

**TABLE OF CONTENTS** Edited 3  
**SECTION 8—NONCERTIFIED PERSONNEL POLICIES**

8.0—WAIVERS LISTED IN THE OCABS CHARTER \_\_\_\_\_  
8.1—NONCERTIFIED PERSONNEL SALARY SCHEDULE \_\_\_\_\_  
8.2—NONCERTIFIED PERSONNEL EVALUATIONS \_\_\_\_\_  
8.3—EVALUATION OF NONCERTIFIED PERSONNEL BY RELATIVES \_\_\_\_\_  
8.4—NONCERTIFIED EMPLOYEES DRUG TESTING \_\_\_\_\_  
8.5—NONCERTIFIED EMPLOYEES SICK LEAVE \_\_\_\_\_  
8.6—SICK LEAVE BANK — NONCERTIFIED EMPLOYEES \_\_\_\_\_  
8.7—NONCERTIFIED PERSONNEL PERSONAL AND PROFESSIONAL LEAVE \_\_\_\_\_  
8.8—NONCERTIFIED PERS RESPONSIBILITIES IN DEALING WITH SEX OFFENDERS ON CAMPUS \_\_\_\_\_  
8.9—PUBLIC OFFICE – NONCERTIFIED PERSONNEL \_\_\_\_\_  
8.10—JURY DUTY – NONCERTIFIED PERSONNEL \_\_\_\_\_  
8.11—OVERTIME, COMPTIME, AND COMPLYING WITH FLSA \_\_\_\_\_  
8.12—NONCERTIFIED PERSONNEL OUTSIDE EMPLOYMENT \_\_\_\_\_  
8.13—NONCERTIFIED PERSONNEL EMPLOYMENT \_\_\_\_\_  
8.14—NONCERTIFIED PERSONNEL REIMBURSEMENT OF TRAVEL EXPENSES \_\_\_\_\_  
8.15—NONCERTIFIED PERSONNEL TOBACCO USE \_\_\_\_\_  
8.16—DRESS OF NONCERTIFIED EMPLOYEES \_\_\_\_\_  
8.17—NONCERTIFIED PERSONNEL POLITICAL ACTIVITY \_\_\_\_\_  
8.18—NONCERTIFIED PERSONNEL DEBTS \_\_\_\_\_  
8.19—NONCERTIFIED PERSONNEL GRIEVANCES \_\_\_\_\_  
8.19F—LEVEL TWO GRIEVANCE FORM - NONCERTIFIED \_\_\_\_\_  
8.20—NONCERTIFIED PERSONNEL SEXUAL HARASSMENT \_\_\_\_\_  
8.21—NONCERTIFIED PERSONNEL SUPERVISION OF STUDENTS \_\_\_\_\_  
8.22—NONCERTIFIED PERSONNEL COMPUTER USE POLICY \_\_\_\_\_  
8.22F—NONCERTIFIED PERSONNEL INTERNET USE AGREEMENT \_\_\_\_\_  
8.23—NONCERTIFIED PERSONNEL FAMILY MEDICAL LEAVE \_\_\_\_\_  
8.24—SCHOOL BUS DRIVER’S USE OF CELL PHONES \_\_\_\_\_  
8.25—NONCERTIFIED PERSONNEL CELL PHONE USE \_\_\_\_\_  
8.26—NONCERTIFIED PERSONNEL RESPONSIBILITIES GOVERNING BULLYING \_\_\_\_\_  
8.27—NONCERTIFIED PERSONNEL LEAVE — INJURY FROM ASSAULT \_\_\_\_\_  
8.28—DRUG FREE WORKPLACE - NONCERTIFIED PERSONNEL \_\_\_\_\_  
8.28F—DRUG FREE WORKPLACE POLICY ACKNOWLEDGEMENT \_\_\_\_\_  
8.29—NONCERTIFIED PERSONNEL VIDEO SURVEILLANCE \_\_\_\_\_  
8.30—NONCERTIFIED PERSONNEL REDUCTION IN FORCE \_\_\_\_\_  
8.31—NONCERTIFIED PERSONNEL TERMINATION AND NON-RENEWAL \_\_\_\_\_  
8.32—NONCERTIFIED PERSONNEL ASSIGNMENTS \_\_\_\_\_  
8.33—NONCERTIFIED PERSONNEL SCHOOL CALENDAR \_\_\_\_\_  
8.34—NONCERTIFIED PERSONNEL WHO ARE MANDATORY REPORTERS DUTY TO REPORT CHILD  
ABUSE, MALTREATMENT OR NEGLECT \_\_\_\_\_  
8.35---SCHOOL CALENDAR \_\_\_\_\_

# NONCERTIFIED PERSONNEL

## 8.0—WAIVERS LISTED IN THE CHARTER

The following are the waivers listed in the OCABS charter

OCABS uses the Arkansas School Board Association's Model Policies. OCABS has tried to delete any portions of the standard ASBA policies that include a requirement that has waived in the following list. If OCABS has overlooked such a policy, the policy may be changed and approved by the local OCABS Board.

The following are waivers from title 6, Arkansas Code Annotated, granted to OCABS in our charter agreement with the Department of Education

6-10-106	Uniform dates for beginning and end of school year.
6-13-611	Vacancies Generally
6-13-616	Qualifications of Directors
6-13-630	Election by Zone and at Large
6-14-101 through 6-14-122	General Election laws-School Boards.
6-16-102	School Day
6-17-111	Duty-free lunch
6-17-114	Daily Planning Period
6-17-302	Public school Director—Qualifications and responsibilities
6-17-1001	Minimum base salary
6-17-1501 through 6-17-1510	Subchapter 15 Teacher Fair Dismissal
6-17-1702 through 6-17-1705	Subchapter 17 Public School Employee Fair Hearing Act
6-20-1402 through 1407	Minimum School House construction Standards
6-24-106	Administrators

The following are waivers from SBE Rules and Regulations

- Uniform grading scale
- Waivers of Minimum Salaries for Certified Personnel

The following are waivers from Standards and Accreditation

- Standard V, (Rule 10.02 class size and Teaching Load)
- Standard VII, (Rule 12.0 Student Performance)
- Standard X (15.0 Personnel); School Superintend. and Principals

\*Portions of these standard ASBA Policies have been waived.

## 8.1—NONCERTIFIED PERSONNEL SALARY SCHEDULE

Our salary schedule for this policy accurately reflects our actual pay practices and is not required by law to include step increases for additional years of experience. State law requires each School to include its noncertified employee's salary schedule in its written personnel policies unless the School recognizes a classified employee's union in its policies for, among other things, the negotiation of salaries. Our school has an hourly salary schedule for at least the following five categories of noncertified personnel: 1) Maintenance and Operations; 2) Transportation; 3) Food Service; 4) Secretarial and Clerical; and 5) Aids and Paraprofessionals.

For the purposes of this policy, an employee must work two thirds (2/3) of the number of their regularly assigned annual work days to qualify for a step increase.<sup>1</sup>

**Notes:** The salary schedule does not have to contain steps, nor does it have to be listed specifically, i.e. John Doe = \$6.65 per hour, Jane Doe = \$6.83 per hour. We list the spreadsheet in salaries per category. Janitors = \$6.65 to \$11.00 per hour, Bus drivers = \$8.25 to \$12.00 per hour, etc.

<sup>1</sup>Two thirds (2/3) is merely offered as a suggestion and it may be changed next year.

Legal Reference: A.C.A. § 6-17-2301

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.2— NONCERTIFIED PERSONNEL EVALUATIONS**

Noncertified personnel may be periodically evaluated.

Any forms, procedures or other methods of evaluation, including criteria, are to be developed by the Director and or his designee(s), but shall not be part of the personnel policies of the School.

Legal Reference: A.C.A. § 6-17-2301

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## **8.3—EVALUATION OF NONCERTIFIED PERSONNEL BY RELATIVES**

No person shall be employed in, or assigned to, a position which would require that he be evaluated by any relative, by blood or marriage, including spouse, parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, or first cousin.

**Notes:** This policy is similar to Policy 3.3. This policy is optional and may be changed next year.

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## **8.4— NONCERTIFIED EMPLOYEES DRUG TESTING**

### **Scope of Policy**

Each person hired for a position which allows or requires that the employee operate any type of motor vehicle which is privately owned and operated for compensation, or which is owned, leased or otherwise operated by, or for the benefit of the School, and is operated for the transportation of children to or from school or school sponsored activity shall undergo a physical examination, including a drug test.<sup>1</sup> Each person's initial employment for a job entailing a safety sensitive function is conditioned upon the school receiving a negative drug test result for that employee.<sup>2</sup> The offer of employment is also conditioned upon the employee's signing an authorization for the request for information by the school from the Commercial Driver Alcohol and Drug Testing Database.<sup>3</sup>

### **Methods of Testing**

The collection, testing methods and standards shall be determined by the agency or other medical organizations chosen by the School Board to conduct the collection and testing of samples. The drug and alcohol testing is to be conducted by a laboratory certified pursuant to the most recent guidelines issued by the United States Department of Health and Human Services for such facilities. ("Mandatory Guidelines for Federal Workplace Drug Testing Programs").

### **Definition**

Safety sensitive function includes:

- a) All time spent inspecting, servicing, and/or preparing the vehicle;
- b) All time spent driving the vehicle;
- c) All time spent loading or unloading the vehicle or supervising the loading or unloading of the vehicle; and
- d) All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### **Requirements**

Employees shall be drug and alcohol free from the time the employee is required to be ready to work until the employee is relieved from the responsibility for performing work and/or any time they are performing a safety-sensitive function. In addition to the testing required as an initial condition of employment, employees shall submit to subsequent drug tests as required by law and/or regulation. Subsequent testing includes, and/or is triggered by, but is not limited to:

1. Random tests;
2. Testing in conjunction with an accident;
3. Receiving a citation for a moving traffic violation; and
4. Reasonable suspicion.

