

POLICY REFERENCE MANUAL

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401 ROLE OF AND GUIDING PRINCIPLES FOR EMPLOYEES

This series of the board policy manual is devoted to the board's goals and objectives for employees in the performance of their jobs. Employees provide a variety of important services for the children of the school district community. They may be teaching or assisting in the classroom, working in the office, maintaining the facilities, driving or repairing the school buses, or cooking lunches. Each employee plays a vital role in providing an equal opportunity for a quality education for students commensurate with the students' individual needs. While the teachers have the most direct impact on the formal instruction of students, all employees have an impact on the school environment by their dedication to their work and their actions. As role models for the students, employees shall promote a cooperative, enthusiastic, and supportive learning environment for the students.

In striving to achieve a quality education program, the board's goal is to obtain and retain qualified and effective employees. The board shall have complete discretion to determine the number, the qualifications, and the duties of the positions and the school district's standards of acceptable performance. It shall be the responsibility of the superintendent to make recommendations to the board in these areas prior to board action. The board recognizes its duty to bargain collectively with duly certified collective bargaining units.

Board policies in this series relating to general employees shall apply to employees regardless of their position as a certificated employee, support staff, substitute or administrator. Board policies relating to certificated employees shall apply to positions that require a teaching license or administrator's certificate or other professional license, certificate or endorsement, unless administrative positions are specifically excluded from the policy. Support staff policies included in this series shall apply to positions that do not fall within the definition of certificated employee.

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Reviewed _____ Revised _____

402.1 EQUAL EMPLOYMENT OPPORTUNITY

The Pierce Public School District shall provide equal opportunity to employees and applicants for employment in accordance with applicable equal employment opportunity and affirmative action laws, directives and regulations of federal, state and local governing bodies. Opportunity to all employees and applicants for employment includes hiring, placement, promotion, transfer or demotion, recruitment, advertising or solicitation for employment, treatment during employment, rates of pay or other forms of compensation, and layoff or termination. The school district shall take affirmative action in major job categories where women, men, minorities and persons with disabilities are underrepresented. Employees will support and comply with the district's established equal employment opportunity and affirmative action policies. Employees shall be given notice of this policy annually.

The board shall appoint an affirmative action coordinator. The affirmative action coordinator shall have the responsibility for drafting the affirmative action plan. The affirmative action plan shall be reviewed by the board at least every two years.

Individuals who file an application with the school district will be given consideration for employment if they meet or exceed the qualifications set by the board, administration, and Nebraska Department of Education for the position for which they apply. In employing individuals, the board shall consider the qualifications, credentials, and records of the applicants without regard to race, color, creed, sex, national origin, religion, age or disability. In keeping with the law, the board shall consider the veteran status of applicants.

Advertisements and notices for vacancies within the district shall contain the following statement: "The Pierce Public School District is an equal employment opportunity/affirmative action employer." The statement shall also appear on application forms.

Inquiries by employees or applicants for employment regarding compliance with equal employment opportunity and affirmative action laws and policies, including but not limited to complaints of discrimination, shall be directed to the Affirmative Action Coordinator by writing to Dan Navrkal, Affirmative Action Coordinator, Pierce Public School District,, Nebraska; or by telephoning 402-329-4677.

Inquiries by employees or applicants for employment regarding compliance with equal employment opportunity and affirmative action laws and policies, including but not

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402.2 EMPLOYEE ORIENTATION

Employees must know their role and duties. New employees are required to participate in an orientation program for new employees. The employee's immediate supervisor should provide the new employee with a review of the employee's responsibilities and duties. Employees involved in child care, custody or control responsibilities shall be given instruction in the handling of emergency situations which might arise in the course of the employee's work. Payroll procedures and employee benefit programs and accompanying forms will be explained to the employee by the superintendent and/or district bookkeeper. The supervisor may wish to review the staff handbook as part of the orientation process.

Legal Reference: Nebraska Statute 79-802

Cross Reference: 401 Guiding Principles for Employees
405 Employee Conduct and Appearance
407 Certificated Employee Compensation and Benefits
413 Support Staff Compensation and Benefits

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402.3 EMPLOYEE CONFLICT OF INTEREST

Employee's use of their position with the school district for financial gain shall be considered a conflict of interest with their position as employees and may subject employees to disciplinary action.

Employees have access to information and a captive audience that could award the employee personal or financial gain. No employee may solicit other employees or students for personal or financial gain to the employee without the approval of the superintendent. If the approval of the superintendent is given, the employee must conduct the solicitations within the conditions set by the superintendent. Further, the superintendent may, upon five days notice, require the employee to cease such solicitations as a condition of continued employment.

Employees shall not act as a agent or dealer for the sale of textbooks or other school supplies. Employees shall not participate for personal financial remuneration in outside activities wherein their position on the staff is used to sell goods or services to students or to parents. Employees shall not engage in outside work or activities where the source of information concerning the customer, client or employer originates from information obtained because of the employee's position in the school district.

It shall also be a conflict of interest for an employee to engage in any outside employment or activity which is in conflict with the employee's official duties and responsibilities. In determining whether outside employment or activity of an employee creates a conflict of interest, situations in which an unacceptable conflict of interest shall be deemed to exist shall include, but not be limited to, any of the following:

1. The outside employment or activity involves the use of the school district's time, facilities, equipment and supplies or the use of the school district's badge, uniform, business card or other evidences of office to give the employee or the employee's immediate family an advantage or monetary benefit that is not available to other similarly situated members or classes of members of the general public. For purposes of this section, a person is not "similarly situated" merely by being related to an employee who is employed by the school district.
2. The outside employment or activity involves the receipt of, promise of, or acceptance of more or other consideration by the employee or a member of the employee's immediate family from anyone other than the school district for the performance of any acy that the employee would be required or expected to perform as part of the employee's regular duties or during the hours during which the employee performs service or work for the school district.

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402.5 EMPLOYEE COMPLAINTS

Complaints of employees against fellow employees should be discussed directly between employees. If necessary, complaints shall be brought directly to the immediate supervisor, principal or superintendent and shall be made in a constructive and professional manner. Complaints shall never be made in the presence of other employees, students or outside persons.

A formal grievance procedure is contained in the negotiated contract between the employee's certified bargaining unit and the board. This policy shall not apply to a complaint that has been or could be filed at the employee's discretion under that formal grievance procedure.

Cross Reference: 301.04 Communication Channels

Approved July 14, 2003 Reviewed _____ Revised _____

402.7 TRANSPORTING OF STUDENTS BY EMPLOYEES

Generally, transportation of students shall be in a motor vehicle owned by the school district and driven by an employee. In rare cases, it may be more economical or efficient for the school district to allow an employee of the school district to transport the students in the employee's motor vehicle.

Employees who transport students for school purposed must have the permission of the superintendent.

This policy statement applies to transportation of students for school purposes in addition to the regular bus route transporting students to and from their designated attendance center.

Cross Reference: 402.07 Employee Travel Compensation
 801 Transportation

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Reviewed _____ Revised _____

402.8 EMPLOYEE TRAVEL COMPENSATION

Employees traveling on behalf of the school district and performing approved school district business will be reimbursed for their actual and necessary expenses. Actual and necessary travel expenses shall include, but not be limited to, transportation and/or mileage costs, lodging expenses, meal expenses and registration costs.

Travel Outside the School District

Travel outside of the school district must be pre-approved. Pre-approval shall include an evaluation of the necessity of the travel, the reason for the travel and an estimate of the cost of the travel to qualify as approved school district business. Travel outside the school district by employees, other than the superintendent, shall be approved by the superintendent.

Reimbursement for actual and necessary expenses will be allowed for travel outside the school district if the employee received pre-approval for the travel. Prior to reimbursement of actual and necessary expenses, the employee must provide the school district with a detailed receipt, other than a credit card receipt, indicating the date, purpose and nature of the expense for each claim item. In exceptional circumstances, the superintendent may allow a claim without proper receipt. Written documentation explaining the exceptional circumstances shall be maintained as part of the school district's record of the claim.

Failure to have a detailed receipt shall make the expense a personal expense. Personal expenses, including mileage, in excess of that required for the trip shall be reimbursed by the employee to the school district no later than 30 working days following the date of the expense.

Reimbursement for actual and necessary expenses for travel outside the school district will be limited to the pre-approved expenses. Pre-approved expenses for registration shall be limited to the actual cost of the registration.

Pre-approved expenses for transportation within 500 miles of the school district administrative office shall be by automobile. If a school district vehicle is not available, the employee will be reimbursed at the current State of Nebraska & IRS rate. Pre-approved expenses for transportation outside of 500 miles of the school district administrative office may be by public carrier. Reimbursement for air travel shall be at the tourist class fares. Should an employee choose to travel by automobile, reimbursement shall be limited to the public carrier amount. Pre-approved expenses for

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transportation in a rental car is limited to the cost of a Class "C" (midsize) rental car at a medium priced agency unless the number of people traveling on behalf of the school district warrants a larger vehicle.

Pre-approved expense for lodging is limited to the rate of a medium priced hotel in the area. Lodging may be pre-approved for a larger amount if special circumstances require the employee to stay at a particular hotel.

Travel Within the School District

Employees required to travel in their personal vehicle between school district buildings to carry out the duties of their position may be reimbursed at \$1 per day. It shall be the responsibility of the superintendent to approve travel within the school district by employees. It shall be the responsibility of the board to review the travel within the school district by the superintendent through the board's audit and approval process.

Employees who are allowed an in-school district travel allowance shall have the amount of the allowance actually received during each calendar year included on the employee's W-2 form as taxable income according to the Internal Revenue Code.

The superintendent shall be responsible for developing administrative regulations regarding actual and necessary expenses, in-school district travel allowances and assignment of school district vehicles. The administrative regulations shall include the appropriate forms to be filed for reimbursement to the employee from the school district and the procedures for obtaining approval for travel outside of and within the school district.

Legal Reference: Neb. Statute 13-2201 et seq.

Cross Reference: 206.04 Board Member Compensation and Expenses
402.07 Transporting of Students by Employees
402.11 Credit Cards
801.13 Use of Private Vehicles on School Business

402.9 RECOGNITION FOR SERVICE OF EMPLOYEES

The board recognizes and appreciates the service of its employees. Employees who retire or resign may be honored by the board, administration and staff in an appropriate manner.

If the form of honor thought appropriate by the administration and employees involves unusual expense to the school district, the superintendent shall seek prior approval from the board. Any expenditure for recognition of service shall be limited to 100 dollars per individual per occasion.

Legal Reference: Neb. Statute 13-2203

Cross Reference: 408 Certificated Employee Termination of Employment
 414 Support Staff Termination of Employment

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402.10 EMPLOYEE POLITICAL ACTIVITY

Employees shall not engage in political activity upon property under the jurisdiction of the board. Activities including, but not limited to, posting of political circulars or petitions, the distribution of political circulars or petitions, the collection of or solicitation for campaign funds, solicitation for campaign workers, and the use of students for writing or addressing political materials, or the distribution of such materials to or by students are specifically prohibited.

Violation of this policy may be grounds for disciplinary action.

Cross Reference: 410.05 Certificated Employee Political Leave
 415.05 Support Staff Political Leave

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402.11 CREDIT CARDS

Employees may use school district credit cards for the actual and necessary expenses incurred in the performance of work-related duties. Actual and necessary expenses incurred in the performance of work-related duties include, but are not limited to, fuel for school district transportation vehicles used for transporting students to and from school and for school-sponsored events, payment of claims related to professional development of the board and employees, and other expenses required by employees and the board in the performance of their duties.

Employees and officers using a school district credit card must submit a detailed receipt in addition to a credit card receipt indicating the date, purpose and nature of the expense for each claim item. Failure to provide a proper receipt shall make the employee responsible for expenses incurred. Those expenses shall be reimbursed to the school district no later than ten working days following use of the school district's credit card. In exceptional circumstances, the superintendent or board may allow a claim without proper receipt. Written documentation explaining the exceptional circumstances shall be maintained as part of the school district's record of the claim.

The school district may maintain a school district credit card for actual and necessary expenses incurred by employees and officers in the performance of their duties. The superintendent and principal may maintain a school district credit card for actual and necessary expenses incurred in the performance of the superintendent's duties. The bus coordinator may maintain a school district credit card for fueling school district transportation vehicles in accordance with board policy.

It shall be the responsibility of the superintendent to determine whether the school district credit card use is for appropriate school business. It shall be the responsibility of the board to determine through the audit and approval process of the board whether the school district credit card use by the superintendent and the board is for appropriate school business.

The superintendent shall be responsible for developing administrative regulations regarding actual and necessary expenses and use of a school district credit card. The administrative regulations shall include the appropriate forms to be filed for obtaining a credit card.

Cross Reference: 206.04 Board Member Compensation and Expenses
 402.08 Employee Travel Compensation

Approved July 14, 2003 Reviewed _____ Revised _____

402.12 EMPLOYEE INVOLVEMENT IN DECISION MAKING

The Board will encourage employees to contribute their ideas for the betterment of the district. The staff will be asked to help in developing policies and regulations, in establishing goals and objectives, and in planning curriculum, services, budget and facilities.

In devising rules and procedures for the operation of the schools, administrators will seek the suggestions of those employees who will be affected by such provisions. The professional staff will be given opportunities to contribute to curriculum development and to recommend policies and regulations pertaining to students and instruction.

The superintendent will develop channels for the communication of ideas among staff, administrators and Board members and will inform the Board of staff opinion when presenting recommendations for Board actions.

Cross Reference: 402.13 Communications with Employees

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402.13 COMMUNICATIONS WITH EMPLOYEES

The Board desires to maintain open communication channels between itself and the staff. The basic line of communication will be through the superintendent. The superintendent will develop and recommend to the Board processes for communications between the Board and district employees.

Communications or reports to the Board or Board committee from any staff member or members should be submitted through the superintendent. This procedure will not be construed as denying the right of any employee to address the Board about issues which are neither part of an active administrative procedure, nor disruptive to the operation of the district.

All official communications, policies and directives of staff interest and concern will be communicated to staff members through the superintendent. The superintendent will communicate as appropriate to keep staff fully informed of the Board's concerns and actions.

Cross Reference: 301.04 Communication Channels

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Reviewed _____ Revised _____

402.15 EMPLOYEE USE OF ELECTRONIC COMMUNICATION DEVICES

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

District-Issued Communication Devices

The District may elect to issue certain communication 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.

Visible possession of all cell phones is prohibited in any area there is an expectation of privacy.

Pierce Public Schools Whistleblower Policy 402.16

General

Pierce Public Schools Code of Ethics and Conduct (“Code”) requires board members, administrators, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Organization, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Reporting Responsibility

It is the responsibility of all board members, administrators, and employees to comply with the Code and to report violations or suspected violations in accordance with this Whistleblower Policy.

No Retaliation

No board member, administrator, or employee who in good faith reports a violation of the Code shall suffer harassment, retaliation or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the Organization prior to seeking resolution outside the Organization.

