice; or a school improvement initiative
Classroom Management (Domain 2)	School Improvement Contribution(s)	Leading professional development within the district
	Student Club/Activity Sponsorship(s)	Coaching other staff members in the curriculum or school improvement initiative
Tiebreaker Factors for Each Category		
Attendance & Disciplinary Record	Exceptional Performance within the contribution	Action Research on a best practice or initiative

If a teacher brings an action against the school district based on this policy, the teacher’s sole and exclusive remedy shall be an order of reinstatement commencing 30 days after a decision by a court of competent jurisdiction.

Reference: Public Act 102 of 2011 / Section 380.1248 of the Revised School Code

Approved: October 10, 2011

Section 5000 – Personnel

5512 Teacher Placement

5512

The Superintendent or designee shall determine teacher placement based on qualifications (including but not limited to certification, Highly Qualified requirements, endorsements, etc.), the best interest of District students, and the needs of the District's educational program. Teacher preferences shall also be considered.

Teacher placement decisions, and the impact of such decisions on the individual teacher or the teacher bargaining unit, shall not be the subject of any terms and conditions within a collective bargaining agreement between the District and a collective bargaining representative of such teachers.

The Superintendent or designee may develop and adopt administrative guidelines/procedures/rules/regulations related to teacher placement.

Source: MCL §423.215(3)(j).

Approved: March 12, 2012

Section 5000 – Personnel

5520 Professional Staff Evaluation

5520

The Board of Education, through the powers derived from the School Code and other relevant statutes, is responsible for the employment and discharge of all personnel. To carry out this responsibility, with involvement of professional staff, it delegates to the Superintendent the function of establishing and implementing a rigorous, transparent, and fair performance evaluation system that does all of the following:

- A. Evaluates the employee's job performance at least annually while providing timely and constructive feedback;
- B. Establishes clear approaches to measuring student growth and provides professional staff with relevant data on student growth;
- C. Evaluates an employee's job performance, using multiple rating categories that take into account data on student growth as a significant factor. For these purposes, student growth shall be measured by national, State, or local assessments and other objective criteria; and
- D. Uses the evaluations, at a minimum, to inform decisions regarding all of the following:
 1. The effectiveness of employees, so that they are given ample opportunities for improvement;
 2. Promotion, retention, and development of employees, including providing relevant coaching, instruction support, or professional development;
 3. Whether to grant tenure or full certification, or both, to employees, using rigorous standards and streamlined, transparent, and fair procedures; and
 4. Removing ineffective tenured and untenured employees after they have had ample opportunities to improve, and providing that these decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

The staff evaluation program shall aim at the early identification of specific areas in which the individual professional staff member needs help so that appropriate assistance may be provided or arranged for. A supervisor offering suggestions for improvement to a professional staff member shall not release that professional staff member from the responsibility to improve. If a professional

Section 5000 – Personnel

5520 Professional Staff Evaluation

5520-2

staff member, after receiving a reasonable degree of assistance, fails to perform his/her assigned responsibilities in a satisfactory manner, dismissal, or non-renewal procedures may be invoked. In such an instance, all relevant evaluation documents may be used in the proceedings.

Evaluations shall be conducted of each professional staff member as stipulated in the Teacher Tenure Act, the revised School Code, a negotiated agreement or contract, the Superintendent's administrative guidelines and as directed by the Michigan Department of Education. A professional staff member shall be given a copy of any documents relating to his/her performance which are to be placed in the personnel file.

This policy shall not deprive a professional staff member of any rights provided by State law or contractual rights consistent with State law.

Approved: June 13, 2011

LEGAL REF: M.C.L.A. 380.1249

Section 5000 – Personnel

5538 Teacher Discipline or Dismissal

5538

Teachers whose employment is regulated by the provisions of MCL §§38.71 through 38.191, inclusive, shall be disciplined or dismissed only for a reason that is not arbitrary or capricious. This Board shall not adopt, implement or maintain a policy or standard for discipline or dismissal of such employees that is different from the standard within MCL §38.101.

The Superintendent and designee shall ensure that decisions regarding the discipline and dismissal of public employees whose employment is regulated by MCL §§38.71 through 38.191 are consistent with this policy and the legal authority cited above.

The development, content, standards, procedures, adoption and implementation of policies and procedures relating to the discipline and discharge of teachers, as well as administrative decisions concerning the discipline or dismissal of teachers, shall not be the subject of any terms and conditions within a collective bargaining agreement between the District and a collective bargaining representative of teachers.

The Superintendent or designee may develop and adopt administrative guidelines/ procedures/ rules/regulations that detail the standards or procedures for the discipline and/or dismissal of employees subject to this policy.

Source: MCL §§38.71-191; MCL §423.215(3)(m).

Approved: March 12, 2012

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.⁹

⁹ 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);

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.¹⁰ 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.

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.

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- 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.

¹⁰ 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 child¹⁰, 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.

Section 5000 – Personnel

5540 Suspension and/or Dismissal of Professional Staff

5540-3

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: February 8, 2010

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

Section 5000 – Personnel

5560 Resignation of Professional Staff

5560

Resignation

Teachers may resign by giving written notice to the Superintendent and/or Board at least 60 days prior to September 1 of the ensuing school year, unless other arrangements are agreed upon mutually.

In instances where an employee wishes to leave on shorter notice, the Superintendent and/or Board may permit an earlier release on condition that satisfactory arrangements can be made for replacement. The Board reserves unto itself the right to make the final decision on such requests.

Once a resignation is tendered to the Board through its Superintendent, and has been accepted by the Superintendent, that resignation shall be considered final unless its withdrawal is approved by the Board. The Superintendent shall immediately accept the resignation in writing.

Any teacher discontinuing his/her service in any other manner shall forfeit rights to continuing tenure previously acquired, and such action shall become part of the personnel record of said teacher.

Approved: February 8, 2010
LEGAL REF: MCL 38.71-121

Section 5000 – Personnel

5640 Non-School Employment – Certified Staff

5640

Certified 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.

Approved: February 8, 2010

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: February 8, 2010

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

Section 5000 – Personnel

5695 Ethics (Cf. 5230)

5695

An employee and Board of Education member, 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,
- Be responsible to present any subject matter in a fair and accurate manner.

Approved: February 8, 2010

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. Local programs may require minimum requirements for education or other credentials, such as an associates degree, or “CDA” in certain paraprofessional positions. Such local program requirements shall not change the designation of such employees as “non-certified 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.

Approved: February 8, 2010

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: February 8, 2010

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

Section 5000 – Personnel

5830 Suspension and Dismissal of Non-Certified Staff

5830

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: February 8, 2010

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 inform the Board of any resignations.

Approved: February 8, 2010

Section 5000 – Personnel

5920 Non-School Employment- Non-Certified Staff (Cf. 5640)

5920

Non-certified employees shall not be excused during their regularly assigned time schedule to perform outside work. Non-certified employees shall engage in no outside employment that, by nature or duration, will impair the effectiveness of their assigned duties, reflect detrimentally on the District, involve any conflict of interest, or require the use of any District facility, equipment, personnel, supplies, or materials.

Approved: February 8, 2010

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.

Approved: February 8, 2010

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* (1953) 338 Mich. 53, 61 N.W.2d 132; *Wrigglesworth v Brumbaugh*, W.D.Mich.2000, 121 F.Supp.2d 1126.