### **Prohibitions**

- A. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
- B. No driver shall use alcohol while performing safety-sensitive functions;
- C. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol;
- D. No driver required to take a post-accident alcohol test under # 2 above shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first;
- E. No driver shall refuse to submit to an alcohol or drug test in conjunction with # 1, 2, and/or 4 above;
- F. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when using any controlled substance, except when used pursuant to the instructions of a licensed medical practitioner, knowledgeable of the driver's job responsibilities, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate his/her vehicle. It is the employee's responsibility to inform his/her supervisor of the employee's use of such medication;
- G. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances.

Violation of any of these prohibitions may lead to disciplinary action being taken against the employee, which could include termination or non-renewal.

### **Testing for Cause**

Drivers involved in an accident in which there is a loss of another person's life shall be tested for alcohol and controlled substances as soon as practicable following the accident. Drivers shall also be tested for alcohol within eight (8) hours and for controlled substances within thirty two (32) hours following an accident for which they receive a citation for a moving traffic violation if the accident involved: 1) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or 2) one or more motor vehicles incurs disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.<sup>4</sup>

### **Refusal to Submit**

Refusal to submit to an alcohol or controlled substance test means that the driver

- Failed to appear for any test within a reasonable period of time as determined by the employer consistent with applicable Department of Transportation agency regulation;
- Failed to remain at the testing site until the testing process was completed;
- Failed to provide a urine specimen for any required drug test;
- Failed to provide a sufficient amount of urine without an adequate medical reason for the failure;
- Failed to undergo a medical examination as directed by the Medical Review Officer as part of the verification process for the previous listed reason;
- Failed or declined to submit to a second test that the employer or collector has directed the driver to take;
- Failed to cooperate with any of the testing process; and/or
- Adulterated or substituted a test result as reported by the Medical Review Officer.

### **Consequences for Violations**

Drivers who engage in any conduct prohibited by this policy, who refuse to take a required drug or alcohol test, refuse to sign the request for information required by law, or who exceed the acceptable limits for the respective tests shall no longer be allowed to perform safety sensitive functions. Actions regarding their continued employment shall

be taken in relation to their inability to perform these functions and could include termination or non-renewal of their contract of employment.<sup>5</sup>

Drivers who exhibit signs of violating the prohibitions of this policy relating to alcohol or controlled substances shall not be allowed to perform or continue to perform safety-sensitive functions if they exhibit those signs during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the provisions of this policy. This action shall be based on specific, contemporaneous, articulable observations concerning the behavior, speech, or body odors of the driver. The Director or his/her designee shall require the driver to submit to “reasonable suspicion” tests for alcohol and controlled substances. The direction to submit to such tests must be made just before, just after, or during the time the driver is performing safety-sensitive functions. If circumstances prohibit the testing of the driver the Director or his/her designee shall remove the driver from reporting for, or remaining on, duty for a minimum of 24 hours from the time the observation was made triggering the driver’s removal from duty.

If the results for an alcohol test administered to a driver is equal to or greater than 0.02, but less than 0.04, the driver shall be prohibited from performing safety-sensitive functions for a period not less than 24 hours from the time the test was administered. Unless the loss of duty time triggers other employment consequence policies, no further other action against the driver is authorized by this policy for test results showing an alcohol concentration of less than 0.04.

**Notes:** We are required to give drivers a copy of the procedures that will be used in the testing for drugs and alcohol. If we are following our own policy in this regard, give your drivers a copy of that policy; if you’re using a drug testing company to administer the tests, give your drivers a copy of the test administration procedures. We are required to provide our drivers the name of the person you have designated to answer your drivers questions about the materials you give them regarding drug and alcohol testing.

We are also required to give our employees “information pertaining to the effects of alcohol and controlled substance use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver’s or a co-worker’s); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.”

Give a copy of this policy to our drivers.

Our drivers sign an acknowledgement that they have received all of the information contained in this policy and these footnotes.

<sup>1</sup> We have the option of also requiring an alcohol test, but you may not selectively require it, i.e. if you require it for one prospective employee you must require it for all prospective employees.

While A.C.A. § 6-19-108(e) permits a school to hire a non-certified bus driver in an emergency situation, 49CFR382.301 forbids a first time driver (employee) from performing any safety sensitive functions prior to the school receiving a negative drug test for the employee.

<sup>3</sup> While the provisions for fines contained in 27-23-209 do not apply to schools, schools are still required to comply with this law. It is for this reason, along with simple prudence in not hiring a person who receives a positive drug/alcohol test, that this language is included. The request for information required by the state is in addition to the federal requirement (49CFR40.25(a)(b) that you request drug and alcohol test results from any U.S. Department of Transportation regulated employers who have employed the employee during any period during the two years prior to the date of the employee’s application.

<sup>4</sup> Employers are required to report to the Office of Driver Services of the Revenue Division of the Department of Finance and Administration within three (3) business days the results of an alcohol test if it was performed due to cause or as part of random testing and the results were positive or the employee refused to provide a specimen for testing.

<sup>5</sup> The drivers covered under this policy are those who operate a vehicle as outlined in the first paragraph, “Scope of Policy.” Federal law requires you to remove them from safety-sensitive functions when a drug or alcohol related problem exists, but the law does not enter into the realm of dismissing them from other, non-driving, duties.

This policy is similar to Policy 3.7. If we change this policy, review 3.7 at the same time to ensure applicable consistency between the two.

Legal References: A.C.A. § 6-19-108 A.C.A. § 27-23-201 et seq.  
49 C.F.R. § 382-101 – 605 49 C.F.R. § part 40  
Arkansas Division of Academic Facilities and Transportation Rules Governing Maintenance and Operations of Arkansas Public School Buses and Physical Examinations of School Bus Drivers

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## **8.5— NONCERTIFIED EMPLOYEES SICK LEAVE**

### **Definitions**

1. “Employee” is an employee of the School working 20 or more hours per week who is not required to have a teaching license as a condition of his employment.
2. “Sick Leave” is absence from work due to illness, whether by the employee or a member of the employee’s immediate family, or due to a death in the family. The Director shall determine whether sick leave will be approved on the basis of a death outside the immediate family of the employee.
3. “Current Sick Leave” means those days of sick leave for the current contract year, which leave is granted at the rate of one day of sick leave per month worked, or major part thereof.<sup>1</sup>
4. “Accumulated Sick Leave” is the total of unused sick leave, up to a maximum of ninety (90) days accrued from previous contract, but not used.
5. “Immediate family” means an employee’s spouse, child, parent, or any other relative provided the other relative lives in the same household as the employee.

### **Sick Leave**

The director has the discretion to approve sick leave for an employee to attend the funeral of a person who is not related to the employee, under circumstances deemed appropriate by the Director. Such approved sick leave shall not exceed one-half day.

Pay for sick leave shall be at the employee’s daily rate of pay, which is that employee’s hourly rate of pay times the number of hours normally worked per day. Absences for illness in excess of the employee’s accumulated and current sick leave shall result in a deduction from the employee’s pay at the daily rate as defined above.

At the discretion of the director, OCABS may require a written statement from the employee’s physician. Failure to provide such documentation of illness may result in sick leave not being paid, or in dismissal.

Excessive absenteeism, whatever the cause, to the extent that the employee is not carrying out his assigned duties to the degree that the education of students or the efficient operation of a school is substantially adversely affected (at the determination of Director) may result in dismissal.

### **Sick Leave and Family Medical Leave Act (FMLA) Leave**

When an employee takes sick leave, the school shall determine if the leave qualifies for FMLA leave. The school may request additional information from the employee to help make the applicability<sup>2</sup> determination. If the leave qualifies under the FMLA, the school will notify the employee, either orally or in writing<sup>3</sup>, of the decision within two workdays. If the leave is intermittent as defined in this policy and the circumstances of the leave don’t change, the school is only required to notify the employee once of the determination regarding the applicability of sick leave and/or FMLA leave. To the extent the employee has accrued paid leave, any leave taken that qualifies for FMLA leave shall be paid leave and charged against the employee’s accrued leave.

**Notes:** This policy is similar to Policy 3.8. If we change this policy, review 3.8 at the same time to ensure applicable consistency between the two.

<sup>1</sup> For noncertified employees your school has the choice of crediting sick leave days up front as is done for licensed employees, or of crediting sick leave at the rate of one day per month worked. Choose your method and delete the portion of this sentence that reflects your choice.

<sup>2</sup> As used in this policy, “applicable” is a very important word. Some leave taken under FMLA also applies to sick leave and therefore, the employee will get paid for the leave to the extent the employee has sick leave accrued. Other leave taken under FMLA is not applicable to sick leave and therefore the FMLA leave is unpaid. For instance, “applicable leave” in terms of time taken under FMLA due to the birth of a child will vary depending on the language in your school’s policy on sick leave. For instance, if sick leave may be taken “for reason of personal illness or illness in the immediate family” (based on the statutory definition in 6-17-1302, and an employee gives birth to a child, she may take sick leave for the amount of time that her personal physician deems it necessary for her to physically recover from childbirth. Once the medically necessary time has passed, sick leave is no longer appropriate and cannot be used. While under the FMLA, the employee could take additional time off work, she would need to take unpaid FMLA leave for this purpose, unless she had personal days or vacation days available. However, if your school has a much more liberal definition of sick leave in school policy, the results could be entirely different. Another example would be the potential for overlap between pregnancy complications that arise to the level of a “serious health condition.” For instance, pregnancy complications that rose to the level of a “serious health condition” would qualify for both, while missing work for a dentist’s appointment would qualify for sick leave, but would not qualify for FMLA leave. Consult policy 8.23— NONCERTIFIED PERSONNEL FAMILY MEDICAL LEAVE when making the determination of what sick leave qualifies under both policies. It may also be helpful to consult 29 CFR 825.114 which is attached at the end of that policy.