Reporting Violations

The Code addressed the Organization’s open door policy and suggests that employees share their questions, concerns, suggestions or complaints with someone who can address them properly. In most cases, an employee’s supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor’s response, you are encouraged to speak with the superintendent or anyone in management whom you are comfortable in approaching. Supervisors and managers are required to report suspected violations of the Code of Conduct to the Organization’s Compliance Officer, who has specific and exclusive responsibility to investigate all reported violations. For suspected fraud, or when you are not satisfied or uncomfortable with following the Organization’s open door policy, individuals should contact the Organization’s Compliance Officer directly.

Compliance Officer

The Organization's Compliance Officer is responsible for investigating and resolving all reported complaints and allegations concerning violations of the Code and, at his/her discretion, shall advise the Board President and/or the audit committee. The Compliance Officer has direct access to the audit committee on compliance activity. The Organization's Compliance Officer is the chair of the audit committee.

Accounting and Auditing Matters

The audit committee of the board of directors shall address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing. The Compliance Officer shall immediately notify the audit committee of any such complaints and work with the committee until the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of the Code must be acting in good faith and have reasonable grounds for believing the information disclosed indicated a violation of the Code. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Report of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Handling of Reported Violations

The Compliance Officer will notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

Audit Committee Compliance Officer – Superintendent of Schools

Approved February 9, 2009

403.1 RELEASE OF CREDIT INFORMATION

The following information will be released to an entity with whom an employee has applied for credit or has obtained credit: title of position, income, and number of years employed. This information will be released without prior written notice to the employee. Confidential information about the employee will be released to an inquiring creditor with a written authorization from the employee.

It shall be the responsibility of the superintendent to respond to inquiries from creditors.

Cross Reference: 402.06 Employee Records

Approved July 14, 2003 Reviewed _____ Revised _____

403.2 CHILD ABUSE REPORTING

School employees who have reasonable cause to suspect a child is a victim of abuse or neglect, or who observe conditions which reasonably would result in abuse or neglect, shall report such incidents to the proper authorities.

The employee shall make an oral report to the local law enforcement agency by telephone, followed by a written report. The report will include all information required by law.

Legal Reference: Neb. Statute 28-711

Cross Reference: 403.03 Abuse of Students by School District Employees
502.09 Interviews of Students by Outside Agencies
507 Student Health and Well Being

Approved July 14, 2003 Reviewed _____ Revised _____

403.2R1 CHILD ABUSE REPORTING REGULATION

Any school employee shall make an oral report by telephone to the local law enforcement authorities or the Department of Health and Human Services when that employee has reasonable cause to believe that a child has been subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which reasonably would result in abuse or neglect.

"Child abuse" is defined as knowingly, intentionally or negligently causing or permitting a minor child to be:

1. Placed in a situation that endangers his or her life or physical or mental health;
2. Cruelly confined or cruelly punished;
3. Deprived of necessary food, clothing, shelter, or care;
4. Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or
5. Placed in a situation to be sexually abused as defined in Neb. Statutes 28-319 or 28-320.01.

The oral report shall include the caller's name and address.

The oral report will be followed by a written report that shall include to the extent available, the following:

1. The employee's name and address;
2. The address and age of the abused or neglected child;
3. The address of the person(s) having custody of the child;
4. The nature and extent of the abuse or neglect, or the conditions and circumstances which would reasonably result in such abuse or neglect;
5. Any evidence of previous abuse or neglect, including the nature and extent; and
6. Any other information which in the opinion of the person making the report may be helpful in establishing the cause of such abuse or neglect and the identity of the perpetrator(s).

Any person making such a report as required by law will be immune from any civil or criminal liability, except for in the case of making maliciously false statements.

Failure to make such a required report, or knowingly releasing confidential information other than as permitted by law will result in a Class III misdemeanor.

It is not the responsibility of employees to prove that a child has been abused or neglected. Employees should not take it upon themselves to investigate the case or contact the family of the child. The Department of Health and Human Services is responsible for investigating the incident of alleged abuse.

Approved July 14, 2003 Reviewed _____ Revised _____

403.3 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES

Physical or sexual abuse of students, including inappropriate and intentional sexual behavior, by employees will not be tolerated. The definition of employees for the purpose of this policy includes not only those who work for pay but also those who are volunteers of the school district under the direction and control of the school district. Employees found in violation of this policy will be subject to disciplinary action up to and including discharge.

The school district will respond promptly to allegations of abuse of students by school district employees by investigating or arranging for the investigation of an allegation. The processing of a complaint or allegation will be handled confidentially to the maximum extent possible. Employees are required to assist in the investigation when requested to provide information and to maintain the confidentiality of the reporting and investigation process.

The superintendent is responsible for drafting administrative regulations to implement this policy and for organizing employee training relating to this policy. Procedures shall be reviewed annually for adequacy and accuracy.

Legal Reference: Neb. Statute 79-295

Cross Reference: 403.02 Child Abuse Reporting
 403.05 Harassment
 503.05 Corporal Punishment

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403.3E1 ABUSE COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged abuser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of abuse, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____

403.3E2 WITNESS DISCLOSURE FORM

Name of witness: _____

Position of witness: _____

Date of testimony, interview: _____

Description of instance witnessed: _____

Any other information: _____

I agree that all of the information of this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____

403.3R1 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES
REGULATION

Physical or sexual abuse of students, including inappropriate and intentional sexual behavior, by employees will not be tolerated. Employees found in violation of this policy will be subject to disciplinary action up to and including discharge.

Definition of Physical Abuse

Physical abuse is non-accidental physical injury to the student as a result of the action of an employee. Injury occurs when evidence of it is still apparent at least twenty-four hours after its occurrence. The following do not constitute physical abuse, and no employee is prohibited from:

- Using reasonable and necessary force, not designed or intended to cause pain:
- To quell a disturbance or prevent an act that threatens physical harm to any person.
- To obtain possession of a weapon or other dangerous object within a pupil's control.
- For the purposes of self-defense or defense of others as provided for in Neb. Statute 28-1409 and 1410.
- For the protection of property as provided for in Neb. Statute 28-1411.
- To remove a disruptive pupil from class, or any area of school premises or from school-sponsored activities off school premises.
- To prevent a student from the self-infliction of harm.
- To protect the safety of others.

Using incidental, minor, or reasonable physical contact to maintain order and control. In determining the reasonableness of the contact or force used, the following factors shall be considered:

- The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.
- The size and physical condition of the student.
- The means or device used in making the physical contact.
- The motivation of the school employee in initiating the physical contact.
- The extent of injury to the student resulting from the physical contact.

"Reasonable force" is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

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Definition of Sexual Abuse

Sexual abuse is defined as including sexual acts involving a student, acts that encourage the student to engage in prostitution, inappropriate, intentional sexual behavior or physical manifestations of sexual harassment by the employee toward a student. "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to the conduct is made either implicitly or explicitly a term or condition of the student's education or benefits;
- Submission to or rejection of the conduct is used as the basis for academic decisions affecting that student; or
- The conduct has the purpose or effect of substantially interfering with a student's academic performance by creating an intimidating, hostile or offensive education environment.

Complaint Procedure

An individual who believes he/she has been abused shall notify the superintendent of schools, the designated investigator. The alternate investigator is the building principal. The investigator may request that the individual complete the Abuse Complaint form. Information received during the investigation shall be kept confidential to the extent possible.

The investigator, with the approval of the superintendent, or the superintendent has the authority to initiate a harassment investigation in the absence of a written complaint. The investigator shall have access to the educational records of the student and access to the student for purposes of interviewing the student about the report.

When abuse is reported, the investigator shall make copies of the report and give a copy to the person filing the report, the students' parents and the immediate supervisor of the employee named in the report. The employee named in the report shall not receive a copy of the report until the employee is initially interviewed.

The investigator shall use discretion in handling the information received regarding an investigation of abuse by an employee, and those persons involved in the investigation shall not discuss information regarding the complaint outside the investigation. The entire investigative procedure will be thoroughly explained, including the confidential nature of the proceedings, to the student and other persons involved in the investigation.

The investigator shall notify the parent, guardian or legal custodian of a student of the date and time of the interview and of the right to be present or to see and hear the interview or send a representative in the parent's place. The investigator shall interview the student as soon as possible, but in no case later than five days from the receipt of a report or notice of the allegation of sexual abuse. The investigator may record the interview electronically.

It is the responsibility of the investigator to determine whether it is more likely than not that an incident took place between the employee and the student. If the investigator believes the employee committed a sex act with a student or sexually exploited a student, the investigator shall defer the investigation and immediately notify law enforcement officials, the superintendent, the student's parents and the person filing the report.

The designated investigator shall not interview the school employee named in a report of abuse until after a determination is made that jurisdiction exists, the alleged victim has been interviewed and a determination made that the investigation will not be deferred.

If the investigator determines an incident occurred, while not an illegal sex act with a student or sexual exploitation of a student, but where the employee engaged in inappropriate, intentional sexual behavior, further investigation is warranted. If further investigation is warranted, the investigator may proceed to interview the employee and other individuals who may have knowledge of the circumstances contained in the report. Prior to interviewing other individuals who may have knowledge of the circumstance contained in the report, the investigator shall provide notice of the impending interview of student witnesses or the student to their parent, guardian, or legal custodian prior to interviewing those students.

Within five days of receipt of an investigable report, the investigator shall complete an informal investigation. The informal investigation shall consist of interviews with the student, the employee and others who may have knowledge of the alleged incident. If the investigator determines that the allegations in the report are founded and that immediate and professional investigation is necessary, the investigator may defer further investigation and contact appropriate law enforcement officials, the student's parents and the person filing the report.

Within fifteen days of receipt of the report, the investigator shall complete a written investigative report, unless the investigation was temporarily deferred. The written investigative report shall include:

1. The name, age, address and attendance center of the student named in the report.
2. The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
3. The name and work address of the employee named in the report as allegedly responsible for the abuse of the student.
4. An identification of the nature, extent and cause, if known, of any injuries or abuse to the student named in the report.
5. A general review of the investigation.
6. Any actions taken for the protection and safety of the student.
7. A statement that, in the investigator's opinion, the allegations in the report are either:
 - Unfounded. (It is not likely that an incident, as defined in district rules, took place), or
 - Founded. (It is likely that an incident took place.)

8. The applicability of exceptions to the investigated incident, or reason for the contact or force used.
9. A statement that, in the investigator's opinion, any physical contact that occurred was:
 - Appropriate. (Actions invoking a disciplinary process as defined in district rules), or
 - Inappropriate. (Actions not requiring any disciplinary process).
10. The disposition or current status of the investigation and recommendations regarding the need for further investigation.
11. A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include, but are not limited to:
 - Contacting law enforcement officials.
 - Contacting private counsel for the purpose of filing a civil suit or complaint.
 - Filing a complaint with the Nebraska Professional Practices Commission if the employee is a certificated employee.

The investigator shall retain the original and provide a copy of the written investigative report to the school employee named in the report, the employee's supervisor, the superintendent and the student's parent or guardian. The person filing the report, if not the student's parent or guardian, shall be notified only that the investigation has been concluded and of the disposition or anticipated disposition of the case.

If the investigator's report or law enforcement officials conclude the case involved founded physical or sexual abuse by a certificated employee, or the employee admits the violation, or the employee has surrendered the employee's certificate or license, the investigator shall file a complaint on behalf of the district after obtaining the superintendent's signature with the Nebraska Professional Practices Commission. The investigator shall also arrange for counseling services for the student if the student or student's parents request counseling services. Information of unfounded abuse shall not be kept in the employee's personnel file.

403.4 GIFTS TO EMPLOYEES

Employees may receive a gift on behalf of the school district. Employees shall not, either directly or indirectly, solicit, accept or receive any gift, series of gifts or an honorarium unless the donor does not meet the definition of "restricted donor" stated below or the gift or honorarium does not meet the definition of gift or honorarium stated below.

A "restricted donor" is defined as a person or other entity which:

- Is seeking to be, or is a party to, any one or any combination of sales, purchases, leases or contracts to, from or with the school district;
- Will be directly and substantially affected financially by the performance or nonperformance of the employee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region; or
- Is a lobbyist or a client of a lobbyist with respect to matters within the school district's jurisdiction.

A "gift" is the giving of anything of value in return for which something of equal or greater value is not given or received. However, "gift" does not include any of the following:

- Contributions to a candidate or a candidate's committee;
- Information material relevant to an employee's official function, such as books, pamphlets, reports, documents, periodicals or other information that is recorded in a written, audio or visual format;
- Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related;
- An inheritance;
- Anything available or distributed to the general public free of charge without regard to the official status of the employee;
- Items received from a charitable, professional, educational or business organization to which the employee belongs as a dues paying member if the items are given to all members of the organization without regard to an individual member's status or positions held outside of the organization and if the dues paid are not inconsequential when compared to the items received;

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- Actual expenses of an employee for food, beverages, travel and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the employee has participation or presentation responsibilities;
- Plaques or items of negligible resale value given as recognition for public service;
- Nonmonetary items with a value of less than 25 dollars that are received from any one donor during one calendar day;
- Items or services solicited or given to a state, national or regional organization in which the state of Nebraska or a school district is a member for purposes of a business or educational conference, seminar or other meeting or solicited by or given for the same purposes to state, national or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees for purposes of a business or educational conference, seminar or other meeting;
- Items or services received by members or representatives of members as part of a regularly scheduled event that is part of a business or educational conference, seminar or other meeting that is sponsored and directed by any state, national or regional government organization in which the state of Nebraska or a political subdivision of the state of Nebraska is a member or received at such an event by members or representatives of members of state, national or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees;
- Funeral flowers or memorials to a church or nonprofit organization;
- Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding anniversary;
- Payment of salary or expenses by the school district for the cost of attending a meeting of a subunit of an agency when the employee whose expenses are being paid serves on a board, commission, committee, council or other subunit of the agency and the employee is not entitled to receive compensation or reimbursement of expenses from the school district for attending the meeting;
- Gifts other than food, beverages, travel and lodging received by an employee which are received from a person who is a citizen of a country other than the United States and is given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the employee; or
- Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions. The costs of food, drink, lodging and travel are not "registration costs" under this paragraph. Meetings or sessions which a public official or public employee attends for personal or professional certification purposes are not "informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions" under this paragraph.

An "honorarium" is anything of value that is accepted by, or on behalf of, an employee as consideration for an appearance, speech or article. An honorarium does not include any of the following:

403.5 PUBLIC COMPLAINTS ABOUT EMPLOYEES

The board recognizes situations may arise in the operation of the school district which are of concern to parents and other members of the school district community. While constructive criticism is welcomed, the board desires to support its employees and their actions to free them from unnecessary, spiteful, or negative criticism and complaints that do not offer advice for improvement or change.

While speakers may during public meetings offer objective criticism of school operations and programs, the board will not hear personal complaints concerning district personnel nor against any person connected with the school system unless that complaint is an agenda item having followed the process described below. To do so could expose the board to a charge of being party to slander and would prejudice any necessity to act as the final review of administrative recommendations regarding the matter. The board president will direct the patron to the appropriate means for board consideration and disposition of legitimate complaints involving individuals.

Any complaint about school personnel other than the superintendent will be investigated by the administration before consideration and action by the board. The board will not hear charges against employees in open session unless an employee requests an open session.

The board firmly believes concerns should be resolved at the lowest organizational level by those individuals closest to the concern. Whenever a complaint or concern is brought to the attention of the board it will be referred to the administration to be resolved. Prior to board consideration however, the following should be completed:

1. Matters concerning an individual student, teacher, or other employee should first be addressed to the teacher or employee.
2. Unsettled matters from (a) above or problems and questions about individual attendance centers should be addressed to the employee's building principal for certificated employees and the superintendent for support staff.
3. Unsettled matters regarding certificated employees from (b) above or problems and questions concerning the school district should be directed to the superintendent.

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4. If a matter cannot be settled satisfactorily by the superintendent, it may then be brought to the board. To bring a concern regarding an employee, the individual may notify the board president for inclusion on the board agenda of a regularly scheduled board meeting in accordance with board policy 204.10.

It is within the discretion of the board to address complaints from the members of the school district community, and the board will only do so if they are in writing, signed, and the complainant has complied with this policy.

Cross Reference: 204.10 Agenda
 204.12 Public Participation at Board Meetings

403.6 EMPLOYEE OUTSIDE EMPLOYMENT

The board believes the primary responsibility of employees is to the duties of their position within the school district as outlined in their job description. The board considers an employee's duties as part of a regular, full-time position as full-time employment. The board expects such employees to give the responsibilities of their positions in the school district precedence over any other employment.

It shall be the responsibility of the superintendent to counsel employees, whether full-time or part-time, if, in the judgment of the superintendent and the employee's immediate supervisor, the employee's outside employment interferes with the performance of the employee's duties required in the employee's position within the school district.

The board may request the employee to cease the outside employment as a condition of continued employment with the school district.

Cross Reference: 402.03 Employee Conflict of Interest
 409.05 Certificated Employee Tutoring

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403.7 Military and Family Military Leave

Military leave and family military leave will be granted to the extent required by state and federal law.

Employees requesting military leave must notify the Superintendent as soon as they receive notification of activation. Employees are to attach a copy of their orders to a District leave request form when they prepare the request for military leave.

Employees requesting to take family military leave under the Nebraska statutes must notify the Superintendent at least 14 days in advance of taking such a leave if the leave will be for 5 or more consecutive days, consult with their supervisor to schedule the leave so as to not unduly disrupt operations of the school, and for leaves of less than 5 days, notify the Superintendent of the leave request as soon as practicable.

Family military leave under the Family and Medical Leave Act (FMLA) will be provided in accordance with that law and subject to the provisions of the Board policy pertaining to FMLA leave.

Legal Reference: Neb. Rev. Stat. §§ 55-160 to 55-166;
Neb. Rev. Stat. §§ 55-501 to 55-507
29 U.S.C.A. §§ 2611, et seq. and 29 CFR Part 825
38 USC Sections 4301 to 4333 and 20 CFR Part 1002

Date of Adoption: _____, 2008

404.1 EMPLOYEE PHYSICAL EXAMINATIONS

Good health is important to job performance. Employees shall present evidence of good health, in the form of a physical examination report, prior to their employment with the school district. Any such requirement will ensure that all entering employees in the same job category will complete a medical examination regardless of disability. All offers of employment may be made contingent on medical examination results.

Employees whose physical or mental health, in the judgment of the administration, may be in doubt shall submit to additional examinations, when requested to do so, at the expense of the school district.

The cost of the initial examination will be paid by the school district. Medical examinations will be conducted by a medical doctor selected by the district. The school district shall provide the standard examination form to be completed by the personal physician of the employee.

The successful applicant must be qualified and must be able to perform the essential functions of a position with or without reasonable accommodations. The district may withdraw an offer of employment should the medical examination reveal that the individual does not satisfy certain employment criteria under the following conditions:

- The exclusionary criteria are job related and consistent with business necessity;
- There is no reasonable accommodation that will enable the individual with a disability to perform the essential functions of the job;
- The medical condition poses a direct threat to the health or safety of others in the workplace and cannot be eliminated or reduced to an acceptable level by a reasonable modification of policies, practices, procedures or by the provision of auxiliary aids or services;
- The requested or necessary accommodation would impose an undue hardship on the district, unless funding is available through other sources. Individuals with a disability may be offered an opportunity of paying for a portion of the costs that constitutes an undue hardship or of personally providing the accommodation.

Employees identified as having reasonably anticipated contact with blood or infectious materials shall receive the Hepatitis B vaccine or sign a written waiver stating that they will not take the vaccine.

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It shall be the responsibility of the superintendent to write an exposure control plan to eliminate or minimize district occupational exposure to bloodborne pathogens. The plan for designated employees shall include, but not be limited to, scope and application, definitions, exposure control, methods of compliance, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and record keeping.

Information the district receives regarding medical examinations and drug testing will be collected and maintained on separate forms and in separate files apart from personnel files. All such records will be kept confidential, maintained for a minimum of one year and released only in accordance with provisions of the Americans with Disabilities Act or other applicable laws.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding physical examinations of such employees shall be followed.

Legal Reference: 29 C.F.R. Pt. 1630

Cross Reference: 404 Employees' Health and Well-Being

404.2 EMPLOYEE INJURY ON THE JOB

When an employee becomes seriously injured on the job, the building principal shall notify a member of the family, or an individual of close relationship, as soon as the building principal becomes aware of the injury.

If possible, an employee may administer emergency or minor first aid. An injured employee shall be turned over to the care of the employee's family or qualified medical employees as quickly as possible. The school district is not responsible for medical treatment of an injured employee.

It shall be the responsibility of the employee injured on the job to inform the superintendent within twenty-four hours of the occurrence. It shall be the responsibility of the employee's immediate supervisor to file an accident report within twenty-four hours after the employee reported the injury.

It shall be the responsibility of the employee to file claims, such as workers' compensation, through the central administration office.

Cross Reference: 404 Employees' Health and Well-Being
 410.02 Certificated Employee Personal Illness Leave
 415.02 Support Staff Personal Illness Leave

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404.3 EMPLOYEES' PERSONAL SECURITY AND SAFETY

The Board authorizes the superintendent to take appropriate means to provide for the health and safety of all employees while engaged in the performance of their duties.

The superintendent, in consultation with district and building safety committees, will develop training and written procedures necessary to accomplish this goal and to meet the requirements of the law.

All employees shall conduct their work in compliance with the safety rules of the district.

Cross Reference: 905 Safety Program

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404.4 COMMUNICABLE DISEASES - EMPLOYEES

Employees with a communicable disease will be allowed to perform their customary employment duties provided they are able to perform the essential functions of their position and their presence does not create a substantial risk of illness or transmission to students or other employees. The term "communicable disease" shall mean an infectious or contagious disease spread from person to person, or animal to person, or as defined by law.

Prevention and control of communicable diseases shall be included in the school district's bloodborne pathogens exposure control plan. The procedures shall include scope and application, definitions, exposure control, methods of compliance, universal precautions, vaccination, post-exposure evaluation, follow-up, communication of hazards to employees and record keeping. This plan shall be reviewed annually by the superintendent and school nurse.

The health risk to immunodepressed employees shall be determined by their personal physician. The health risk to others in the school district environment from the presence of an employee with a communicable disease shall be determined on a case-by-case basis by the employee's personal physician, a physician chosen by the school district or public health officials.

An employee who is at work and who has a communicable disease which creates a substantial risk of harm to a student, coworkers, or others at the workplace shall report the condition to the Superintendent any time the employee is aware that the disease actively creates such risk.

Health data of an employee is confidential and it shall not be disclosed to third parties. Employee medical records shall be kept in a file separate from their personal file.

It shall be the responsibility of the superintendent, in conjunction with the school nurse, to develop administrative regulations stating the procedures for dealing with employees with a communicable disease.

Legal Reference: 29 U.S.C. §§ 794, 1910 (1994).
42 U.S.C. §§ 12101 et seq. (1994).
45 C.F.R. Pt. 84.3 (1996).

Cross Reference: 402.06 Employee Records
404.01 Employee Physical Examinations
508.03 Communicable or Infectious Diseases - Students

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404.5 HAZARDOUS CHEMICAL DISCLOSURE

The board authorizes the development of a comprehensive hazardous chemical communication program for the school district to disseminate information about hazardous chemicals in the workplace.

Each employee shall annually review information about hazardous substances in the workplace. When a new employee is hired or transferred to a new position or work site, the information and training, if necessary, shall be included in the employee's orientation. When an additional hazardous substance enters the workplace, information about it shall be distributed to all employees, and training shall be conducted for the appropriate employees. The central administration office shall maintain a file indicating which hazardous substances are present in the workplace and when training and information sessions take place.

Employees who will be instructing or otherwise working with students shall disseminate information about the hazardous chemicals with which they will be working as part of the instructional program.

It shall be the responsibility of the superintendent to develop administrative regulations regarding this program.

Legal Reference: 29 C.F.R. Pt. 1910; 1200 et seq. (1996).
Laws 1993, L.B. 757

Cross Reference: 404 Employees' Health and Well-Being
905 Safety Program

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404.6 HARASSMENT BY EMPLOYEES

Harassment of employees, students, volunteers or visitors will not be tolerated in the school district. School district includes school district facilities, school district property, or property within the jurisdiction of the school district; while on school-owned or school-operated transportation; while attending or engaged in school activities; and while away from school grounds if the misconduct directly affects the good order, efficient management and welfare of the district.

Harassment includes, but is not limited to, racial, religious, national origin, marital status, disability and sexual harassment. Harassment by board members, administrators, employees, parents, vendors, and others doing business with the school district is prohibited. Employees whose behavior is alleged to be in violation of this policy will be subject to the investigation procedure which may result in discipline, up to and including, discharge or other appropriate action. Other individuals whose behavior is alleged to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the superintendent or board.

Sexual harassment shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in school programs or activities;
- submission to or rejection of such conduct by an individual is used as the basis for decisions affecting such individual's employment or education; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment as set out above, may include, but is not limited to the following:

- verbal or written harassment or abuse, or unwelcome communication implying sexual motives or intentions;
- pressure for sexual activity; repeated remarks to a person with sexual or demeaning implications;
- unwelcome touching;

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- unwelcome and offensive public sexual display of affection;
- suggesting or demanding sexual involvement, accompanied by implied or explicit threats concerning one's job, promotions, recommendations, etc.

Harassment on the basis of race, creed, color, religion, national origin, marital status or disability means conduct of a verbal or physical nature that is designed to embarrass, distress, agitate, disturb or trouble individuals when:

- submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of an individual's participation in school programs, activities or employment;
- submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's performance or
- creating an intimidating, offensive or hostile learning or work environment.

Harassment as set forth above may include, but is not limited to the following:

- verbal, physical or written harassment or abuse;
- repeated remarks of a demeaning nature;
- implied or explicit threats concerning one's grades, achievements, etc.;
- demeaning jokes, stories, or activities directed at an individual.

Employees, students, volunteers or visitors who believe they have suffered harassment shall report such matters to the investigator for harassment complaints. However, claims regarding harassment may also be reported to the alternate investigator for harassment complaints.

Upon receiving a complaint, the investigator shall confer with the complainant to obtain an understanding and a statement of the facts. It shall be the responsibility of the investigator to promptly and reasonably investigate claims of harassment and to pass the findings on to the superintendent who shall complete such further investigation as deemed necessary and take such final action as appropriate. Information regarding an investigation of harassment shall be confidential to the extent possible, and those individuals who are involved in the investigation shall not discuss information regarding the complaint outside the investigation process.

No one shall retaliate against an employee or student because they have filed a harassment complaint, assisted or participated in a harassment investigation, proceeding, or hearing regarding a harassment charge or because they have opposed language or conduct that violates this policy. This policy should be used when an employee is the alleged harasser or the alleged victim. It is strongly recommended the investigator and alternate investigator be of opposite sexes.

It shall also be the responsibility of the superintendent, in conjunction with the investigator and principals, to develop administrative rules regarding this policy. The superintendent or superintendent's designee shall also be responsible for organizing training programs to educate employees, students and others involved with the school district about harassment and the school district's policy prohibiting harassment. The training shall include how to recognize harassment and what to do in case an individual is harassed. The employee training will be documented in personnel files to ensure a record of training for each employee.

Legal Reference: 42 U.S.C. §§ 2000e et seq. (1994).
29 C.F.R. Pt. 1604.11 (1996).

Cross Reference: 103 Equal Educational Opportunity
402.01 Equal Opportunity Employment
402.05 Employee Grievances
403.03 Abuse of Students by School District Employees
405 Employee Conduct and Appearance
504.18 Harassment By Students
505 Student Discipline

404.6E1 HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____

404.6E2 WITNESS DISCLOSURE FORM

Name of witness: _____

Position of witness: _____

Date of testimony, interview: _____

Description of instance witnessed: _____

Any other information: _____

I agree that all of the information of this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____

404.6R1 HARASSMENT INVESTIGATING AND REPORTING

Harassment of employees and students will not be tolerated in the school district.

Harassment is a violation of school district policies, rules and regulations and, in some cases, may also be a violation of criminal or other laws. The school district has the authority to report students violating this rule to law enforcement officials.

Employees whose behavior is alleged to be in violation of this policy will be subject to the investigation procedure which may result in discipline, up to and including, discharge or other appropriate action. Other individuals whose behavior is alleged to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the superintendent or board.

Individuals who feel that they have been harassed by employees, board members, administrators, parents, vendors or others doing business with the school district should communicate to the harasser that the individual expects the behavior to stop, if the individual is comfortable doing so. If the individual needs assistance communicating with the harasser, he/she should ask a teacher, counselor or principal to help.

Complaint Procedure

An employee or student who believes that they have been harassed shall notify the superintendent of schools, the designated investigator. The alternate investigator is the building principal. The investigator may request that the employee or student complete the Harassment Complaint form and turn over evidence of the harassment, including, but not limited to, letters, tapes, or pictures. Information received during the investigation shall be kept confidential to the extent possible.

The superintendent, or the investigator with the approval of the superintendent, has the authority to initiate a harassment investigation in the absence of a written complaint.

Investigation Procedure

The investigator shall reasonably and promptly commence the investigation upon receipt of the complaint. The investigator shall interview the complainant and the alleged harasser. The alleged harasser may file a written statement refuting or explaining the behavior outlined in the complaint. The investigator may also interview witnesses as deemed appropriate.

Upon completion of the investigation, the investigator shall report to the superintendent. The investigator will outline the findings of the investigation to the superintendent.

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Resolution of the Complaint

The superintendent will complete the next step in the investigation reasonably and promptly upon receipt of the investigator's report. Following the investigator's report, the superintendent may investigate further, if deemed necessary, and make a determination of the appropriate next step which may include discipline, up to and including, discharge.

Prior to the determination of the appropriate remedial action, the superintendent may, at the superintendent's discretion, interview the complainant and the alleged harasser. The superintendent shall file a written report closing the case and documenting any disciplinary or other action taken in response to the complaint. The complainant, the alleged harasser and the investigator shall receive notice as to the conclusion of the investigation.