<sup>3</sup> If the notice is oral, it must be confirmed in writing no later than the following payday (unless the payday is less than one week after the notice, in which case the notice must be no later than the subsequent payday).

The written notice may be in any form, including a notation on the employee’s pay stub.

Cross Reference: 8.23— NONCERTIFIED PERSONNEL FAMILY MEDICAL LEAVE

Legal References: A.C.A. § 6-17-1301 et seq. 29 USC §§ 2601 et seq. 29 CFR 825.100 et seq.

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## **8.6—SICK LEAVE BANK — NONCERTIFIED EMPLOYEES \***

A sick leave bank is established for the purpose of permitting noncertified employees, upon approval, to obtain sick leave in excess of accumulated and current sick leave, when the noncertified employee has exhausted all such leave. Only those noncertified employees who contribute to the sick leave bank during a given contract year shall be eligible to withdraw from the sick leave bank.

The Director may appoint a Noncertified Sick Leave Bank Committee. That committee may consist of six (6) members: five (5) noncertified employees<sup>1</sup> and one (1) Director. The terms of the committee may be for three years with two members being replaced each year. The Committee may meet as necessary for the purpose of reviewing requests for withdrawal from the bank. The determination of the committee may be final.

### **Withdrawals**

The Committee may, but is not obligated to, grant sick leave up to TWO days per contract year for serious personal or family illness, disabilities or accidents (not including accidents for which the employee is receiving Workers’ Compensation), which cause the employee to be absent from work and when the employee has exhausted all accumulated and current sick leave. The employee shall be eligible to withdraw the day(s) he/she has donated to the bank if sufficient days are available in the bank. “Serious personal or family illness, disabilities or accidents” means a period of continuous or intermittent absence, qualifying as sick leave, in which 40<sup>2</sup> or more days are missed during a single contract year. Absence from work due to medically unnecessary elective surgery may not make the employee eligible to withdraw from the sick leave bank. Requests for withdrawal from the sick leave bank must state the reason(s) for the request and the number of days requested and must be accompanied by a detailed statement from an attending physician of the nature of the malady and the expected duration thereof.

If the information provided to the Committee is deemed by a majority of the Committee to be insufficient, the Committee may require additional information or deny the employee’s request, at its discretion.

The Committee shall have the authority to grant, reduce or deny any request. However, the Committee may grant no request, or any granted time may be withdrawn, when the employee accepts retirement; is eligible for Social Security Disability; or other disability insurance or the employee returns to work.

### **Spousal Donations**

School employees who are husband and wife are eligible to utilize each other's sick leave. Written permission must be received for each day of donated sick leave. If the employees are paid at different rates of pay, the lesser rate of pay shall be used for the purpose of the donated sick leave days.<sup>3</sup>

*\* This is policy is optional and may be changed next year.*

**Notes:** ASBA recommends separate sick leave banks for Classified and Licensed employees due to the pay differential between the two groups which can result in the school paying licensed employees for sick leave donated at a classified rate of pay.

This policy is similar to Policy 3.9. If we change this policy, review 3.9 at the same time to ensure applicable consistency between the two.

<sup>1</sup> ASBA recommends that each of the five categories of classified employees designated in Act 1780 have one representative on the committee. The five categories are 1) maintenance and operations, 2) transportation, 3) food service, 4) secretarial and clerical, and 5) aids and paraprofessionals.

<sup>2</sup> Choose the number you wish to insert here. Numbers of roughly 40 or more will generally preclude granting leave from a bank for pregnancies and elective surgeries. Numbers of roughly 40 or less will generally allow granting leave from a bank for pregnancies and some elective surgeries. The language in the following paragraph was deleted to eliminate the possibility that pregnancy could be discriminated against for sick leave bank purposes.

<sup>3</sup> We may choose to include, or not include, this optional sentence. It is also allowable to have a stand-alone policy for this sentence if your school otherwise chooses not to have a sick leave bank.

The rate of pay would be determined by the employee receiving the lower wage. For example, one spouse might be certified and the other classified. If the certified employee received a day of sick leave from his/her spouse who is a classified employee making a lower wage, the sick leave would be valued at the lower wage. Example: Teacher, whose daily rate is \$150 a day, has a sick leave day transferred to her by her husband, who works as a custodian and whose daily rate is \$75. She would be credited \$75 for the day instead of \$150, due to her husband's donation (or ½ the teacher's rate for sick leave).

Legal Reference: A.C.A. § 6-17-1306

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## **8.7—NONCERTIFIED PERSONNEL PERSONAL AND PROFESSIONAL LEAVE**

For the school to function efficiently and have the necessary personnel present to effect a high achieving learning environment, employee absences need to be kept to a minimum. The school acknowledges that there are times during the school year when employees have personal business that needs to be addressed during the school day. Each full-time employee shall receive two (2)<sup>1</sup> days of personal leave per contract year. The leave may be taken in increments of no less than TWO.<sup>2</sup>

Employees shall take personal leave or leave without pay for those absences which are not due to attendance at school functions which are related to their job duties and do not qualify for other types of leave (for sick leave see Policy 8.5, for professional leave see below).

School functions, for the purposes of this policy, means:

1. Athletic or academic events related to a public school and
2. Meetings and conferences related to education.

The determination of what activities meet the definition of a school function shall be made by the employee's immediate supervisor or designee. In no instance shall paid leave in excess of allotted vacation days and/or personal days be granted to an employee who is absent from work while receiving remuneration from another source as compensation for the reason for their absence.

Any employee desiring to take personal leave may do so by making a written request to his supervisor at least twenty-four (24) hours prior to the time of the requested leave. The twenty-four hour requirement may be waived by the supervisor when the supervisor deems it appropriate.

Employees who fail to report to work when their request for a personal day has been denied or who have exhausted their allotted personal days, shall lose their daily rate of pay for the day(s) missed (leave without pay). While there are instances where personal circumstances necessitate an employee's absence beyond the allotted days of sick and/or personal leave, any employee who requires leave without pay must receive advance permission (except in medical emergencies) from their immediate supervisor. Failure to report to work without having received permission to be absent is grounds for discipline, up to and including termination.

Personal leave does not accumulate from one contract year to the next.<sup>3</sup>

Personal leave may not be taken the day before or the day after a holiday.<sup>4</sup>

### **Professional Leave**

"Professional Leave" is leave granted for the purpose of enabling an employee to participate in professional activities (e.g., workshops or serving on professional committees) which can serve to improve the school's instructional program or enhances the employee's ability to perform his duties. Professional leave will also be granted when a school employee is subpoenaed for a matter arising out of the employee's employment with the school. Any employee seeking professional leave must make a written request to his immediate supervisor, setting forth the information necessary for the supervisor to make an informed decision. The supervisor's decision is subject to review and overruling by the Director. Budgeting concerns and the potential benefit for the school's students will be taken into consideration in reviewing a request for professional leave.

Applications for professional leave should be made as soon as possible following the employee's discerning a need for such leave, but, in any case, no less than two (2) weeks before the requested leave is to begin, if possible.

If the employee does not receive or does not accept remuneration for their participation in the professional leave activity and a substitute is needed for the employee, the school shall pay the full cost of the substitute. If the employee receives and accepts remuneration for their participation in the professional leave activity, the employee shall forfeit his/her daily rate of pay from the school for the time the employee misses. The cost of a substitute, if one is needed, shall be paid by the employee<sup>5</sup>.

Notes: While we are not required to provide employees with personal days. We are required to have a policy that requires employees who are absent from the school to take either personal days or leave without pay.

Please note that the provisions of Act 1028 of 2007 which gives state employees 8 hours of paid leave to attend their children's school educational activities does **NOT** apply to public school employees.

<sup>1</sup> We may change and not give personal days next year.

<sup>2</sup> Choose the number of hours or portion of a work day that is the minimum that may be taken at any one time.

<sup>3</sup> This sentence is optional and may be changed next year.

<sup>4</sup> This sentence is optional and may be changed next year.

<sup>5</sup> We chose the employee not the school.

Legal Reference: A.C.A. § 6-17-211

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.8—NONCERTIFIED PERSONNEL RESPONSIBILITIES IN DEALING WITH SEX OFFENDERS ON CAMPUS**

Individuals who have been convicted of certain sex crimes must register with law enforcement as sex offenders. Arkansas law places restrictions on sex offenders with a Level 1 sex offender having the least restrictions (lowest likelihood of committing another sex crime), and Level 4 sex offenders having the most restrictions (highest likelihood of committing another sex crime).