Points to Remember in the Investigation

- Evidence uncovered in the investigation is confidential.
- Complaints must be taken seriously and investigated.
- No retaliation will be taken against individuals involved in the investigation process.
- Retaliators will be disciplined up to and including discharge.

Conflicts

If the investigator is the alleged harasser or a witness to the incident, the alternate investigator shall be the investigator.

If the alleged harasser is the superintendent, the alternate investigator shall take the superintendent's place in the investigation process. The alternate investigator shall report the findings to the board.

404.7 SUBSTANCE-FREE WORKPLACE

The board expects the school district and its employees to remain substance free. No employee shall unlawfully manufacture, distribute, dispense, possess, use, or be under the influence of in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance or alcoholic beverage as defined by federal or state law. "Workplace" includes school district facilities, school district premises or school district vehicles. "Workplace" also includes nonschool property if the employee is at any school-sponsored, school-approved or school-related activity, event or function, such as field trips or athletic events where students are under the control of the school district or where the employee is engaged in school business.

If an employee is convicted of a violation of any criminal drug offense committed in the workplace, the employee shall notify the employee's supervisor of the conviction within five days of the conviction.

The superintendent will make the determination whether to require the employee to undergo substance abuse treatment or to discipline the employee. An employee who violates the terms of this policy may be subject to discipline up to and including termination. An employee who violates this policy may be required to successfully participate in a substance abuse treatment program approved by the board. If the employee fails to successfully participate in a program, the employee may be subject to discipline up to and including termination.

The superintendent shall be responsible for publication and dissemination of this policy to each employee. In addition, the superintendent shall oversee the establishment of a substance-free awareness program to educate employees about the dangers of substance abuse and notify them of available substance abuse treatment programs.

It is the responsibility of the superintendent to develop administrative regulations to implement this policy. This policy and related administrative regulations shall have a biennial review to determine its effectiveness, implement needed changes and ensure that the sanctions are consistently enforced.

Legal Reference: P.L. 101-226, Drug-Free Schools and Communities Act
Amendments of 1989,
41 U.S.C. §§ 701-707 (1994).
42 U.S.C. §§ 12101 et seq. (1994).
34 C.F.R. Pt. 86 (1996).

Cross Reference: 405 Employee Conduct and Appearance

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404.8 DRUG AND ALCOHOL TESTING PROGRAM

Employees who operate school vehicles are subject to drug and alcohol testing if a commercial driver's license is required to operate the school vehicle and the school vehicle transports sixteen or more persons including the driver or the school vehicle weighs twenty-six thousand one pounds or more. For purposes of the drug and alcohol testing program, the term "employees" includes applicants who have been offered a position to operate a school vehicle.

The employees operating a school vehicle as described above are subject to pre-employment drug testing and random, reasonable suspicion, post-accident, return-to-duty and follow-up drug and alcohol testing. Employees operating school vehicles shall not perform a safety-sensitive function within four hours of using alcohol. Employees governed by this policy shall be subject to the drug and alcohol testing program beginning the first day they operate or are offered a position to operate school vehicles and continue to be subject to the drug and alcohol testing program as long as they may be required to perform a safety-sensitive function as it is defined in the administrative regulations. Employees with questions about the drug and alcohol testing program may contact the school district contact person, the superintendent at 201 N. Sunset, Pierce, NE 68767.

Employees who violate the terms of this policy may be subject to discipline up to and including termination. Employees who violate this policy bear the personal and financial responsibility, as a condition of continued employment, to successfully participate in a substance abuse evaluation and a substance abuse treatment program if recommended by the substance abuse professional. Employees who fail to or refuse to successfully participate in a substance abuse evaluation or recommended substance abuse treatment program may be subject to discipline up to and including termination.

It is the responsibility of the superintendent to develop administrative regulations to implement this policy in compliance with the law. The superintendent shall inform applicants of the requirement for drug and alcohol testing in notices or advertisements for employment.

The superintendent shall also be responsible for publication and dissemination of this policy and its supporting administrative regulations and forms to employees operating school vehicles. The superintendent shall also oversee a substance-free awareness program to educate employees about the dangers of substance abuse and notify them of available substance abuse treatment resources and programs.

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Legal Reference: 49 U.S.C. §§ 5331 et seq. (1994).
42 U.S.C. §§ 12101 (1994).
41 U.S.C. §§ 701-707 (1996).
49 C.F.R. Pt. 40; 382; 391.81-123 (1994).
34 C.F.R. Pt. 85 (1996).

Cross Reference: 404.07 Substance-Free Workplace
410.02 Certificated Employee Personal Illness Leave
415.02 Support Staff Personal Illness Leave

404.9 INJURED EMPLOYEE ALTERNATIVE DUTY REVIEW

Employees returning to work from an injury may in some instances be placed on temporary light duty assignment by the building principal based on a doctor's recommendation. All employees are hired to perform essential functions for the district and it is necessary to the continued operation of the district that they carry out the duties they were hired to perform. This alternative duty assignment is intended to reduce lost time days and shall not continue indefinitely.

The building shall monitor the health improvement of the employee and conduct a review of the light duty assignment every 30 days. Light duty assignment is limited to all employees to a maximum of 180 days.

Cross Reference: 404 Employees' Health and Well-Being
 407.05 Certificated Employee Workers' Compensation
 410.02 Certificated Employee Personal Illness Leave
 413.04 Support Staff Workers' Compensation
 415.02 Support Staff Personal Illness Leave

Approved July 14, 2003 Reviewed _____ Revised _____

404.10 DISCLOSURE AND PROTECTION OF EMPLOYEE HEALTH
INFORMATION

The district will comply with all regulations regarding privacy and confidentiality of employee health and insurance information, including the secure interchange and storage of electronic data. The superintendent is directed to promulgate administrative regulations as needed to ensure proper handling of such information.

Employees will be provided with a notice describing the district's practices regarding health information. Employees shall have the right to inspect, copy or amend such information or to revoke authorization to disclose such information. Revocation of authorization will affect the availability of some employee benefits.

Legal Reference: 1996 Health Insurance Portability and Accountability Act (HIPAA)
Family Educational Rights and Privacy Act (FERPA)

Cross Reference: 402.06 Employee Records
404.02 Employee Injury on the Job
804.01 Computer Security
804.02 Data Retention

Approved July 14, 2003

Reviewed _____ Revised _____

405 EMPLOYEE CONDUCT AND APPEARANCE

Employees are role models for the students who come in contact with them during and after school hours. The board recognizes the positive effect employees can have on students in this capacity. To this end, the board strongly suggests and encourages employees to dress themselves, groom themselves and conduct themselves in a manner appropriate to the educational environment.

Employees shall conduct themselves in a professional manner. Employees shall dress in attire appropriate for their position. Clothing should be neat, clean, and in good taste. Discretion and common sense call for an avoidance of extremes which would interfere with or have an effect on the educational process.

Certificated employees of the school district shall follow the code of ethics for their profession as established by the Nebraska Professional Practices Commission.

Legal Reference: NDE Rule 27

Cross Reference: 305 Administrative Code Of Ethics
402.02 Employee Orientation
404.06 Harassment
404.07 Substance-Free Workplace
408 Certificated Employee Termination of Employment
414 Support Staff Termination of Employment

Approved July 14, 2003 Reviewed _____ Revised _____

406.1 CERTIFICATED EMPLOYEE DEFINED

Certificated employees, including administrators, are those employees required to hold an appropriate certificate from the Nebraska Department of Education for their position as required by the Professional Practices Commission or others with professional licenses. Certificates required for a position will be considered met if the employee meets the requirements established by the Nebraska Department of Education.

It shall be the responsibility of the superintendent to establish job specifications and job descriptions for certificated employees' positions, other than the position of the superintendent. Job descriptions may be approved by the board.

Certificated employees must present evidence of current certificate to the superintendent prior to September 15 and before any payment of salary each year.

Legal Reference: Neb. Statute 79-801 et seq.

Cross Reference: 406.02 Certificated Employee Qualifications, Recruitment
and Selection
411.01 Substitute Teachers
412.01 Support Staff Defined

Approved July 14, 2003

Reviewed _____ Revised _____

406.2 CERTIFICATED EMPLOYEE QUALIFICATIONS, RECRUITMENT, SELECTION

Persons interested in a certificated position, other than administrative positions which will be employed in accordance with board policies in Series 300, "Administration," shall have an opportunity to apply and qualify for certificated positions in the school district without regard to age, race, creed, color, sex, national origin, religion or disability. Job applicants for licensed positions shall be considered on the basis of the following:

- Training, experience, and skill;
- Nature of the occupation;
- Demonstrated competence; and
- Possession of, or ability to obtain, state certificate or license if required for the position.

Announcement of the position shall be in a manner which the superintendent believes will inform potential applicants about the position. Applications for employment may be obtained from and completed applications shall be returned to the school district administrative office. Whenever possible, the preliminary screening of applicants shall be conducted by the administrator who will be directly supervising and overseeing the person being hired.

The board shall employ certificated employees after receiving a recommendation from the superintendent. However, the superintendent shall have the authority to employ a certificated employee on a temporary basis until a recommendation can be made and action can be taken by the board on the position.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding qualifications, recruitment and selections of such employees shall be followed.

Legal Reference: 29 U.S.C. §§ 621-634 (1994).
42 U.S.C. §§ 2000e et seq. (1994).
42 U.S.C. §§ 12101 et seq. (1994).

Cross Reference: 402.02 Equal Employment Opportunity
406 Certificated Employees - General
411.01 Substitute Teachers
412.02 Support Staff Qualifications, Recruitment, Selection

Approved July 14, 2003 Reviewed _____ Revised _____

406.3 CERTIFICATED EMPLOYEE INDIVIDUAL CONTRACTS

The board will enter into a written contract with certificated employees, other than administrators, employed on a regular basis. Each contract will be for a period of one year, beginning on July 1 and ending on June 30.

It shall be the responsibility of the superintendent to complete the contracts for certificated employees and present them to the board for approval. The contracts, after being signed by at least one board member and the employee, shall be returned to the superintendent. The contract shall be kept on file in the administration offices.

Legal Reference: Neb. Statute 79-817 to 822

Cross Reference: 406.02 Certificated Employee Qualifications, Recruitment,
and Selection
406.04 Certificated Employee Continuing Contracts
408 Certificated Employee Termination of Employment

Approved July 14, 2003

Reviewed _____ Revised _____

406.4 CERTIFICATED EMPLOYEE CONTINUING CONTRACTS

Contracts entered into with certificated employees, other than an administrator, will continue from year to year unless the contract states otherwise, is modified by mutual agreement between the board and the employee, or the contract is terminated by the board.

The first three years of a continuing contract issued to a newly employed certificated employee shall be considered a probationary period. In the event of termination of the employee's contract during this period, the board shall afford the certificated employee appropriate due process. The action of the board will be final.

Certificated employees whose contracts will be recommended for termination, amendment or nonrenewal by the board will receive notice prior to April 15. The superintendent shall make a recommendation to the board for the termination of the certificated employee's contract.

Certificated employees who wish to resign, to be released from a contract, or to retire must comply with board policies in those areas.

Legal Reference: Neb. Statute 79-824 to 842

Cross Reference: 406.03 Certificated Employee Individual Contracts
 406.09 Certificated Employee Probationary Status
 408 Certificated Employee Termination of Employment

Approved July 14, 2003 Reviewed _____ Revised _____

406.5 CERTIFICATED EMPLOYEE WORK DAY

The work day for certificated employees shall begin each day of the school year at a time established by the superintendent. Certificated employees who are employed only during the academic year shall have the same work day as other certificated employees. "Day" is defined as one work day regardless of full-time or part-time status of an employee.

Certificated employees are to be in their assigned school building during the work day. Advance approval to be absent from the school building must be obtained from the principal whenever the certificated employees must leave the school building during the work day.

The building principal is authorized to make changes in the work day in order to facilitate the education program. These changes shall be reported to the superintendent.

The work day outlined in this policy is a minimum work day. Nothing in this policy prohibits certificated employees from working additional hours outside the work day.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding work day of such employees shall be followed.

Cross Reference: 201.01 Board Powers and Responsibilities

Approved July 14, 2003 Reviewed _____ Revised _____

406.6 CERTIFICATED EMPLOYEE ASSIGNMENT

Determining the assignment of each certificated employee is the responsibility of and within the sole discretion of the board. In making such assignments the board shall consider the qualifications of each certificated employee and the needs of the school district.

It shall be the responsibility of the superintendent to make recommendations to the board regarding the assignment of certificated employees.

Any requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding assignment of such employees shall be followed.

Legal Reference: Neb. Statute 79-839

Cross Reference: 201.01 Board Powers and Responsibilities

Approved July 14, 2003

Reviewed _____ Revised _____

406.8 CERTIFICATED EMPLOYEE EVALUATION

Evaluation of certificated employees on their skills, abilities, and competence shall be an ongoing process supervised by the building principals and conducted by approved evaluators. The goal of the formal evaluation of certificated employees, other than administrators, but including extracurricular employees, shall be to improve the education program, to maintain certificated employees who meet or exceed the board's standards of performance, to clarify the certificated employee's role, to ascertain the areas in need of improvement, to clarify the immediate priorities of the board, and to develop a working relationship between the administrators and other employees.

The formal evaluation criteria shall be in writing. The formal evaluation shall provide an opportunity for the evaluator and the certificated employee to discuss the past semester's performance and the future areas of growth. The formal evaluation shall be completed by the evaluator, signed by the certificated employee and filed in the certificated employee's personnel file. This policy supports, and does not preclude, the ongoing informal evaluation of the certificated employee's skills, abilities and competence.

The Superintendent will create an administrative regulation describing the procedure to be used for evaluations and including the evaluation instrument. At a minimum this will provide for evaluation of instructional performance, classroom organization and management, professional conduct, and personal conduct. It will provide for a written description of all noted deficiencies, specific means for the correction of the noted deficiencies and an adequate timeline for implementing the concrete suggestions for improvement. The teacher will be allowed to offer a written response. The regulation will also specify what training will be provided by the district for evaluators.

It shall be the responsibility of the building principal to ensure certificated employees are evaluated at least annually. The evaluation shall include at least one classroom observation for one period.

New and probationary certificated employees shall be evaluated at least once each semester. This evaluation procedure will include at least one classroom observation for one period each semester.

The requirements stated in the Negotiated Contract between employees in the certified collective bargaining unit and the board regarding evaluation of such employees shall be followed.

Approved July 14, 2003 Reviewed _____ Revised _____

Legal Reference: Neb. Statute 79-828
NDE Rule 34

Cross Reference: 406.02 Certificated Employee Qualifications, Recruitment,
and Selection
406.09 Certificated Employee Probationary Status
408.05 Certificated Employee Reduction-In-Force

406.9 CERTIFICATED EMPLOYEE PROBATIONARY STATUS

The first three years of a new full-time certificated employee's contract shall be a probationary period. The probationary period for part-time certificated employees shall be based upon formulas provided by state statute.

Only the board, in its discretion, may waive the probationary period. During this probationary period the board may terminate or amend the certificated employee's contract at year-end or discharge the employee in concert with corresponding board policies.

Certificated employees may also serve a probationary period based upon their performance. Such probationary period shall be determined on a case-by-case basis in light of the circumstances surrounding the employee's performance as documented in the employee's evaluations and personnel file. Prior to such a determination the employee will be allowed due process as provided by state statutes and the Negotiated Contract.

Legal Reference: Neb. Statute 79-828

Cross Reference: 406.04 Certificated Employee Continuing Contracts
 406.08 Certificated Employee Evaluation

Approved July 14, 2003

Reviewed _____ Revised _____

407.1 CERTIFICATED EMPLOYEE SALARY SCHEDULE

The board shall establish salary schedules for certificated employees' positions keeping in mind the financial condition of the school district, the education and experience of the certificated employee, the educational philosophy of the school district, and other factors deemed relevant by the board.

It shall be the responsibility of the superintendent to make a recommendation to the board annually regarding the salary schedule. The salary schedule shall be subject to review and modification through the collective bargaining process.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding wages and salaries of such employees shall be followed.

Cross Reference: 406 Certificated Employees - General
 407.02 Certificated Employee Salary Schedule Advancement

Approved July 14, 2003 Reviewed _____ Revised _____

407.2 CERTIFICATED EMPLOYEE SALARY SCHEDULE ADVANCEMENT

The board shall determine which certificated employees will advance on the salary schedule for the certificated employees' positions, keeping in mind the financial condition of the school district, the education and experience of the certificated employee, the educational philosophy of the school district, and other considerations as determined by the board.

It shall be the responsibility of the superintendent to make a recommendation to the board for the advancement of certificated employees on the salary schedule.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding salary schedule advancement of such employees shall be followed.

Cross Reference: 406 Certificated Employees - General
 407 Certificated Employee Compensation and Benefits

Approved July 14, 2003 Reviewed _____ Revised _____

407.3 CERTIFICATED EMPLOYEE CONTINUED EDUCATION CREDIT

Continued education on the part of certificated employees may entitle them to advancement on the salary schedule or endorsement in additional subjects. Certificated employees who have completed additional hours will be considered for advancement on the salary schedule. The board shall determine which certificated employees will advance on the salary schedule for continued education keeping in mind the financial condition of the school district, the education and experience of the certificated employee, the educational philosophy of the school district, and any other items deemed relevant by the board.

Certificated employees who wish to obtain additional education for advancement on the salary schedule or other job-related purposes must notify their supervisor by September 1 of the school year preceding the actual year when advancement or addition of endorsements occurs. Additional education for salary advancement must be in the same area as the education that was required of the employee to hold the employee's current position with the school district. For purposes of illustration only, a math teacher would advance on the salary schedule only if the additional education was in math courses. The superintendent has the discretion to approve credit outside the employee's area of endorsement or responsibility.

It shall be the responsibility of the superintendent to make a recommendation to the board for the advancement of a certificated employee on the salary schedule.

The requirements stated in the Negotiated Contract between certificated employees in a certified collective bargaining unit and the board regarding continued education credit of such employees shall be followed.

Cross Reference: 406 Certificated Employees - General
 407 Certificated Employee Compensation and Benefits
 408.05 Certificated Employee Reduction-In-Force

407.4 CERTIFICATED/CLASSIFIED EMPLOYEE COMPENSATION FOR EXTRA DUTY

A certificated or qualified classified employee may volunteer or be required to take on extra duty, with the extra duty being secondary to the major responsibility of the certificated/classified employee. The board shall establish a salary schedule for extra duty certificated/classified employee positions, keeping in mind the financial condition of the school district, the education and experience of the certificated/classified employee, the educational philosophy of the school district, and other considerations as determined by the board.

Vacant extra duty positions, for which extra compensation will be earned, will be posted or announced to allow qualified certificated or classified employees to volunteer for the extra duty. If no certificated or classified employee volunteers for extra duty, the superintendent shall assign the extra duty positions to qualified certificated employees. The certificated employee shall receive compensation for the extra duty required to be performed.

It shall be the responsibility of the superintendent to make a recommendation to the board annually as to which certificated/classified employees shall have the extra duty, and the salary schedule for extra duty, for the board's review.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the compensation for extra duties of such employees shall be followed.

Cross Reference: 406 Certificated Employees - General
 407 Certificated Employee Compensation and Benefits

Approved July 14, 2003 Reviewed _____ Revised _____

407.5 CERTIFICATED EMPLOYEE WORKERS' COMPENSATION

The district will participate in workers' compensation as required by statute. All employees of the district will be covered by workers' compensation regardless of type of assignment, length of assignment or hours worked per day.

The selected workers' compensation plan will provide coverage for medical expenses and wages to the extent required by statute to qualifying employees. The amount of workers' compensation wage-replacement and sick leave benefits shall not exceed a regular daily rate of pay.

The superintendent shall be responsible for developing administrative regulations to implement the workers' compensation plan and shall annually review the costs and performance of the plan with the board, making recommendations for changes as necessary.

Legal Reference: Neb. Statute 48-101 et seq.

Cross Reference 404 Employee Health and Well-Being
 905 Safety Program

Approved July 14, 2003 Reviewed _____ Revised _____

407.6 CERTIFICATED EMPLOYEE TAX SHELTER PROGRAMS

The board authorizes the administration to make a payroll deduction for certificated employees' tax sheltered annuity premiums purchased from any company the employee chooses or through a Nebraska-licensed salesperson selected by the employee.

Certificated employees wishing to have payroll deductions for tax sheltered annuities shall make a written request to the superintendent.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the tax sheltered annuities of such employees shall be followed.

Cross Reference: 707 Payroll Procedures

Approved July 14, 2003 Reviewed _____ Revised _____

408.1 CERTIFICATED EMPLOYEES - RESIGNATION

Any certificated employee who wishes to be released from contract should consider the difficulty of securing an adequate replacement for the district and disruption to the educational program. A late resignation greatly increases this difficulty and disruption.

A certificated employee who wishes to be released from his/her contract shall immediately deliver a written and signed notice of resignation to the office of the Superintendent. The Superintendent, upon reviewing the request and its impact on the district, shall forward the request to the School Board with an appropriate recommendation.

The School Board shall make the final determination regarding the request but shall have no obligation to approve the employee's early release from contract.

The Board may request the employee to continue as a member of the staff and to fulfill the terms of his/her contract. The early release, if allowed, will become effective at the end of the school year in which it is submitted. If the employee has requested the release to become effective at an earlier date than the end of the school year, the Board may consider it on an individual basis.

An employee's refusal to fulfill his/her contract shall be cause for the district to request a revocation of certification by the Nebraska Department of Education.

Legal Reference: Nebraska Statutes 79-817 to 79-845
NDE Rule 27, part 007

Approved July 14, 2003 Reviewed _____ Revised _____

408.2 CERTIFICATED EMPLOYEE CONTRACT RELEASE

A request for release from a contract shall be contingent upon finding a suitable replacement with the following exception: A request for release from contract submitted before April 25 of the current school year requesting release for the upcoming school year shall be accepted by the Board without any conditions.

The Superintendent or his designee shall have the sole responsibility for determining the criteria used to define a suitable replacement for each position.

If in the opinion of the certificated employee unusual circumstances exist, the certificated employee may appeal to the Board to waive any of the above stated requirements.

The superintendent is authorized to file a complaint with the Nebraska Professional Practices Commission against a certificated employee who leaves without proper release from the board.

The Board of Education reserves the right to seek damages against any certificated employee as a result of breach of contract.

Legal Reference: NDE Rule 27
Neb. Statute 79-817 et seq.

Cross Reference: 406.03 Certificated Employee Individual Contracts
406.04 Certificated Employee Continuing Contracts
408.03 Certificated Employee Retirement

Approved July 14, 2003 Reviewed _____ Revised _____

408.3 CERTIFICATED EMPLOYEE RETIREMENT

Certificated employees who will complete their current contract with the board may apply for retirement. No certificated employee will be required to retire at a specific age.

Application for retirement will be considered made when the certificated employee states in writing to the superintendent, no later than the date set by district policy for the return of the employee's contract to the board, the intent of the employee to retire. The letter must clearly state the employee's desire to retire.

Applications made after the date set by the board for the return of the employee's contract to the board may be considered by the board if special circumstances exist. It shall be within the discretion of the board to determine whether special circumstances exist.

Board action to approve a certificated employee's application for retirement shall be final and such action constitutes nonrenewal of the employee's contract for the next school year.

Certificated employees who retire under this policy may qualify for retirement benefits through the State School Retirement Fund.

Certificated employees and their spouse and dependents shall be allowed to continue coverage in the school district's group health insurance program at their own expense by meeting the requirements of the insurer.

Cross Reference: 402.09 Recognition for Service of Employees
 408.06 Certificated Employee Early Retirement

Approved July 14, 2003 Reviewed _____ Revised _____

408.4 CERTIFICATED EMPLOYEE SUSPENSION

Certificated employees shall perform their assigned job, respect and follow board policy and obey the law. The superintendent is authorized to suspend a certificated employee pending board action on a discharge, for investigation of charges against the employee, and for disciplinary purposes. It shall be within the discretion of the superintendent to suspend a certificated employee with or without pay.

In the event of a suspension, appropriate due process shall be followed.

Cross Reference: 405 Employee Conduct and Appearance
 408 Certificated Employee Termination of Employment

Approved July 14, 2003 Reviewed _____ Revised _____

408.5 CERTIFICATED EMPLOYEE REDUCTION-IN-FORCE

The board has the exclusive authority to determine the appropriate number of certificated employees. Reductions-in-force of certificated staff members may be required due to changes in the size or nature of the student population, limited financial support, changing programs, staff realignment or other changes in circumstances. Reduction-in-force may result in termination of employment, an amendment to the employee's contract reducing the employee from full-time to part-time status or an amendment to the contract of a part-time employee further reducing that employee's percentage of employment.

Prior to the reduction-in-force the board shall present evidence that such changes in circumstances have occurred. If a reduction of certificated staff is necessary, the superintendent or designee shall recommend to the school board those certificated employees to be reduced in employment under the provisions of this policy. No permanent employee may be selected for a reduction-in-force while a probationary employee is retained to perform a service that the permanent employee is qualified by certification and endorsement to perform or where certification is not applicable, by reason of college credits in the teaching area.

Due to the often intimate, confidential, and unique personal working relationship necessary between the administration and the school board, a certificated employee who is not currently serving in a predominantly administrative capacity shall have no rights under this policy to any administrative position within the school system.

The selection of personnel to be terminated shall be made with consideration given to the following:

- Programs to be offered;
- Areas of certification and endorsement;
- State and federal regulations which may mandate certain employment practices;
- Special qualifications that may require specific training and/or experience;
- Contributions to activity programs;
- Qualifications based on past performance and competence as determined by the principal and/or superintendent through employee evaluation procedures;
- The organizational and educational impact created by multiple part time certificated employees; and
- Any other reasons which can be rationally related to the instruction in or administration of the school system.

Approved July 14, 2003

Reviewed _____ Revised _____

408.6 CERTIFICATED EMPLOYEE EARLY RETIREMENT

A. PURPOSE

The purpose of the Early Separation Incentive Program is to encourage eligible certificated employees who are considering an early separation to accelerate their plans. The program's objectives include, but are not limited to, the following:

1. Offering financial incentives which will assist long-term employees who are considering early separation.
2. Reducing costs to the school district by replacing maximum salaried employees with lesser salaried employees.
3. Providing a balance of employee experience.

B. QUALIFICATIONS

1. Certificated Employee. To participate, a person must be a teacher or administrator certificated by the Nebraska Department of Education.

2. Full-Time Equivalency. Certificated employees, whether full-time or part-time, may participate in the Early Separation Incentive Program (Program).

3. Minimum Years of Service. To be eligible for this program, a certificated employee must have completed at least 20 years of service as a certificated employee in a public or parochial school system. At least 10 of those 20 years of service must have been "credited service" in the employment of Pierce Public Schools. Credited service shall be defined as employment with Pierce Public Schools as a certificated employee. Unless otherwise required by law, Board-approved leave for military service, for a sabbatical or for a leave of absence, or any leave required to be granted according to law, shall not be included as credited years of service. In determining years of service for the purpose of meeting the 20-year and 10-year requirements, part-time employment is equal to full-time employment.

C. ENROLLMENT REQUIREMENTS

1. Resignation. Participants in the program may resign their teaching positions with the school district effective at the close of the school year in consideration for the benefits outlined in paragraph D below.

2. Application. An applicant must submit a signed application and agreement to the board of education on or before March 1, of the school year preceding the school year of separation. The superintendent shall review the employee's record to determine whether the employee is eligible for the program. Provided that for the 2004-2005 school year only, applications must be submitted on or before June 15, 2005.

3. Employee's Ineligibility. An employee who has received written notice of possible contract termination or cancellation shall not be eligible to participate in this program unless (1) the notice of termination or cancellation is withdrawn by the administration, or (2) after a hearing before the board of education, the board determines that said employee's employment should not be cancelled or terminated.

D. BENEFITS

1. Calculation of Benefits:

A. The benefit to be paid to a certificated employee who has been approved for early separation shall be based on the certificated employee's teaching or administrative contract salary during the last contract year. For teachers, contract salary refers to salary paid from the salary schedule. It includes salary paid for an extended contract but excludes other salary payments such as for extra duties, and fringe benefits. For administrators, contract salary refers to the salary stated on the administrator's contract with the school district, but excludes other payments, such as for extra duties and fringe benefits.

B. The benefit to be paid under this program shall be an amount based on the certificated employee's contract salary for last year of service, multiplied by the number of years of "credited service" (as that phrase is defined paragraph B(3)), multiplied by one and one-half percent (1.5%). For example, for an employee with a teaching contract salary of \$30,000 and twenty-five (25) years of credited service, the benefit will be \$30,000, multiplied by 25 (years), multiplied by .015, for a total benefit of \$11,250.00.

2. Payment of Benefit. The benefit shall be paid into a fixed annuity account designated by the employer in two (2) equal payments on September 15 of the calendar year of the certificated employee's resignation, and on January 15 of the following calendar year. Provided, the certificated employee and board of education may, by mutual agreement, schedule the payment of the benefit in more than two (2) payments, or may vary the amounts of the payments, so long as the first payment does not exceed fifty percent (50%) of the total benefit.

3. Limitation on Payment. The board of education shall, in its sole and unfettered discretion, determine whether any early retirement incentive program payments will be made in a particular year, and shall determine the total amount of such payments.

4. Source of Funds. The school district shall pay the entire cost of the plan.

5. Administration. This plan shall be administered by the board of education by and through the administration of the school district.

6. Beneficiary Designation. In order for the application to be considered complete, a beneficiary must be designated.

7. COBRA Rights. A separating employee will have the opportunity to continue health insurance benefits as may be permitted by the provisions of the Comprehensive Omnibus Budget Reconciliation Act.