While Levels 1 and 2 place no restrictions prohibiting the individual's presence on a school campus, Levels 3 and 4 have specific prohibitions. These are specified in Policy 6.10—SEX OFFENDERS ON CAMPUS (MEGAN'S LAW) and it is the responsibility of school staff to know and understand the policy and, to the extent requested aid school administrators in enforcing the restrictions placed on campus access to Level 3 and Level 4 sex offenders. It is the intention of the board of directors that school staff not stigmatize students whose parents or guardians are sex offenders while taking necessary steps to safeguard the school community and comply with state law. Each school's administration should establish procedures so attention is not drawn to the accommodations necessary for registered sex offender parents or guardians.<sup>1</sup>

Cross Reference: **6.10—SEX OFFENDERS ON CAMPUS (MEGAN'S LAW)**

Notes: This policy is similar to Policy 3.12. If we change this policy, review 3.12 at the same time to ensure applicable consistency between the two.

<sup>1</sup> For example, if a sex offender parent will arrive for conferences at the same time as other parents, staff should escort additional parents to their student's classroom, not just the sex offender parent. All Directors, designees, and school employees who will or may have contact with the sex offender parents shall be required to keep confidential both the sex offender status and sex offender accommodations made for a parent.

Legal References: A.C.A. § 12-12-913 (g) (2)  
Arkansas Department of Education Guidelines for "Megan's Law"  
A.C.A. § 5-14-132

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### **8.9—PUBLIC OFFICE – NONCERTIFIED PERSONNEL**

An employee of the School who is elected to the Arkansas General Assembly or any elective or appointive public office (not legally constitutionally inconsistent with employment by a public school) shall not be discharged or demoted as a result of such service.

No paid leave will be granted for the employee's participation in such public office. The employee may receive pay for personal leave or vacation (if applicable), if approved in advance by the Director, during his absence.

Prior to taking leave, and as soon as possible after the need for such leave is discerned by the employee, he must make written request for leave to the Director, setting out, to the degree possible, the dates such leave is needed.

An employee who fraudulently requests sick leave for the purpose of taking leave to serve in public office may be subject to nonrenewal or termination of his employment contract.

**Note:** This policy is substantially the same as Policy 3.13. If we change this policy consider changing 3.13 at the same time to ensure consistency between the two.

Cross Reference: Policy # 8.17—Noncertified Personnel Political Activity

Legal Reference: A.C.A. § 6-17-115

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### **8.10—JURY DUTY – NONCERTIFIED PERSONNEL**

Employees are not subject to discharge, loss of sick leave, loss of vacation time or any other penalty due to absence from work for jury duty, upon giving reasonable notice to the School through the employee's immediate supervisor. The employee must present the original (not a copy) summons to jury duty to his supervisor in order to confirm the reason for the requested absence.

Employees shall receive their regular pay from the school while serving jury duty, and shall reimburse the school from the stipend they receive for jury duty, up to, but not to exceed, the cost of the substitute hired to replace the employee in his/her absence.<sup>1</sup>

**Notes:** This policy is similar to Policy 3.14. If we change this policy, review 3.14 at the same time to ensure applicable consistency between the two.

<sup>1</sup> This sentence is totally optional and may be changed.

## **8.11—OVERTIME, COMPTIME, AND COMPLYING WITH FLSA**

OCABS shall comply with those portions of the Fair Labor Standards Act that relate to the operation of public schools. The act requires that covered employees be compensated for all hours worked at greater than or equal to the applicable minimum wage for workweeks of less than or equal to 40 hours.<sup>A</sup> It also requires that employees be compensated for workweeks of greater than 40 hours at 1 1/2 times their regular rate of pay either monetarily<sup>B</sup> or through compensatory time<sup>C</sup>.

### **Definitions**

Overtime is hours worked in excess of 40 per workweek. Compensation given for hours **not** worked such as for holidays or sick days do **not** count in determining hours worked per workweek.<sup>D</sup>

Workweek is the seven day consecutive period of time from 12:00AM on Sunday to midnight on the following Saturday.<sup>1</sup> Each workweek is independent of every other workweek for the purpose of determining the number of hours worked and the remuneration entitled to by the employee for that week.<sup>E</sup>

Exempt Employees are those employees who are not covered under the FLSA.<sup>F</sup> They include administrators and professional employees such as teachers, counselors, nurses, and supervisors.<sup>2</sup> Any employee who is unsure of their coverage status should consult with the School's Administration.

Covered Employees (also defined as non-exempt employees) are those employees who are not exempt, generally termed noncertified, and include bus drivers, clerical workers, maintenance personnel, custodians, transportation workers, receptionists, paraprofessionals, food service workers, secretaries, and bookkeepers.

Regular Rate of Pay includes all forms of remuneration for employment<sup>3</sup> and shall be expressed as an hourly rate.<sup>G</sup> For those employees previously paid on a salary basis, the salary shall be converted to an hourly equivalent. Employees shall be paid for each and every hour worked.

### **Employment Relationships**

1. The School does not have an employment relationship in the following instances.
2. Between the School and student teachers;
3. Between the School and its students;
4. Between the School and individuals who as a public service volunteer or donate their time to the School without expectation or promise of compensation.

The School does not have a joint employment relationship in the following instances.

1. Between the School and off-duty policemen or deputies who are hired on a part-time basis for security purposes or crowd control. The School is separate from and acts independently of other governmental entities.
2. Between the School and any agency contracted with to provide transportation services, security services, or other services.

### **Hours Worked**

Employees shall be compensated for all the time they are required to be on duty<sup>H</sup> and shall be paid for all hours worked each workweek. Employees shall accurately record the hours they work each week.<sup>I</sup>

The School shall determine the manner to be used by employees to accurately record the hours they work. Each employee shall record the exact time they commence and cease work including meal breaks. Employees arriving early may socialize with fellow workers who are off the clock, but shall not commence working without first recording their starting time.<sup>J</sup>

Employees shall sign in/clock in where they start work and sign out/clock out at the site where they cease working. Employees who do not start and end their workday at the same site shall carry a time card or sheet with them to accurately record their times. They shall turn in their time sheets or cards to their immediate supervisor no later than the following Monday morning after reviewing them to be sure that they accurately reflect their hours worked for that week.<sup>4</sup>

Each employee is to personally record his or her own times. Any employee who signs in or out (or who punches a time clock) for another employee or who asks another employee to do so for him or her will be dismissed.

Employees whose normal workweek is less than 40 hours and who work more than their normal number of hours in a given workweek may, at the School's option, be given compensatory time for the hours they worked in excess of their normal workweek in lieu of their regular rate pay. Compensatory time given in this manner shall be subject to the same conditions regarding accumulation and use as compensatory time given in lieu of overtime pay.

### **Breaks and Meals**

Each employee working more than 20 hours per week shall be provided two, paid, 15 minute duty free breaks per workday.<sup>K</sup>

Meal periods which are less than 30 minutes in length or in which the employee is not relieved of duty are compensable.<sup>L</sup> Employees with a bona fide meal period shall be completely relieved of their duty to allow them to eat their meal which they may do away from their work site, in the school cafeteria, or in a break area. The employee shall not engage in any work for the School during meal breaks except in rare and infrequent emergencies.

### **Overtime**

Covered employees shall be compensated at not less than 1.5 times his or her regular rate of pay for all hours worked over 40 in a workweek.<sup>M</sup> Overtime compensation shall be computed on the basis of the hours worked in each week and may not be waived by either the employee or the School. Overtime compensation shall be paid on the next regular payday for the period in which the overtime was earned.<sup>N</sup>

Employees working two or more jobs for the School at different rates of pay shall be paid overtime at a weighted average of the differing wages.<sup>O</sup> This shall be determined by dividing the total regular remuneration for all hours worked by the number of hours worked in that week to arrive at the weighted average. One half that rate is then multiplied times the number of hours worked over 40 to arrive at the overtime compensation due.<sup>5</sup>

Provided the employee and the School have a written agreement or understanding before the work is performed,<sup>P</sup> compensatory time off may be awarded in lieu of overtime pay for hours worked over 40 in a workweek and shall be awarded on a one-and-one-half (1 1/2) time basis for each hour of overtime worked.<sup>Q</sup> The School reserves the right to determine if it will award compensatory time in lieu of monetary pay for the overtime worked. The maximum number of compensatory hours an employee may accumulate at a time is 20.<sup>6</sup> The employee must be able to take the compensatory time off within a reasonable period of time that is not unduly disruptive to the School.

An employee whose employment is terminated with the School, whether by the School or the employee shall receive monetary compensation for unused compensatory time. Of the following methods, the one that yields the greatest money for the employee shall be used.

1. The average regular rate received by the employee during the last 3 years of employment. Or
2. The final regular rate received by the employee.<sup>R</sup>

### **Overtime Authorization**

There will be instances where the school's needs necessitate an employee work overtime. It is the Board's desire to keep overtime worked to a minimum. To facilitate this, employees shall receive authorization from their supervisor in advance of working overtime except in the rare instance when it is unforeseen and unavoidable.

All overtime worked will be paid in accordance with the provisions of the FLSA, but unless the overtime was pre-approved or fit into the exceptions noted previously, disciplinary action must be taken for failure to follow School policy. In extreme and repeated cases, disciplinary action could include the termination of the employee.

### **Leave Requests**

All covered employees shall submit a leave request form prior to taking the leave if possible. If, due to unforeseen or emergency circumstances, advance request was not possible the leave form shall be turned in the day the employee returns to work. Unless specifically granted by the Board for special circumstances, the reason necessitating the leave must fall within School policy.