E. ADMINISTRATION

1. Basis for Benefits. Benefits shall be calculated as set forth in paragraphs D(1)(a) and (b).

2. Application and Waiver. A certificated employee who elects to participate in the Early Separation Incentive Program, and the school district (through its board of education), shall execute the Application and Agreement, Exhibit "A" attached hereto. That Application and Agreement shall inform the employee that Pierce Public Schools' Early Separation Incentive Program is totally voluntary in nature and provides each employee at least 45 days to consider the ramifications of participation in the Program before making a decision. The Application and Agreement shall also include a specific Waiver and Release of Claims as set forth on Exhibit A. The certificated employee shall be allowed to revoke the Application and Agreement at any time within seven days after signing the Agreement.

Each application will be reviewed on an individual basis. The board shall, in its sole discretion, determine the number of applications to be approved in any given year. If the Board receives more applications for voluntary separation than it approves, the Board shall approve the applications on the basis of the seniority of the applicants with the most senior applicant(s) receiving approval in preference to less senior applicants. Seniority shall be defined as the number of full-time equivalent years of employment in the district as an employee. A full-time equivalent year is defined as employment on a full-time basis for an entire school year. Less than full-time employment would reduce the employee's full-time equivalent employment for a school year. For example, an employee employed on a half-time basis would be credited with half a year of full-time equivalent employment. A break in service will not terminate an employee's seniority and length of service under this provision; however, unless otherwise required by law, in determining an employee's full-time equivalent employment, the employee shall not be credited with the period of time of any leave approved by the board of education except sick leave and paid leave. If a tie results because two or more employees have equal seniority, the tie shall be broken in the following manner:

- (a) The board will approve the application of the certificated employee whose salary is higher.
- (b) If the salaries of those involved are exactly the same, the board will approve the application of the employee who signed his or her initial contract earlier.
- (c) If the salaries and signing dates of those involved are exactly the same, the board will approve the application of the employee which was submitted earlier.

A certificated employee's application for voluntary separation is in itself not a resignation of a contract with the School District. However, the Board's approval of an employee's application for voluntary separation will be considered a voluntary resignation and termination of the employee's continuing contract. Should the Board not approve an employee's application, the employee's contract will continue in effect, and the employee will remain an employee of the School District unless he or she otherwise resigns or the employee's contract is terminated for just cause.

**EARLY SEPARATION INCENTIVE PROGRAM
APPLICATION AND AGREEMENT**

This Agreement is made this ___ day of _____, 200__, between Pierce Public Schools (hereinafter referred to as the "School District") and _____ (hereinafter referred to as "Certificated Employee").

RECITALS

- 1. The School District has established a Voluntary Early Separation Incentive Program (hereinafter referred to as the "Program") for the purpose of rewarding eligible certificated employees who are considering an early separation in their employment plans;
- 2. The Certificated Employee desires to participate voluntarily in the Program sponsored by the School District;
- 3. The Certificated Employee has a full-time equivalency of ____% for the current school year; and
- 4. The Certificated Employee has completed at least 20 years of service as a certificated employee in a public or parochial school system. At least 10 of those 20 years of service have been "credited service" in the employment of Pierce Public Schools.

TERMS OF AGREEMENT

The parties to this Agreement, in consideration of the mutual covenants and stipulations set forth above, hereby agree as follows:

- 5. **INCORPORATION OF BOARD POLICY:** This Agreement is made pursuant to the policy of the Board of Education titled "Pierce Public Schools Early Separation Incentive Program." The provisions of that policy existing at the time that this Agreement is signed are incorporated by this reference and made a part of this Agreement.
- 6. **CERTIFICATED EMPLOYEE RESIGNATION:** Subject only to the Board of Education's approval of Certificated Employee's application to participate in the Program, Certificated Employee voluntarily, unconditionally, and irrevocably (1) resigns his/her teaching position with the School District effective at the end of the current contract year; (2) waives any and all further notice or action by the Board of Education to terminate the Certificated Employee's continuing contract; and (3) waives any and all rights the Certificated Employee may have under NEB. REV. STAT. §§ 79-824 to 842, as those statutes now exist or as they may be amended. Certificated Employee further authorizes the Board of Education to advertise for and contract with a replacement certificated employee for Certificated Employee's position for the next school year. Approval of this Agreement by the Board of Education shall constitute an acceptance of Certificated Employee's resignation.

7. **EARLY RETIREMENT BENEFITS:** In consideration for Certificated Employee's resignation set forth in paragraph 1 above, Certificated Employee shall receive the following benefits, to-wit:

- (a) **COMPUTATION OF BENEFITS:** Certificated Employee's fixed annuity account shall be paid the sum of \$_____, which was calculated by multiplying Certificated Employee's salary for the last year of service (not including fringe benefits or extra-duty pay) by the number of years of credited service and then by 1.5%.
- (b) **PAYMENT OF BENEFITS:** The benefits to be paid to the fixed annuity account designated by the Employer shall be paid in two equal payments. The School District shall pay the first payment on the first September 15 following the date on which this agreement is executed. The second payment shall be made on January 15 of the following calendar year.
- (c) **ALTERNATIVE PLAN.** Certificated Employee and the Board of Education may vary the amounts of the payments, so long as the first payment does not exceed fifty percent (50%) of the total benefit amount. If the parties elect an alternative plan, they agree that the benefit amount shall be paid as follows:

8. **LIMITATION ON PARTICIPATION:** Certificated Employee understands that the Board of Education, in its sole and unfettered discretion, shall determine whether any Program payments will be made in a particular year, and shall determine the total amount to be budgeted for such payments. The Board of Education, in its sole discretion, shall determine the number of applications to be approved in any given year. If the Board of Education receives more applications for early separation than it approves, it shall approve the applications on the basis of the criteria set out in board policy.

9. **BENEFICIARY DESIGNATION:** In the event of the Certificated Employee's death, any sum of money otherwise due to the Certificated Employee under the terms of this Agreement will be paid to the following designated beneficiary pursuant to the provisions of this Agreement.

Beneficiary: _____

Address: _____

Social Security Number: _____

10. **CERTIFICATED EMPLOYEE'S VOLUNTARY ACT.** The Certificated Employee acknowledges that he/she has had forty-five (45) or more days to consider the ramifications of participation in the Program; that his/her participation in the Program is voluntary; and that he/she was not coerced in any manner to participate in the Program. Certificated Employee acknowledges having been advised in writing by this Agreement to consult an attorney regarding his/her execution of this Agreement.

11. **WAIVER AND RELEASE OF CLAIMS:** In consideration of the promises and payments specified in this Agreement, Certificated Employee releases the School District and its officers, directors, employees, agents, representatives, successors and assigns from all claims, demands and actions, past, arising out of and/or related to, in any way, directly or indirectly, his/her employment with the School District, the termination of that employment, and/or any actions or occurrences taking place up to and including the date of execution of this Agreement, including but not limited to claims or rights under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act; the Civil Rights Act of 1866 and 1871, or any other Civil Rights Acts as amended; claims or rights under 42 U.S.C. § 1981, through and including 42 U.S.C. § 1988; the Americans with Disabilities Act; § 504 of the Rehabilitation Act; the Family and Medical Leave Act of 1993; all claims or rights relating to discrimination on the basis of race, color, religion, sex, disability, handicap, or national origin; all claims for the violation of state or federal constitutional rights; claims for breach of contract; tort claims of any nature; claims or rights of whatever nature arising under any other state or federal law arising out of his or her employment or contractual relations with the School District or his or her resignation of employment; and claims for attorney fees.

Certificated Employee understands and acknowledges that, by giving up claims against the School District, he/she also gives up any claims that he/she may have against its predecessors, successors, subsidiaries, and affiliates, and any and all officers, directors, employees, and agents of the School District arising out of any actions, conduct, decisions, behavior, omissions, or events occurring up to the date hereof. Certificated Employee further covenants not to institute any proceedings against the School District or any of the above-mentioned released persons in the future with respect to any of the claims, demands, causes of action, or rights hereby released. This Waiver and Release is given in exchange for consideration in addition to what the Certificated Employee is already entitled to receive from the School District. Certificated Employee acknowledges that he/she has been advised in writing to consult with an attorney before signing this Early Retirement Incentive Program Agreement. Certificated Employee further acknowledges having had sufficient time to decide whether or not to execute this Agreement, including the Waiver and Release of Claims.

12. **REVOCATION AND CANCELLATION OF AGREEMENT:** Certificated Employee may cancel this Agreement by delivering notice in writing to the superintendent of schools within seven days after the Agreement was signed by the Certificated Employee stating that the Certificated Employee is exercising his or her right to cancel the Agreement.

Dated: _____

Certificated Employee

Dated: _____

President, Pierce Public Schools
Board of Education

STATE OF NEBRASKA)
) ss.
COUNTY OF PIERCE)

Before me, a notary public duly qualified in and for Pierce County, personally came _____, known to me to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his/her voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 20__.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF PIERCE)

Before me, a notary public duly qualified in and for Pierce, personally came _____, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his or her voluntary act and deed as President of the Pierce Public Schools Board of Education, and further acknowledged having the authority to bind said school district to the terms contained in this instrument and that his/her signature of the same is the voluntary act and deed of the Board of Education of the School District.

Witness my hand and notarial seal this ____ day of _____, 20__.

Notary Public

409.1 CERTIFICATED EMPLOYEE PROFESSIONAL DEVELOPMENT

The board encourages certificated employees to attend and participate in professional development activities to maintain, develop, and extend their skills. The board shall maintain and support an in-service program for certificated employees.

The superintendent and or designee will develop and schedule in-service workshops as appropriate to the needs of the district and will inform the board regarding in-service staff development.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding professional development of such employees shall be followed.

Legal Reference: NDE Rule 10

Cross Reference: 409.02 Certificated Employee Training, Workshops or
Conferences

Approved August 11, 2003 Reviewed _____ Revised _____

409.2 CERTIFICATED EMPLOYEE TRAINING, WORKSHOPS OR CONFERENCES

Requests for attendance or participation in a development program, other than those development programs sponsored by the school district, shall be made to the building principal or superintendent. Approval of the superintendent must be obtained prior to attendance by a certificated employee in a professional development program when the attendance would result in the certificated employee being excused from their duties or when the school district pays the expenses for the program.

Employees authorized by the superintendent to represent the school system at training, workshops and conferences will be allowed salary and expenses in conformance with regulations on expense reimbursement.

The superintendent shall have sole discretion to allow or disallow certificated employees to attend or participate in the requested event. When making this determination, the superintendent will consider the value of the program for the certificated employee and the school district, the effect of the certificated employee's absence on the education program and school district operations and the school district's financial situation as well as other factors deemed relevant in the judgment of the superintendent.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding professional development of such employees shall be followed.

Cross Reference: 402.08 Employee Travel Compensation
 402.11 Credit Cards

Approved August 11, 2003 Reviewed _____ Revised _____

409.3 CERTIFICATED EMPLOYEE MENTOR TEACHERS

The building principal or immediate supervisor will assign a mentoring teacher to every first year teacher or teacher on an improvement plan. The mentoring teacher, insofar as possible, will be a tenured teacher with a minimum of three (3) years' teaching experience in the district and will be engaged in teaching within the same grade, building, or discipline as the probationary teacher.

The mentoring teacher will not be involved in the evaluation of the probationary teacher, will not be in the line of authority, and will not exercise formal supervision over the new teacher with whom he/she is working. Each teacher will be advised during employee orientation as to who will observe and evaluate job performance. No formal observations will take place until such orientation has been completed.

The mentoring teacher will assist the probationary teacher in acclimating to the teaching profession and the district. The mentor's role is to assist the new teacher by being available to answer questions, explain the courses of study, instructional materials, building procedures, availability of resources and district policies.

The mentor shall maintain a log of contact time and activities conducted by the mentor as part of the mentoring program. The mentor will receive a stipend of \$100 per year.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the compensation for extra duties of such employees shall be followed.

Cross Reference: 406.09 Certificated Employee Probationary Status/Tenure

Approved August 11, 2003 Reviewed _____ Revised _____

409.4 CERTIFICATED EMPLOYEE PUBLICATION OR CREATION OF MATERIALS

Materials created by certificated employees shall be the property of the school district if school materials and/or time were used in their creation. If the property created by the teacher contains only teacher-purchased or provided materials, and was created outside the teacher's contracted time, the property may be retained by the teacher. Any intellectual or physical property created by a teacher in relation to and during the teacher's occupation and employment in Pierce Public Schools will be available for free and fair use by Pierce Public Schools as long as the schools wish to use it. The certificated employee must seek prior written approval of the superintendent concerning such activities.

Cross Reference: 402.03 Employee Conflict of Interest
 607.04 Student Production of Materials and Services

Approved August 11, 2003 Reviewed March 10, 2008 Revised April 14, 2008

409.5 CERTIFICATED EMPLOYEE TUTORING

Every effort will be made by the certificated employees to help students with learning problems before recommending that the parents engage a tutor. Since there are exceptional cases when tutoring will help students overcome learning deficiencies, tutoring by certificated employees may be approved by the superintendent.

Certificated employees may only tutor students other than those for whom the teacher is currently exercising teaching, administrative or supervisory responsibility unless approved by the board.

Tutoring for a fee may not take place within school facilities or during regular school hours unless approved by the superintendent.

Legal Reference: NDE Rule 27
Neb. Statute 49-14,101.01

Cross Reference: 402.03 Employee Conflict of Interest
403.06 Employee Outside Employment

Approved August 11, 2003 Reviewed _____ Revised _____

410.1 CERTIFICATED EMPLOYEE PERSONAL LEAVE

The board shall determine the amount of vacation, holidays, and personal leave that will be allowed on an annual basis for licensed employees.

It shall be the responsibility of the superintendent to make a recommendation to the board annually on vacations, holidays, and personal leave for certificated employees.

Full-time regular certificated employees will be allowed two days of personal leave to accomplish personal business that cannot be conducted outside the work day. Unused personal leave may accumulate to five days.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the vacations, holidays and personal leave of such employees shall be followed.

Cross Reference: 410.08 Certificated Employees Unpaid Leave
 415.01 Support Staff Vacations - Holidays - Personal Leave
 602.01 School Calendar

Approved August 11, 2003 Reviewed _____ Revised _____

410.2 CERTIFICATED EMPLOYEE PERSONAL ILLNESS LEAVE

Certificated employees shall be granted five days of sick leave each year of employment. "Day" is defined as one work day regardless of full-time or part-time status of the employee. A new employee shall report for work at least one full work day prior to receiving sick leave benefits. A returning employee will be granted the appropriate number of days at the beginning of each fiscal year.

Sick leave may be accumulated up to a maximum of thirty days for certificated employees.

Should the personal illness occur after or extend beyond the sick leave accumulated allowance, the employee may apply for disability benefits under the group insurance plan. If the employee does not qualify for disability benefits, the employee may request a leave of absence without pay.

Evidence may be required regarding the mental or physical health of the employee when the administration has a concern about the employee's health. Evidence may also be required to confirm the employee's illness, the need for the illness leave, the employee's ability to return to work, and the employee's capability to perform the duties of the employee's position. It shall be within the discretion of the board or the superintendent to determine the type and amount of evidence necessary. When an illness leave will be greater than three consecutive days, the employee shall comply with the board policy regarding family and medical leave.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the personal illness leave of such employees shall be followed.