Payment for leave could be delayed or not occur if an employee fails to turn in the required leave form. Leave may be taken in a minimum of 4 hour increments.<sup>7</sup>

## Record Keeping<sup>S</sup> and Postings<sup>T</sup>

The School shall keep and maintain records as required by the FLSA for the period of time<sup>U</sup> required by the act.<sup>8</sup>  
The School shall display minimum wage posters where employees can readily observe them.<sup>9</sup>

## Cooperation with Enforcement Officials<sup>V</sup>

All records relating to the FLSA shall be available for inspection by, and School employees shall cooperate fully with, officials from the DOL and/or its authorized representatives in the performance of their jobs relating to:

1. Investigating and gathering data regarding the wages, hours, and other conditions and practices of employment;
2. Entering, inspecting, and/or transcribing the premises and its records;
3. Questioning employees and investigating such facts as the inspectors deem necessary to determine whether any person has violated any provision of the FLSA.

**Notes:** <sup>1</sup> Select any consecutive 168 hours period (seven days) that will work best for your school.

<sup>2</sup> Supervisors cannot spend more than 20% of their time in the performance of non-supervisory work. For example a transportation director who also works on maintaining buses may only do so for  $\leq 20\%$  of the workweek with no exceptions to that in **any** given workweek.

<sup>3</sup> If you provide your employee a benefit in the form of goods or a facility the reasonable cost or the fair value of the lodging (per week) must be added to the cash wages before the regular rate is determined.

<sup>4</sup> Devise a system that will work for your school. The point is to have an accurate and verifiable record of the hours worked by each employee. While carrying time cards around can be a hassle, you don't want to lose excessive worktime from an employee having to walk excessively to and from their time sheet. Time clocks are obviously an accurate and verifiable record of hours worked, but they are not without drawbacks. First, they are not cheap to initially purchase and then to configure for your school as a whole. Second, employees can unintentionally take less than 30 minute meal times (by forgetting the exact time they clock out) which makes that time compensable.

<sup>5</sup> Example = an employee works for the school at one job paying \$8.00/hour and another paying \$10.00/hour. In a given week he works 50 hours, 26 of which are at \$8.00 and 24 at \$10.00.  $26 \times 8 = \$208$  and  $24 \times 10 = \$240$  for a total of \$448.  $448/50(\text{total hours worked}) = \$8.96/\text{hour}$  (the weighted average).  $8.96 \times 1/2 = 4.48 \times 10 \text{ hours} = \$44.80$  The total wages due for the week =  $\$448 + \$44.80 = \$492.80$ .

<sup>6</sup> You may choose any number  $\leq 240$ . In determining the number to insert remember that you must permit the employee to use the comptime within a "reasonable" period of time so long as it does not "unduly disrupt" the school's operations. Comptime does not have to be offered to all employees, nor does the agreement have to be the same for all employees.

<sup>7</sup> The DOL does not recognize leave in the form of "days" for hourly employees even though that is how Arkansas law (ACA § 6-17-1304) prescribes them. The DOL requires they be attributed in hourly allotments. You can choose the minimum amount of leave that may be used at one time.

<sup>8</sup> 29 CFR § 516.2 –516.9 and 29 CFR § 553.50 list the records that are required to be kept. These are included in the accompanying material.

<sup>9</sup> The school must display minimum wage posters in "conspicuous places" (each work site). They can be downloaded from the DOL by going to <http://www.dol.gov/esa/regs/compliance/posters/flsa.htm>

### Legal References:

- A: 29 USC § 206(a), ACA § 6-17-2203
- B: 29 USC § 207(a)(1), 29 CFR § 778.100
- C: 29 USC § 207(o), 29 CFR § 553.50
- D: 29 CFR § 778.218(a)
- E: 29 CFR § 778.105
- F: 29 USC § 213(a), 29 CFR §§ 541 et seq.
- G: 29 USC § 207(e), 29 CFR § 778.108
- H: 29 CFR §§ 785.9, 785.16

- I: 29 CFR § 516.2(7)
- J: 29 CFR §§ 785.1 et seq.
- K: ACA § 6-17-2205
- L: 29 CFR §§ 785.19
- M: 29 USC § 207(a), 29 CFR § 778.100, 29 USC § 207(o), 29 CFR §§ 553.20 – 553.32
- N: 29 CFR § 778.106
- O: 29 USC § 207(g)(2), 29 CFR § 778.115
- P: 29 USC § 207(o)(2)(A), 29 CFR § 553.23
- Q: 29 CFR § 553.20
- R: 29 USC § 207(o)(4), 29 CFR § 553.27
- S: 29 USC § 211(c), 29 CFR §§ 516.2, 516.3, 553.50
- T: 29 CFR § 516.4
- U: 29 CFR §§ 516.5, 516.6
- V: 29 USC § 211(a)(b)

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### **8.12— NONCERTIFIED PERSONNEL OUTSIDE EMPLOYMENT**

An employee of the School may not be employed in any other capacity during scheduled working hours.

An employee may not accept employment outside of his school employment which will interfere, or otherwise be incompatible with the School employment, including normal duties outside the regular work day; nor shall an employee accept other employment which is inappropriate for an employee of a public school.

The Director, or his designee(s), shall be responsible for determining whether outside employment is incompatible, conflicting, or inappropriate.

**Note:** This policy is similar to Policy 3.18. OCABS has a waiver for 6-24-106 and may change this policy.

Legal References: A.C.A. § 6-24-106, 107, 111

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### **8.13— NONCERTIFIED PERSONNEL EMPLOYMENT**

All prospective employees must fill out an application form provided by the School, in addition to any resume provided, all of which information is to be placed in the personnel file of those employed.

If the employee provides false or misleading information, or if he withholds information to the same effect, it may be grounds for dismissal.

OCABS is an equal opportunity employer and shall not discriminate on the grounds of race, color, religion, national origin, sex, age, or disability.

**Note:** This policy is similar to Policy

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### **8.14— NONCERTIFIED PERSONNEL REIMBURSEMENT OF TRAVEL EXPENSES**

Employees shall be reimbursed for personal and/or travel expenses incurred while performing duties or attending workshops or other employment-related functions, provided that prior written approval for the activity for which the employee seeks reimbursement has been received from the Director (or other immediate supervision with the authority to make school approvals), or the appropriate designee of the Director and that the employee's attendance/travel was at the request of the school.

It is the responsibility of the employee to determine the appropriate supervisor from which he must obtain approval.

Reimbursement claims must be made on forms provided by the School and must be supported by appropriate, original receipts. Copies of receipts or other documentation are not acceptable, except in extraordinary circumstances.

**Note:** This policy is similar to Policy 3.20. If we change this policy, review 3.20 at the same time to ensure applicable consistency between the two.

### **8.15— NONCERTIFIED PERSONNEL TOBACCO USE \***

Smoking or the use of tobacco, or products containing tobacco in any form, in or on any property owned or leased by the school, including buses or other school vehicles, is prohibited.

Violation of this policy by employees shall be grounds for disciplinary action up to, and including, dismissal.

*\* NOTE: This model policy tracks the state law referenced below. It is not required to be in School policies, but it could be useful in informing employees, among others, of the statutory prohibition on all tobacco use.*

**Note:** This policy is similar to Policy 3.21.

Legal Reference: A.C.A. § 6-21-609

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### **8.16— DRESS OF NONCERTIFIED EMPLOYEES**

Employees shall ensure that their dress and appearance are professional and appropriate to their positions.

**Note:** This policy is similar to Policy 3.22.

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### **8.17— NONCERTIFIED PERSONNEL POLITICAL ACTIVITY**

Employees are free to engage in political activity outside of work hours and to the extent that it does not affect the performance of their duties or adversely affect important working relationships.

It is specifically forbidden for employees to engage in political activities on the school grounds or during work hours.

The following activities are forbidden on school property:

1. Using students for preparation or dissemination of campaign materials;
2. Distributing political materials;
3. Distributing or otherwise seeking signatures on petitions of any kind;
4. Posting political materials; and
5. Discussing political matters with students, in or out of the classroom, in other than circumstances appropriate to the employee's responsibilities to the students and where a legitimate pedagogical reason exists.

**Note:** This policy is similar to Policy 3.23.

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### **8.18— NONCERTIFIED PERSONNEL DEBTS**

All employees are expected to meet their financial obligations. If an employee writes "hot" checks or has his income garnished, dismissal may result. An employee will not be dismissed for having been the subject of one (1) garnishment. However, a second or third garnishment may result in dismissal. At the discretion of the Director, he or his designee may meet with an employee who has received a second garnishment for the purpose of warning the employee that a third garnishment will result in a recommendation of dismissal to the School Board.

At the discretion of the Director, a second garnishment may be used as a basis for a recommended dismissal. The Director may take into consideration other factors in deciding whether to recommend dismissal based on a second garnishment. Those factors may include, but are not limited to, the amount of the debt, the time between the first and the second garnishment, and other financial problems which come to the attention of the School.

**Note:** This policy is similar to Policy 3.24.

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### **8.19— NONCERTIFIED PERSONNEL GRIEVANCES**

The purpose of this policy is to provide an orderly process for employees to resolve, at the lowest possible level, their concerns related to the personnel policies or salary payments of this school.

## **Definitions**

Grievance: a claim or concern related to the interpretation, application, or claimed violation of the personnel policies, including salary schedules, federal or state laws and regulations, or terms or conditions of employment, raised by an individual employee of this school. Other matters for which the means of resolution are provided or foreclosed by statute or administrative procedures shall not be considered grievances. Specifically, no grievance may be entertained against a supervisor for directing, instructing, reprimanding, or “writing up” an employee under his/her supervision.<sup>1</sup> A group of employees who have the same grievance may file a group grievance.

Group Grievance: A grievance may be filed as a group grievance if it meets the following criteria: (meeting the criteria does not ensure that the subject of the grievance is, in fact, grievable)

1. More than one individual has interest in the matter; and
2. The group has a well-defined common interest in the facts and/or circumstances of the grievance; and
3. The group has designated an employee spokesperson to meet with administration and/or the board; and
4. All individuals within the group are requesting the same relief.

Employee: any person employed under a written contract by this school immediate Supervisor: the person immediately superior to an employee who directs and supervises the work of that employee.

Working day: Any weekday other than a holiday whether or not the employee under the provisions of their contract is scheduled to work or whether they are currently under contract.

## **Process**

Level One: An employee who believes that he/she has a grievance shall inform that employee’s immediate supervisor that the employee has a potential grievance and discuss the matter with the supervisor within five working days of the occurrence of the grievance. The supervisor shall offer the employee an opportunity to have a witness or representative who is not a member of the employee’s immediate family present at their conference. (The five-day requirement does not apply to grievances concerning back pay.) If the grievance is not advanced to Level Two within five working days following the conference, the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

If the grievance cannot be resolved by the immediate supervisor, the employee can advance the grievance to Level Two. To do this, the employee must complete the top half of the Level Two Grievance Form within five working days of the discussion with the immediate supervisor, citing the manner in which the specific personnel policy was violated that has given rise to the grievance, and submit the Grievance Form to his/her immediate supervisor. The supervisor will have ten working days to respond to the grievance using the bottom half of the Level Two Grievance Form which he/she will submit to the building Director or, in the event that the employee’s immediate supervisor is the Director.

Level Two (when appeal is to the building Director): Upon receipt of a Level Two Grievance Form, the building Director will have ten working days to schedule a conference with the employee filing the grievance. The Director shall offer the employee an opportunity to have a witness or representative who is not a member of the employee’s immediate family present at their conference. After the conference, the Director will have ten working days in which to deliver a written response to the grievance to the employee. If the grievance is not advanced to Level Three within five working days the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

Level Two (when appeal is to the Director): Upon receipt of a Level Two Grievance Form, the Director will have ten working days to schedule a conference with the employee filing the grievance. The Director shall offer the employee an opportunity to have a witness or representative who is not a member of the employee’s immediate family present at their conference. After the conference, the Director will have ten working days in which to deliver a written response to the grievance to the employee.

Level Three: If the proper recipient of the Level Two Grievance was the building Director, and the employee remains unsatisfied with the written response to the grievance, the employee may advance the grievance to the Director by

submitting a copy of the Level Two Grievance Form and the Director's reply to the Director within five working days of his/her receipt of the Director's reply. The Director will have ten working days to schedule a conference with the employee filing the grievance. The Director shall offer the employee an opportunity to have a witness or representative who is not a member of the employee's immediate family present at their conference. After the conference, the Director will have ten working days in which to deliver a written response to the grievance to the employee.

Appeal to the Board of Directors: An employee who remains unsatisfied by the written response of the Director may appeal the Director's decision to the Board of Education within five working days of his/her receipt of the Director's written response by submitting a written request for a board hearing to the Director<sup>2</sup>. If the grievance is not appealed to the Board of Directors within five working days of his/her receipt of the Director's response, the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

The school board will address the grievance at the next regular meeting of the school board, unless the employee agrees in writing to an alternate date for the hearing. After reviewing the Level Two Grievance Form and the Director's reply, the board will decide if the grievance, on its face, is grievable under school policy. If the grievance is presented as a "group grievance," the Board shall first determine if the composition of the group meets the definition of a "group grievance." If the Board determines that it is a group grievance, the Board shall then determine whether the matter raised is grievable. If the Board rules the composition of the group does not meet the definition of a group grievance, or the grievance, whether group or individual, is not grievable, the matter shall be considered closed. (Individuals within the disallowed group may choose to subsequently refile their grievance as an individual grievance beginning with Level One of the process.) If the Board rules the grievance to be grievable, they shall immediately commence a hearing on the grievance. All parties have the right to representation by a person of their own choosing who is not a member of the employee's immediate family at the appeal hearing before the Board of Directors. The employee shall have no less than 90 minutes to present his/her grievance, unless a shorter period is agreed to by the employee, and both parties shall have the opportunity to present and question witnesses. The hearing shall be open to the public unless the employee requests a private hearing. If the hearing is open, the parent or guardian of any student under the age of eighteen years who gives testimony may elect to have the student's testimony given in closed session. At the conclusion of the hearing, if the hearing was closed, the Board of Directors may excuse all parties except board members and deliberate, by themselves, on the hearing. At the conclusion of an open hearing, board deliberations shall also be in open session unless the board is deliberating the employment, appointment, promotion, demotion, disciplining, or resignation of the employee. A decision on the grievance shall be announced no later than the next regular board meeting.

### **Records**

Records related to grievances will be filed separately and will not be kept in, or made part of, the personnel file of any employee.

### **Reprisals**

No reprisals of any kind will be taken or tolerated against any employee because he/she has filed or advanced a grievance under this policy.

**Notes:** <sup>1</sup> It is important to understand the implications of the language contained in this paragraph. Only matters specified in the first sentence of the paragraph are, in fact, grievable, but that cannot prohibit an employee from filing a grievance which the administration does not deem to be grievable and nonetheless advancing it through the grievance process. Ultimately, it is the board that determines whether or not the matter is actually grievable by comparing the written grievance to the definition of grievance in the grievance policy, and continuing on with the hearing only if the grievance is determined to be within the definition. This is addressed in the "Appeal to the Board of Directors" paragraph.

<sup>2</sup>It is suggested that you date stamp the request for a board hearing upon receipt.

This policy is similar to Policy 3.25. If you change this policy, review 3.25 at the same time to ensure applicable consistency between the two.

Legal References: ACA § 6-17-208, 210

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### **8.19F—LEVEL TWO GRIEVANCE FORM - NONCERTIFIED**

Name: \_\_\_\_\_

Date submitted to supervisor: \_\_\_\_\_

Noncertified Personnel Policy grievance is based upon:

\_\_\_\_\_

Grievance (be specific): \_\_\_\_\_

\_\_\_\_\_

What would resolve your grievance? \_\_\_\_\_

\_\_\_\_\_

Supervisor's Response

Date submitted to recipient: \_\_\_\_\_

\_\_\_\_\_

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### **8.20—NONCERTIFIED PERSONNEL SEXUAL HARASSMENT**

OCABS is committed to having an academic and work environment in which all students and employees are treated with respect and dignity. Student achievement and amicable working relationships are best attained in an atmosphere of equal educational and employment opportunity that is free of discrimination. Sexual harassment is a form of discrimination that undermines the integrity of the educational environment and will not be tolerated.

Believing that prevention is the best policy, the school will periodically inform students and employees about the nature of sexual harassment, the procedures for registering a complaint, and the possible redress that is available. The information will stress that the school does not tolerate sexual harassment and that students and employees can report inappropriate behavior of a sexual nature without fear of adverse consequences.

It shall be a violation of this policy for any student or employee to be subjected to, or to subject another person to, sexual harassment as defined in this policy. Any employee found, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action up to, and including, termination.

Sexual harassment refers to unwelcome sexual advances, requests for sexual favors, or other personally offensive verbal, visual, or physical conduct of a sexual nature made by someone under any of the following conditions:

1. Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's education or employment;
2. Submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; and/or
3. Such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance or creates an intimidating, hostile, or offensive academic or work environment.

The terms "intimidating," "hostile," and "offensive" include conduct of a sexual nature which has the effect of humiliation or embarrassment and is sufficiently severe, persistent, or pervasive that it limits the student's or employee's ability to participate in, or benefit from, an educational program or activity or their employment environment.

Within the educational or work environment, sexual harassment is prohibited between any of the following: students; employees and students; non-employees and students; employees; employees and non-employees.

Actionable sexual harassment is generally established when an individual is exposed to a pattern of objectionable behaviors or when a single, serious act is committed. What is, or is not, sexual harassment will depend upon all of the surrounding circumstances. Depending upon such circumstances, examples of sexual harassment include, but are not limited to: unwelcome touching; crude jokes or pictures; discussions of sexual experiences; pressure for sexual activity; intimidation by words, actions, insults, or name calling; teasing related to sexual characteristics; and spreading rumors related to a person's alleged sexual activities.

Employees who believe they have been subjected to sexual harassment are encouraged to file a complaint by contacting their immediate supervisor, administrator, or Title IX coordinator who will assist them in the complaint process. Under no circumstances shall an employee be required to first report allegations of sexual harassment to a school contact person if that person is the individual who is accused of the harassment. To the extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation.

Employees who file a complaint of sexual harassment will not be subject to retaliation or reprisal in any form.

Employees who knowingly fabricate allegations of sexual harassment shall be subject to disciplinary action up to and including termination.

Individuals who withhold information, purposely provide inaccurate facts, or otherwise hinder an investigation of sexual harassment shall be subject to disciplinary action up to and including termination.

**Note:** This policy is similar to Policy 3.26.

Legal References: Title IX of the Education Amendments of 1972, 20 USC 1681, et seq.  
Title VII of the Civil Rights Act of 1964, 42 USC 2000-e, et seq.  
ACA § 6-15-1005 (b) (1)

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.21— NONCERTIFIED PERSONNEL SUPERVISION OF STUDENTS**

All School personnel are expected to conscientiously execute their responsibilities to promote the health, safety, and welfare of the School's students under their care. The Director shall direct all to establish regulations ensuring adequate supervision of students throughout the school day and at extracurricular activities.