Cross Reference: 404.02 Employee Injury on the Job
 410.03 Certificated Employee Family and Medical Leave
 410.09 Certificated Employee Unpaid Leave

Approved August 11, 2003 Reviewed _____ Revised _____

410.3 CERTIFICATED EMPLOYEE FAMILY AND MEDICAL LEAVE

The district will comply with all provisions of the Family and Medical Leave Act of 1993 and amendments.

Unpaid family and medical leave will be granted up to twelve (12) weeks in any twelve (12) month period to eligible certificated staff members for the following reasons:

1. the birth or care of a newborn child within one (1) year of the child's birth;
2. the placement or care by way of adoption or foster care with the staff member within one (1) year of the child's arrival;
3. to care for the staff member's spouse, parent or dependent child with a serious health condition;
4. if the staff member's own serious health condition prevents that employee from performing the functions of the employee's job;
5. in qualifying urgent situations arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

Unpaid leave will be granted up to twenty-six (26) weeks during a single twelve (12) month period to eligible certificated staff members to care for a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness.

For purposes of this policy, the twelve month period is defined as ***a rolling period based on the date the leave is requested to begin and looking backward at the last twelve-months of use.*** Requests for family and medical leave shall be made to the superintendent.

To be eligible for FMLA benefits, a district employee must:

1. have worked for the district for a total of 12 months; and
2. have worked at least 1,250 hours over the previous 12 months.

When meeting the requirements set out in the family and medical leave administrative rules, employees may be allowed or required to substitute paid leave for unpaid family and medical leave according to the terms and conditions of the district's normal leave policies. Employees eligible for family and medical leave must comply with the family and medical leave administrative rules prior to starting family and medical leave. Requests for FMLA leave shall be submitted in writing. This policy shall not be construed to expand eligibility for an FMLA leave beyond what is required by the Act. It shall be the responsibility of the superintendent to implement this policy.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding family and medical leave of such employees shall be followed.

Legal Reference: 29 U.S.C. §§ 2601 et seq. (1994)
29 C.F.R. Pt. 825 (1996).

Cross Reference: 410.02 Certificated Employee Personal Illness Leave
410.08 Certificated Employee Unpaid Leave
415.03 Support Staff Family and Medical Leave

Approved _____ Reviewed _____ Revised _____

410.03 R1 CERTIFICATED EMPLOYEE FAMILY AND MEDICAL LEAVE REGULATIONS

Determining the 12-month previous employment eligibility:

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the district's intention to rehire the employee after the break in service.

Spouses employed by the same employer:

Spouses employed by the same employer are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Serious Health Condition defined:

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider, which includes:
 - A. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - 1) treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - 2) one treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
 - B. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
 - C. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
 - D. A period of incapacity that is permanent or long-term due to a condition for which

- treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- E. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Intermittent Leave for "Instructional Employees":

Special rules apply if an employee employed "mainly in an instructional capacity" requests intermittent leave or leave on a reduced schedule because of his/her own serious health condition or the serious health condition of a parent, child, or spouse that is foreseeable based on a planned medical treatment and the employee would be gone for more than twenty percent (20%) of the working days during the period of leave. In such cases, the district may require the employee to do the following things:

1. Take leave for periods of a particular duration not to exceed the duration of the planned medical treatment.
2. Transfer temporarily to another position offered by the district for which the employee is qualified, as long as the new position has equivalent pay and benefits and better accommodates the recurring periods of leave.

An instructional employee who takes leave constituting less than twenty percent (20%) of the working days during the leave period would not be subject to transfer to an alternative position, or a requirement to be on leave for the duration of the treatment period.

An employee will be denied intermittent leave or leave on a reduced leave schedule to care for an immediate family member (spouse, child, parent) with a serious health condition or if the employee has a serious health condition, if:

1. The employee, whether requesting leave because of his/her own serious health condition or because of the serious health condition of a parent, child, or spouse fails to establish, through medical certification, that there is a medical need for such a leave (as distinguished from voluntary treatments and procedures or a continuous treatment schedule).
2. The employee, whether requesting leave for his/her own serious health condition or because of the serious health condition of a family member, fails to establish, through medical certification, that it is medically necessary for the leave to be taken intermittently on a reduced leave schedule.

Intermittent leave or a reduced leave schedule may not be taken for the birth of a child or for the placement of a child for adoption or foster care.

When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the district also may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits.

End-Of-Semester Circumstances

In some circumstances, the district may require instructional employees to continue their leave to the end of the academic semester within the FMLA guidelines.

Maintenance Of Health Benefits

The district is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the district may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

Job Restoration

Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

Notice And Certification

Employee Notice: Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the district as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the district's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for the district reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave due to a FMLA-qualifying reason for which the district has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice: The district will post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Additionally, the district will either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the district acquires knowledge that leave may be for a FMLA purpose, the district shall notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the district has enough information to determine that leave is being taken for a FMLA-qualifying reason, the district must notify the employee that the leave is designated and will be counted as FMLA leave.

Certification: The district may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. The district may require second or third medical opinions (at the district's expense) and periodic recertification of a serious health condition. The district may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. The district may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, the district may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

410.4 CERTIFICATED EMPLOYEE BEREAVEMENT LEAVE

In the event of a death of a member of a certificated employee's immediate family, bereavement leave may be granted. The immediate family includes child, step child, spouse, parent, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or grandparent of the employee. Leave may also be granted in exceptional cases based on employee request and administrative approval.

It shall be within the discretion of the superintendent to determine the number of bereavement leave days to be granted.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the bereavement leave of such employees shall be followed.

Cross Reference: 410 Certificated Employee Vacations and Leaves of Absence

Approved August 11, 2003 Reviewed November 14, 2005 Revised December 12, 2005

410.6 CERTIFICATED EMPLOYEE JURY DUTY LEAVE

Any employee who is summoned to serve on jury or election board duty, or who is subpoenaed to provide testimony, shall not be subject to discharge from employment, loss of pay, loss of sick leave, loss of vacation time, or any other form of penalty, as a result of his or her absence from work due to such service provided the employee submits a copy of the summons, in advance, to the employee's supervisor.

Certificated employees will receive their regular salary. Any payment for jury duty shall be paid to the school district. The employee will report to work within one hour on any day when the employee is excused from jury duty during regular working hours.

Legal Reference: Neb. Statute 25-1640

Cross Reference: 410 Certificated Employee Vacations and Leaves of Absence

Approved August 11, 2003 Reviewed _____ Revised _____

410.8 CERTIFICATED EMPLOYEE UNPAID LEAVE

Unpaid leave may be used to excuse an involuntary absence not provided for in this or other leave policies of the board. Unpaid leave for certificated employees must be authorized by the superintendent. Any unused Personal Leave days must be applied to such absences rather than including them as Unpaid Leave.

The superintendent shall have complete discretion to grant or deny the requested unpaid leave. In making this determination, the superintendent shall consider the effect of the employee's absence on the education program and school district operations, length of service, previous record of absence, the financial condition of the school district, the reason for the requested absence and other factors the superintendent believes are relevant to making this determination.

If unpaid leave is granted, the duration of the leave period shall be coordinated with the scheduling of the education program whenever possible to minimize the disruption of the education program and school district operations.

Whenever possible, certificated employees shall make a written request for unpaid leave seven days prior to the beginning date of the requested leave. If the leave is granted, the deductions in salary shall be made unless they are waived specifically by the superintendent.

The requirements stated in the Negotiated Contract between employees in that certified collective bargaining unit and the board regarding the unpaid leave of such employees shall be followed.

Cross Reference: 410 Certificated Employee Vacations and Leaves of Absence

Approved August 11, 2003 Reviewed _____ Revised _____

411.2 SUMMER SCHOOL CERTIFICATED EMPLOYEES

It shall be within the discretion of the board to offer an education program during the summer recess. Certificated employees who volunteer or who are appointed to deliver the summer education program shall be compensated in addition to their regular duties during the school academic year, unless such arrangements are made prior to determining the employee's compensation for the year.

Should the board determine a summer education program is necessary, certificated employees shall be given the opportunity to volunteer for the positions available. If the board determines a course must be offered and no certificated employee volunteers for the position, the board will make the necessary arrangements to fill the position. The board will consider applications from volunteers of current certificated employees in conjunction with other applications.

It shall be the responsibility of the superintendent to make a recommendation to the board regarding the need for and the delivery of the summer education program.

Cross Reference: 604.02 Summer School Instruction

Approved August 11, 2003 Reviewed _____ Revised _____

411.3 TRUANCY OFFICER

The board shall appoint a principal from each school building to serve as the building's truancy officer.

The principal shall notify the district's truancy officer when a student is truant. The truancy officer shall investigate the cause of a student's truancy and attempt to ensure the student's attendance. The truancy officer may take the student into custody. A student taken into custody shall be placed in the custody of the principal. The truancy officer shall attempt to contact the student's parents when the student is taken into custody.

Legal Reference: Neb. Statute 79-208 and 209

Cross Reference: 503.04 Truancy - Unexcused Absences

Approved August 11, 2003 Reviewed _____ Revised _____

411.4 EDUCATION AIDE

The board may employ education aides or other instructional support personnel to assist certificated personnel in nonteaching duties, including, but not limited to:

- managing and maintaining records, materials and equipment;
- attending to the physical needs of children; and
- performing other limited services to support teaching duties when such duties are determined and directed by the teacher.

Education aides who hold a teaching certificate shall be compensated at the rate of pay established for their position as an education aide. It shall be the responsibility of the principal to supervise education aides.

Cross Reference: 412.02 Support Staff Qualifications, Recruitment, Selection

Approved August 11, 2003 Reviewed _____ Revised _____

412.1 SUPPORT STAFF DEFINED

Support staff are employees who are not administrators or employees in positions which require a Nebraska Department of Education teaching certificate and who are employed to fulfill the duties listed on their job description on a monthly or hourly basis. Support staff shall include, but not be limited to, teacher and classroom aides, custodial and maintenance employees, clerical employees, food service employees, bus drivers, and temporary help for summer or other maintenance. The position may be full-time or part-time. Full-time school nurses are often included at the board's discretion as certificated staff.

It shall be the responsibility of the superintendent to establish job specifications and job descriptions for support staff positions. Job descriptions may be approved by the board.

Support staff required to hold a license for their position must present evidence of their current license to the superintendent prior to payment of wages each year.

Cross Reference: 406.01 Certificated Employee Defined
 412.02 Support Staff Qualifications, Recruitment, Selection
 413.03 Support Staff Group Insurance Benefits

Approved August 11, 2003 Reviewed _____ Revised _____

412.2 SUPPORT STAFF QUALIFICATIONS, RECRUITMENT, AND SELECTION

Managing the qualifications, recruitment and selection of candidates for these positions shall be the responsibility of the superintendent or designee who shall confer with principals and other supervisory personnel in making a selection.

Persons interested in a support staff position shall have an opportunity to apply and qualify for support staff positions in the school district without regard to age, race, creed, color, sex, national origin, religion or disability. Job applicants for support staff positions shall be considered on the basis of the following:

- Training, experience, and skill;
- Nature of the occupation;
- Demonstrated competence; and
- Possession of, or ability to obtain, state or other license or certificate, if required, for the position.

All vacancies shall be made known to the present staff. Anyone qualified for a position may submit an application.

Announcement of the position shall be through means the superintendent believes will inform potential applicants about the position. Applications for employment may be obtained from, and completed applications shall be returned to, the central administration office. A standard application form shall be developed for these positions to ensure the enforcement of non-discrimination employment procedures. A signed release shall be obtained from the prospective candidates authorizing reference and background checks.

Whenever possible, the preliminary screening of applicants shall be conducted by the administrator who directly supervises and oversees the position. The interviewer shall work from a written list of interview questions, using the same set of questions for each applicant. Gaps in the applicant's employment record will be questioned and checked.

A minimum of three reference checks made by telephone and using a standard list of questions shall be used in the screening process. These checks shall be documented and filed with the employee's records.

412.4 SUPPORT STAFF LICENSING/CERTIFICATION

Support staff who require a special license or other certification shall keep them current. Licensing requirements needed for a position will be considered met if the employee meets the requirements established by law and by the Nebraska Department of Education for the position.

Cross Reference: 412.02 Support Staff Qualifications, Recruitment, Selection

Approved August 11, 2003 Reviewed _____ Revised _____

412.5 SUPPORT STAFF ASSIGNMENT

Determining the assignment of each support staff is the responsibility of the superintendent and within the sole discretion of the board. In making such assignments each year the superintendent shall consider the qualifications of each support staff and the needs of the school district.

It shall be the responsibility of the superintendent to assign support staff and report such assignments to the board.

Cross Reference: 200.01 Board Powers and Responsibilities
 412.06 Support Staff Transfers

Approved August 11, 2003 Reviewed _____ Revised _____

412.6 SUPPORT STAFF TRANSFERS

Determining the location where a support staff member's assignment will be performed is the responsibility of the superintendent and within the sole discretion of the board. In making such assignments each year the superintendent shall consider the qualifications of each support staff member and the needs of the school district.

A transfer may be initiated by the employee, the principal or the superintendent.

It shall be the responsibility of the superintendent to transfer support staff and report such transfers to the board.

Legal Reference: 29 U.S.C. §§ 621-634 (1994).
42 U.S.C. §§ 2000e et seq. (1994)
42 U.S.C. §§ 12101 et seq. (1994).

Cross Reference: 412.02 Support Staff Qualifications, Recruitment, Selection
412.05 Support Staff Assignment

412.7 SUPPORT STAFF EVALUATION

Evaluation of support staff on their skills, abilities, and competence shall be an ongoing process supervised by the superintendent. The goal of the formal evaluation of support staff shall be to maintain support staff who meet or exceed the board's standards of performance, to clarify each support staff member's role, to ascertain the areas in need of improvement, to clarify the immediate priorities of the board, and to develop a working relationship between the administrators and other employees.

It shall be the responsibility of the superintendent to ensure support staff are formally evaluated annually. New and probationary support staff shall be formally evaluated at least twice a year.

Cross Reference: 412.02 Support Staff Qualifications, Recruitment, Selection
 412.08 Support Staff Probationary Status

Approved August 11, 2003 Reviewed _____ Revised _____

412.8 SUPPORT STAFF PROBATIONARY STATUS

The first year of a newly employed support staff member's contract shall be a probationary period for evaluating the employee's suitability for continued job assignment or employment. "Day" shall be defined as one work day regardless of full-time or part-time status of the employee. New employees, regardless of experience, shall be subject to this probationary period. Prior to the end of this probationary period, the superintendent shall make a decision regarding continued employment and job assignment based on his or her evaluation of the employee's job performance.

"New" employees includes individuals who are being hired for the first time by the school district and those who may have been employed by the school district in the past, but have not been employed by the board during the school year prior to the one for which contracts are being issued.

Cross Reference: 412.03 Support Staff Contracts
 412.07 Support Staff Evaluation

Approved August 11, 2003 Reviewed _____ Revised _____

413.1 SUPPORT STAFF COMPENSATION

The board shall determine the compensation to be paid for the support staff positions, keeping in mind the education and experience of the support staff member, the educational philosophy of the school district, the financial condition of the school district and any other considerations as deemed relevant by the board.