**Note:** This policy is similar to Policy 3.27.

**8.22—NONCERTIFIED PERSONNEL COMPUTER USE POLICY**

OCABS provides computers and/or computer Internet access for many employees, to assist employees in performing work related tasks. Employees are advised that they enjoy **no expectation of privacy** in any aspect of their computer use, including email, and that under Arkansas law, both email and computer use records maintained by the school are subject to disclosure under the Freedom of Information Act.

Passwords or security procedures are to be used as assigned, and confidentiality of student records is to be maintained at all times. Employees must not disable or bypass security procedures, compromise, attempt to compromise, or defeat the school’s technology network security, alter data without authorization, disclose passwords to other staff members or students, or grant students access to any computer not designated for student use. It is the policy of this school to equip each computer with Internet filtering software designed to prevent users from accessing material that is harmful to minors. The designated School Technology Administrator or designee may authorize the disabling of the filter to enable access by an adult for a bona fide research or other lawful purpose.

Employees who misuse school-owned computers in any way, including excessive personal use, using computers for personal use during work or instructional time, using computers to violate any other policy, knowingly or negligently allowing unauthorized access, or using the computers to access or create sexually explicit or pornographic text or graphics, will face disciplinary action, up to and including termination or non-renewal of the employment contract.

**Note:** This policy is similar to Policy 3.28. I

Legal References: 20 USC 6801 et seq. (Children’s Internet Protection Act; PL 106-554)  
A.C.A. § 6-21-107 A.C.A. § 6-21-111

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

**8.22F—NONCERTIFIED PERSONNEL INTERNET USE AGREEMENT**

Name (Please Print) \_\_\_\_\_

School \_\_\_\_\_ Date \_\_\_\_\_

OCABS agrees to allow the employee identified above (“Employee”) to use the school’s technology to access the Internet under the following terms and conditions:

1. Conditional Privilege: The Employee’s use of the school’s access to the Internet is a privilege conditioned on the Employee’s abiding by this agreement.
2. Acceptable Use: The Employee agrees that in using the School’s Internet access he/she will obey all federal and state laws and regulations. Internet access is provided as an aid to employees to enable them to better perform their job responsibilities. Under no circumstances shall an Employee’s use of the School’s Internet access interfere with, or detract from, the performance of his/her job-related duties.
3. Penalties for Improper Use: If the Employee violates this agreement and misuses the Internet, the Employee shall be subject to disciplinary action up and including termination.
4. “Misuse of the School’s access to the Internet” includes, but is not limited to, the following:
  - a. using the Internet for any activities deemed lewd, obscene, vulgar, or pornographic as defined by prevailing community standards;
  - b. using abusive or profane language in private messages on the system; or using the system to harass, insult, or verbally attack others;
  - c. posting anonymous messages on the system;
  - d. using encryption software;
  - e. wasteful use of limited resources provided by the school including paper;

- f. causing congestion of the network through lengthy downloads of files;
- g. vandalizing data of another user;
- h. obtaining or sending information which could be used to make destructive devices such as guns, weapons, bombs, explosives, or fireworks;
- i. gaining or attempting to gain unauthorized access to resources or files;
- j. identifying oneself with another person's name or password or using an account or password of another user without proper authorization;
- k. using the network for financial or commercial gain without school permission;
- l. theft or vandalism of data, equipment, or intellectual property;
- m. invading the privacy of individuals;
- n. using the Internet for any illegal activity, including computer hacking and copyright or intellectual property law violations;
- o. introducing a virus to, or otherwise improperly tampering with, the system;
- p. degrading or disrupting equipment or system performance;
- q. creating a web page or associating a web page with the school or school without proper authorization;
- r. attempting to gain access or gaining access to student records, grades, or files of students not under their jurisdiction;
- s. providing access to the School's Internet Access to unauthorized individuals; or
- t. taking part in any activity related to Internet use which creates a clear and present danger of the substantial disruption of the orderly operation of the school or any of its schools;
- u. making unauthorized copies of computer software.
- v. personal use of computers during instructional time.

5. Liability for debts: Staff shall be liable for any and all costs (debts) incurred through their use of the School's computers or the Internet including penalties for copyright violations.

6. No Expectation of Privacy: The Employee signing below agrees that in using the Internet through the School's access, he/she waives any right to privacy the Employee may have for such use. The Employee agrees that the school may monitor the Employee's use of the School's Internet Access and may also examine all system activities the Employee participates in, including but not limited to e-mail, voice, and video transmissions, to ensure proper use of the system.

7. Signature: The Employee, who has signed below, has read this agreement and agrees to be bound by its terms and conditions.

Employee's Signature: \_\_\_\_\_ Date \_\_\_\_\_

**Note:** This policy is similar to Policy 3.28F.

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.23—NONCERTIFIED PERSONNEL FAMILY MEDICAL LEAVE\***

### **Definitions:**

**Active Duty:** is duty under a call or order to active duty under a provision of law referred to in 10 USC § 101(a)(13)(B).

**Contingency Operation:** has the same meaning given such term in 10 USC § 101(a)(13).

**Covered Service Member:** is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

**Eligible Employee:** is an employee who has been employed by the school for at least twelve (12) months and for 1250 hours of service during the twelve (12) month period immediately preceding the commencement of the leave. Full time, licensed teachers are considered to have met the 1250 hour requirement for eligibility.

**Health Care Provider:** is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices. It also includes any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.

**Instructional Employee:** is a teacher whose principal function is teach and instruct students in a class, a small group, or an individual setting and includes, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does **not** include administrators, counselors, librarians, psychologists, or curriculum specialists who are included under the broader definition of “eligible employee” (to the extent the employee has been employed for 12 months).

**Next of Kin:** used in respect to an individual, means the nearest blood relative of that individual.

**Outpatient Status:** used in respect to a covered service member, means the status of a member of the Armed Forces assigned to

- A) a military medical treatment facility as an outpatient; or
- B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Parent:** is the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or a daughter.

**Serious Health Condition:** is an injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.<sup>1</sup>

**Serious Injury or Illness:** used in respect to a member of the Armed Forces, including the National Guard or Reserves, it means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member unfit to perform the duties of the member’s office, grade, rank, or rating.

**Year:** the twelve (12) month period of eligibility shall begin on the first duty day of the school year.

### **Policy**

The provisions of this policy are intended to be in line with the provisions of the FMLA. If any conflict(s) exist, the Family Medical Leave Act of 1993 shall govern.

### **Leave Eligibility**

The school will grant up to twelve (12) weeks of leave in a year accordance with the Family Medical Leave Act of 1993 (FMLA) to its eligible employees for one or more of the following reasons:

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;
2. Because of the placement of a son or daughter with the employee for adoption or foster care;
3. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition; and
4. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
5. Because of any qualifying exigency (as the U.S. Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

The entitlement to leave for reasons 1 and 2 listed above shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a **covered service member** shall be entitled to a total of 26 weeks of leave during one 12-month period to care for the service member. During the single 12-month period, the eligible employee is entitled to a combined total of 26 weeks of leave to care for the covered service member and for reasons 1 through 5 listed above. Leave taken, which does not include caring for a covered service member, is limited to 12 weeks in a year.

If husband and wife are both eligible employees employed by the school, the husband and wife are entitled to a total of 26 weeks of leave during one 12-month period to care for their spouse, son, daughter, parent, or next of kin who is a **covered service member**. During the single 12-month period, the eligible husband and wife are entitled to a combined total of 26 weeks of leave to care for a covered service member and for reasons 1 or 2 listed above or to care for a parent with a serious health condition. Leave taken, which does not include caring for a covered service

member, is limited to a combined total of twelve (12) weeks in a year when taken for reasons 1 or 2 listed above or to care for a parent with a serious health condition.

### **School Notice to Employees**

The school shall post, in conspicuous places in each school within the school, where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor.<sup>2</sup>

### **Employee Notice to School**

#### **Foreseeable:**

When the need for leave is foreseeable for reasons 1 through 4 or for the care of a covered service member listed above, the employee shall provide the school with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave for the specified reason, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case.

When the necessity for leave is for reason 5 listed above is foreseeable, whether because the spouse, son, daughter, or parent of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the school as is reasonable and practicable.

When the need for leave is for reasons 3 or 4 or for the care of a covered service member listed above, the employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the school subject to the approval of the health care provider of the spouse, son, daughter, or parent of the employee.

Failure by the employee to give thirty (30) days notice may delay the taking of FMLA leave until at least thirty (30) days after the date the employee provides notice to the school.

#### **Unforeseeable:**

When the approximate timing of the need for leave is not foreseeable, an employee shall provide the school notice of the need for leave as soon as practicable given the facts and circumstances of the particular case. Ordinarily, the employee shall notify the school within two (2) working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. Notice may be provided in person, by telephone, telegraph, fax, or other electronic means.

### **Medical Certification**<sup>3</sup>

When the need for leave is for reasons 3 or 4 listed above or for the care of a covered service member, the employee should provide a medical certification from a licensed, practicing health care provider supporting the need for leave at the time the notice for leave is given, but must provide certification at least fifteen (15) days prior to the date the leave is to begin. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the knowledge of the health care provider regarding the condition. Leave taken for reason 3 listed above, must include certification that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time the employee is needed to provide the care. For reason 4 listed above, the certification must include a statement that the employee is unable to perform the required functions of his/her position.

If FMLA leave is to be taken on an intermittent or reduced work schedule basis for planned medical treatment, the certification shall include the dates on which such treatment is expected to be given and the duration of such treatment.