It shall be the responsibility of the superintendent to make a recommendation to the board annually regarding the compensation of support staff.

Cross Reference: 412.03 Support Staff Contracts
 413.02 Support Staff Wage and Overtime Compensation

Approved August 11, 2003 Reviewed _____ Revised _____

413.2 SUPPORT STAFF WAGE AND OVERTIME COMPENSATION

Each non-exempt employee compensated on an hour-by-hour basis, whether full-or part-time, permanent or temporary, will be paid no less than the prevailing minimum wage. Whenever a non-exempt employee must work more than forty hours in a given work week, the employee shall be compensated at one and one-half times their regular hourly wage rate. This compensation shall be in the form of overtime pay or compensatory time. Overtime will not be permitted without prior authorization of the superintendent and immediate supervisor.

Each non-exempt employee paid on an hour-by-hour basis must complete, sign, and turn in a daily time record showing the actual number of hours worked. Failure of the employee to maintain, or falsification of, a daily time record will be grounds for disciplinary action.

It is the responsibility of the superintendent or designee to maintain wage records.

Legal Reference: 29 U.S.C. §§ 206 et seq. (1994).
29 C.F.R. Pt. 778 (1968).

Cross Reference: 412.03 Support Staff Contracts
413.01 Support Staff Compensation

Approved August 11, 2003 Reviewed _____ Revised _____

413.3 SUPPORT STAFF GROUP INSURANCE BENEFITS

Support staff may be eligible for group insurance benefits as determined by the board and required by law. The board shall select the group insurance program and the insurance company which will provide the program.

Support staff who work a minimum of 1,700 hours per year shall be eligible to participate in the health group insurance plan. Regular part-time support staff who wish to purchase insurance coverage may participate in group insurance programs by meeting the requirements of the insurer. Regular support staff who wish to purchase insurance coverage for their spouse or dependents may do so by meeting the requirements of the insurer.

Beginning with the 2004/05 school year, support staff not eligible for group insurance benefits will receive up to \$550 per year to be used for eligible health reasons. This plan will be administered through the district's cafeteria plan.

This policy statement does not guarantee a certain level of benefits. The board shall have the authority and right to change or eliminate group insurance programs for its support staff.

Cross Reference: 412.01 Support Staff Defined

Approved August 11, 2003 Reviewed November 13, 2006 Revised November 13, 2006

413.4 SUPPORT STAFF WORKERS' COMPENSATION

The district will participate in workers' compensation as required by statute. All employees of the district will be covered by workers' compensation regardless of type of assignment, length of assignment or hours worked per day.

The selected workers' compensation plan will provide coverage for medical expenses and wages to the extent required by statute to qualifying employees. The amount of workers' compensation wage-replacement and sick leave benefits shall not exceed a regular daily rate of pay.

The superintendent shall be responsible for developing administrative regulations to implement the workers' compensation plan and shall annually review the costs and performance of the plan with the board, making recommendations for changes as necessary.

Legal Reference: Neb. Statute 48-101 et seq.

Cross Reference 404 Employee Health and Well-Being
 905 Safety Program

Approved August 11, 2003 Reviewed _____ Revised _____

413.5 SUPPORT STAFF TAX SHELTER PROGRAMS

The board authorizes the administration to make a payroll deduction for support staff tax sheltered annuity premiums purchased from any company the employee chooses or through a Nebraska-licensed salesperson selected by the employee.

Support staff wishing to have payroll deductions for tax sheltered annuities shall make a written request to the superintendent.

Cross Reference: 707.01 Payroll Procedures

Approved August 11, 2003 Reviewed _____ Revised _____

413.6 SALARY BASIS POLICY

The Fair Labor Standards Act (FLSA) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

Salary Basis Requirement

To qualify for exemption, employees generally must be paid at not less than \$455 per week on a salary basis. These salary requirements do not apply to outside sales employees, teachers, and employees practicing law or medicine. Exempt computer employees may be paid at least \$455 on a salary basis or on an hourly basis at a rate not less than \$27.63 an hour.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work. If the employer makes deductions from an employee's predetermined salary, i.e., because of the operating requirements of the business, that employee is not paid on a "salary basis." If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

Circumstances in Which the Employer May Make Deductions from Pay

Deductions from pay are permissible when an exempt employee: is absent from work for one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness; to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions. Also, an employer is not required to pay the full salary in the initial or terminal week of employment; for penalties imposed in good faith for infractions of safety rules of major significance, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions may be made.

School District Policy

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all of the School District's managers from making any improper deductions from the salaries of exempt employees. We want employees to be aware of this policy and that the School District does not allow deductions that violate the FLSA.

What To Do If An Improper Deduction Occurs

If you believe that an improper deduction has been made to your salary, you should immediately report this information to the Superintendent.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

Approved July 11, 2005

Reviewed _____ Revised _____

414.1 SUPPORT STAFF RESIGNATION

Support staff who wish to resign during the school year shall give the board notice of their intent to resign fourteen days prior to their last working day.

Notice of the intent to resign and intended final date of employment shall be in writing to the superintendent.

Cross Reference: 412.03 Support Staff Contracts
 414 Support Staff Termination of Employment

Approved August 11, 2003 Reviewed _____ Revised _____

414.2 SUPPORT STAFF RETIREMENT

Support staff who will complete their current contract with the board may apply for retirement. No support staff members will be required to retire at any specific age.

Application for retirement will be considered made when the support staff member states in writing to the superintendent, no later than the date set by the board for the return of the employee's contract to the board if applicable, the employee's intent to retire.

Board action to approve a support staff member's application for retirement shall be final, and such action constitutes termination of the employee's contract effective the day of the employee's retirement.

Support staff members and their spouse and dependents who have group insurance coverage through the school district may be allowed to continue coverage of the school district's group health insurance program, at their own expense, by meeting the requirements of the insurer.

Legal Reference: 29 U.S.C. §§ 621 et seq. (1994).

Cross Reference: 402.09 Recognition for Service of Employees

Approved August 11, 2003 Reviewed _____ Revised _____

414.3 SUPPORT STAFF SUSPENSION

Support staff shall perform their assigned jobs, respect and follow board policy and obey the law. The superintendent is authorized to suspend a support staff member with or without pay pending board action on a discharge or during investigation of charges against the employee or for disciplinary purposes. It shall be within the discretion of the superintendent to suspend a support staff member with or without pay.

In the event of a suspension, due process will be followed.

Cross Reference: 405 Employee Conduct and Appearance
 414 Support Staff Termination of Employment

414.4 SUPPORT STAFF DISMISSAL

The board believes classified employees should perform their jobs, respect board policy and obey the law. A support staff member may be dismissed upon thirty days notice or immediately for cause. Due process procedures shall be followed.

It shall be the responsibility of the superintendent to make a recommendation for dismissal to the board. A support staff member may be dismissed for any reason, including, but not limited to, incompetence, willful neglect of duty, reduction-in-force, willful violation of board policy or administrative regulations, or a violation of the law.

Cross Reference: 405 Employee Conduct and Appearance
 414.03 Support Staff Suspension
 414.05 Support Staff Reduction-In-Force

Approved August 11, 2003 Reviewed _____ Revised _____

414.5 SUPPORT STAFF REDUCTION-IN-FORCE

It is the exclusive power of the board to determine when a reduction in support staff is necessary. Employees who are terminated due to a reduction-in-force shall be given thirty days notice. Due process will be followed for terminations due to a reduction-in-force.

It shall be the responsibility of the superintendent to make a recommendation for termination to the board. The superintendent will consider the relative qualifications, skills, ability and demonstrated performance through evaluation procedures in making the recommendations.

Cross Reference: 408.05 Certificated Employee Reduction-In-Force
 414.03 Support Staff Suspension
 414.04 Support Staff Dismissal
 702 Annual Budget

Approved August 11, 2003 Reviewed _____ Revised _____

415.03 SUPPORT STAFF FAMILY AND MEDICAL LEAVE

The district will comply with all provisions of the Family and Medical Leave Act of 1993 and amendments.

Unpaid family and medical leave will be granted up to twelve (12) weeks in any twelve (12) month period to eligible support staff members for the following reasons:

6. the birth or care of a newborn child within one (1) year of the child's birth;
7. the placement or care by way of adoption or foster care with the staff member within one (1) year of the child's arrival;
8. to care for the staff member's spouse, parent or dependent child with a serious health condition;
9. if the staff member's own serious health condition prevents that employee from performing the functions of the employee's job;
10. in qualifying urgent situations arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

Unpaid leave will be granted up to twenty-six (26) weeks during a single twelve (12) month period to eligible support staff members to care for a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness.

For purposes of this policy, the twelve month period is defined as ***rolling period based on the date the leave is requested to begin and looking backward at the last twelve-months of use***. Requests for family and medical leave shall be made to the superintendent.

To be eligible for FMLA benefits, a district employee must:

3. have worked for the district for a total of 12 months; and
4. have worked at least 1,250 hours over the previous 12 months.

When meeting the requirements set out in the family and medical leave administrative rules, employees may be allowed or required to substitute paid leave for unpaid family and medical leave according to the terms and conditions of the district's normal leave policies. Employees eligible for family and medical leave must comply with the family and medical leave administrative rules prior to starting family and medical leave. Requests for FMLA leave shall be submitted in writing. This policy shall not be construed to expand eligibility for an FMLA leave beyond what is required by the Act. It shall be the responsibility of the superintendent to implement this policy.

Approved _____ Reviewed _____ Revised _____

Legal Reference: 29 U.S.C. §§ 2601 et seq. (1994)

29 C.F.R. Pt. 825 (1996).

Cross Reference: 410.03 Certificated Employee Family and Medical Leave
415.02 Support Staff Personal Illness Leave
415.08 Support Staff Unpaid Leave

415.03R1 SUPPORT STAFF FAMILY AND MEDICAL LEAVE REGULATIONS

Determining the 12-month previous employment eligibility:

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the district's intention to rehire the employee after the break in service.

Spouses employed by the same employer:

Spouses employed by the same employer are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Serious Health Condition defined:

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

3. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
4. Continuing treatment by a health care provider, which includes:
 - F. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - 3) treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - 4) one treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
 - G. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
 - H. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
 - I. A period of incapacity that is permanent or long-term due to a condition for which

- treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- J. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Intermittent Leave for "Instructional Employees":

Special rules apply if an employee employed "mainly in an instructional capacity" requests intermittent leave or leave on a reduced schedule because of his/her own serious health condition or the serious health condition of a parent, child, or spouse that is foreseeable based on a planned medical treatment and the employee would be gone for more than twenty percent (20%) of the working days during the period of leave. In such cases, the district may require the employee to do the following things:

3. Take leave for periods of a particular duration not to exceed the duration of the planned medical treatment.
4. Transfer temporarily to another position offered by the district for which the employee is qualified, as long as the new position has equivalent pay and benefits and better accommodates the recurring periods of leave.

An instructional employee who takes leave constituting less than twenty percent (20%) of the working days during the leave period would not be subject to transfer to an alternative position, or a requirement to be on leave for the duration of the treatment period.

An employee will be denied intermittent leave or leave on a reduced leave schedule to care for an immediate family member (spouse, child, parent) with a serious health condition or if the employee has a serious health condition, if:

3. The employee, whether requesting leave because of his/her own serious health condition or because of the serious health condition of a parent, child, or spouse fails to establish, through medical certification, that there is a medical need for such a leave (as distinguished from voluntary treatments and procedures or a continuous treatment schedule).
4. The employee, whether requesting leave for his/her own serious health condition or because of the serious health condition of a family member, fails to establish, through medical certification, that it is medically necessary for the leave to be taken intermittently on a reduced leave schedule.

Intermittent leave or a reduced leave schedule may not be taken for the birth of a child or for the placement of a child for adoption or foster care.

When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the district also may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits.

End-Of-Semester Circumstances

In some circumstances, the district may require instructional employees to continue their leave to the end of the academic semester within the FMLA guidelines.

Maintenance Of Health Benefits

The district is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the district may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

Job Restoration

Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

Notice And Certification

Employee Notice: Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the district as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the district's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for the district reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave due to a FMLA-qualifying reason for which the district has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice: The district will post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Additionally, the district will either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the district acquires knowledge that leave may be for a FMLA purpose, the district shall notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the district has enough information to determine that leave is being taken for a FMLA-qualifying reason, the district must notify the employee that the leave is designated and will be counted as FMLA leave.

Certification: The district may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. The district may require second or third medical opinions (at the district's expense) and periodic recertification of a serious health condition. The district may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. The district may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, the district may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

415.6 SUPPORT STAFF JURY DUTY LEAVE

Any employee who is summoned to serve on jury or election board duty, or who is subpoenaed to provide testimony, shall not be subject to discharge from employment, loss of pay, loss of sick leave, loss of vacation time, or any other form of penalty, as a result of his or her absence from work due to such service provided the employee submits a copy of the summons, in advance, to the employee's supervisor.

Support staff will receive their regular salary. Any payment for jury duty shall be paid to the school district. The employee will report to work within one hour on any day when the employee is excused from jury duty during regular working hours.

Legal Reference: Neb. Statute 25-1640

Cross Reference: 415 Support Staff Vacations and Leaves of Absence

Approved August 11, 2003 Reviewed _____ Revised _____

415.8 SUPPORT STAFF UNPAID LEAVE

Unpaid leave may be used to excuse an involuntary absence not provided for in other leave policies. Unpaid leave for support staff must be authorized by the superintendent. Any unused Personal Leave days must be applied to such absences rather than including them as Unpaid Leave.

The superintendent shall have complete discretion to grant or deny the requested unpaid leave. In making this determination, the superintendent shall consider the effect of the employee's absence on the education program and school district operations, the financial condition of the school district, length of service, previous record of absence, the reason for the requested absence and other factors the superintendent believes are relevant in making this determination.

If unpaid leave is granted, the duration of the leave period shall be coordinated with the scheduling of the education program whenever possible, to minimize the disruption of the education program and school district operations.

Whenever possible, classified employees shall make a written request for unpaid leave seven days prior to the beginning date of the requested leave. If the leave is granted, the deductions in salary shall be made unless they are waived specifically by the superintendent.

Cross Reference: 415 Support Staff Vacations and Leaves of Absence

Approved August 11, 2003 Reviewed _____ Revised _____

415.9 SUPPORT STAFF PROFESSIONAL PURPOSES LEAVE

Professional purposes leave may be granted to support staff for the purpose of attending meetings and conferences directly related to their assignments. Application for the leave must be presented to the superintendent seven days prior to the meeting or conference.

It shall be within the discretion of the superintendent to grant professional purposes leave. The leave may be denied on the day before or after a vacation or holiday, on special days when services are needed, when it would cause undue interruption of the education program and school district operations, or for other reasons deemed relevant by the superintendent.

Cross Reference: 412 Support Staff - General
 409.01 Certificated Employee Professional Development

Approved August 11, 2003 Reviewed _____ Revised _____