Second Opinion: In any case where the school has reason to doubt the validity of the certification provided, the school may require, at its expense, the employee to obtain the opinion of a second health care provider designated or approved by the employer. If the second opinion differs from the first, the school may require, at its expense, the employee to obtain a third opinion from a health care provider agreed upon by both the school and the employee. The

opinion of the third health care provider shall be considered final and be binding upon both the school and the employee.

Recertification: The school may request the employee obtain a recertification, at the employee's expense, no more often than every thirty (30) days unless one or more of the following circumstances apply;

- a. The employee requests an extension of leave;
- b. Circumstances described by the previous certification have changed significantly; and/or
- c. The school receives information that casts doubt upon the continuing validity of the certification.

The employee must provide the recertification in no more than fifteen (15) calendar days after the school's request. No second or third opinion on recertification may be required.

### **Sick Leave and Family Medical Leave Act (FMLA) Leave**

When an employee takes sick leave, the school shall determine if the leave qualifies for FMLA leave. The school may request additional information from the employee to help make the applicability<sup>4</sup> determination. If the leave qualifies under the FMLA, the school will notify the employee, either orally or in writing<sup>5</sup>, of the decision within two workdays. If the leave is intermittent or on a reduced schedule as defined in this policy and the circumstances of the leave don't change, the school is only required to notify the employee once of the determination regarding the applicability of sick leave and/or FMLA leave. To the extent the employee has accrued paid leave, any leave taken that qualifies for FMLA leave shall be paid leave and charged against the employee's accrued leave.

### **Concurrent Leave**

The school requires employees to substitute any applicable accrued leave for any part of the twelve (12) week period of FMLA leave. All FMLA leave is unpaid unless substituted by applicable accrued leave.

Workers Compensation: FMLA leave may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. To the extent that workers compensation benefits and FMLA leave run concurrently, the employee will not be charged for any paid leave accrued by the employee. If the health care provider treating the employee for the workers compensation injury certifies the employee is able to return to a "light duty job," but is unable to return to the employee's same or equivalent job, the employee may decline the school's offer of a "light duty job." For the duration of the employee's FMLA leave, the employee will be paid for the leave to the extent that the employee has accrued applicable leave.

### **Health Insurance Coverage**

The school shall maintain coverage under any group health plan for the duration of FMLA leave the employee takes at the level and under the conditions coverage would have been provided if the employee had continued in active employment with the school. The employee remains responsible for any portion of premium payments customarily paid by the employee. When on unpaid FMLA leave, it is the employee's responsibility to submit their portion of the cost of the group health plan coverage to the school's business office on or before it would be made by payroll deduction.

If an employee gives unequivocal notice of intent not to return to work, or if the employment relationship would have terminated if the employee had not taken FMLA leave, the school's obligation to maintain health benefits ceases.

If the employee fails to return from leave after the period of leave to which the employee was entitled has expired, the school may recover the premiums it paid to maintain health care coverage unless:

1. The employee fails to return to work due to the continuation, reoccurrence, or onset of a serious health condition that entitles the employee to leave under reasons 3 or 4 listed above; and/or
2. Other circumstances exist beyond the employee's control.

Circumstances under "a" listed above shall be certified by a licensed, practicing health care provider verifying the employee's inability to return to work.

### **Reporting Requirements During Leave**

Employees shall inform the school every two weeks<sup>6</sup> during FMLA leave of their current status and intent to return to work.

### **Return to Work**

**Medical Certification:** An employee who has taken FMLA leave under reason 4 stated above shall provide the school with certification from a health care provider that the employee is able to resume work.

**Return to Previous Position:** An employee returning from FMLA leave is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An equivalent position must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, and authority. The employee may not be restored to a position requiring additional licensure or certification.

**Failure to Return to Work:** In the event that an employee is unable or fails to return to work, the Director will make a determination at that time regarding the documented need for a severance of the employee's contract due to the inability of the employee to fulfill the responsibilities and requirements of their contract.

### **Intermittent or Reduced Schedule Leave**

Eligible employees may only take intermittent or reduced schedule leave for reasons 1 and 2 listed above if the school agrees to permit such leave upon request of the employee.

Eligible employees may take intermittent or reduced schedule leave due to reasons 3 and 4 listed above or to care for a covered service member if they have

(A) made a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

(B) provided the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

Eligible employees requesting intermittent or reduced schedule leave that is foreseeable based on planned medical treatment may be transferred to an alternative position for which the employee is qualified with equivalent pay and benefits that better accommodates the employee's intermittent or reduced schedule leave.

If an eligible employee who meets the definition of an instructional employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the school may require the employee to elect either

- 1) to take medical leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
- 2) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee.

### **Leave taken by eligible instructional employees near the end of the academic term<sup>7</sup>**

#### **Leave more than 5 weeks prior to end of term.**

If the eligible, instructional employee begins leave, due to reasons 1 through 5 listed above or to care for a covered service member, more than 5 weeks prior to the end of the academic term, the school may require the employee to continue taking leave until the end of such term, if

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

#### **Leave less than 5 weeks prior to end of term**

If the eligible, instructional employee begins leave, due to reasons 1 through 3 listed above or to care for a covered service member, during the period that commences 5 weeks prior to the end of the academic term, the school may require the employee to continue taking leave until the end of such term, if

- (A) the leave is of greater than 2 weeks duration; and
- (B) the return to employment would occur during the 2-week period before the end of such term.

**Leave less than 3 weeks prior to end of term**

If the eligible, instructional employee begins leave, due to reasons 1 through 3 listed above or to care for a covered service member, during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

Notes: This policy is similar to Policy 3.32.

<sup>1</sup> Within the context of the FMLA, this is a complicated definition. In an effort to help you be able to apply the definition to the realities of your school, we have attached (as a separate page to the policy) the federal rules which lay out the complexities.

<sup>2</sup> A Department of Labor poster is available at <http://www.dol.gov/esa/regs/compliance/posters/fmla.htm>. Additional forms (one for the employee to take to their health care provider for verification of the reason for his/her leave request and a second one for the school's response to the request for leave) are available at <http://www.dol.gov/esa/whd/fmla/#poster>.

<sup>3</sup> It is difficult for the school to "back charge" FMLA leave. If you have reason to ask for a medical certification, it is wise to notify the employee that the leave will be charged against their yearly allotment of FMLA leave when you request the certification. If it turns out that the leave does **not** qualify, you will need to readjust the available FMLA leave accordingly.

<sup>4</sup> As used in this policy, "applicable" is a very important word. Some leave taken under FMLA also applies to sick leave and therefore, the employee will get paid for the leave to the extent the employee has sick leave accrued. Other leave taken under FMLA is not applicable to sick leave and therefore the FMLA leave is unpaid. For instance, "applicable leave" in terms of time taken under FMLA due to the birth of a child will vary depending on the language in your school's policy on sick leave. For instance, if sick leave may be taken "for reason of personal illness or illness in the immediate family" (based on the statutory definition in 6-17-1302, and an employee gives birth to a child, she may take sick leave for the amount of time that her personal physician deems it necessary for her to physically recover from childbirth. Once the medically necessary time has passed, sick leave is no longer appropriate and cannot be used. While under the FMLA, the employee could take additional time off work, she would need to take unpaid FMLA leave for this purpose, unless she had personal days or vacation days available. However, if your school has a much more liberal definition of sick leave in school policy, the results could be entirely different. Another example would be the potential for overlap between pregnancy complications that arise to the level of a "serious health condition." For instance, pregnancy complications that rose to the level of a "serious health condition" would qualify for both, while missing work for a dentist's appointment would qualify for sick leave, but would not qualify for FMLA leave. Consult policy 8.5— NONCERTIFIED EMPLOYEES SICK LEAVE when making the determination of what sick leave qualifies under both policies. It may also be helpful to consult 29 CFR 825.114 which is attached at the end of this policy.

<sup>5</sup> If the notice is oral, it must be confirmed in writing no later than the following payday (unless the payday is less than one week after the notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

<sup>6</sup> You may choose the time interval of the required duty to report, but it must be reasonable.

<sup>7</sup> This language is included in this policy because there may be a few noncertified employees which are included in the requirements. For examples, see the definition of instructional employees in this policy.

Cross Reference: 8.5— NONCERTIFIED EMPLOYEES SICK LEAVE

Legal References: 29 USC §§ 2601 et seq. 29 CFR 825.100 et seq.

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

\* All schools are covered under the Family Medical Leave Act and are required to keep certain payroll and employee identification records and post pertinent notices regarding FMLA for its employees. Employees, however, are only eligible for FMLA benefits if the school has 50 or more employees within a 75-mile radius of the school's offices. Your school may choose to offer FMLA benefits to your employees even though they are not technically eligible. If

your school has less than 50 employees and chooses not to offer FMLA benefits, the following policy serves to inform your employees of why FMLA benefits do not apply to them and could help to avoid possible confusion resulting from the posting of FMLA notices.

### **8.23—NONCERTIFIED PERSONNEL FAMILY MEDICAL LEAVE**

Employees are eligible for benefits under the Family Medical Leave Act when the school has fifty (50) or more employees. OCABS has less than fifty (50) employees and therefore employees are not eligible for FMLA benefits.

Legal References: 29 USC § 2601 et seq. 29 CFR 825.100 et seq.

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

### **29 CFR 825.114 - What is a "serious health condition" entitling an employee to FMLA**

**leave?** (a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-

rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

## **8.24—SCHOOL BUS DRIVER'S USE OF CELL PHONES**

Any driver of a motor vehicle which is privately owned and operated for compensation, or which is owned, leased or otherwise operated by, or for the benefit of the School, and is operated for the transportation of children to or from school or school sponsored activity shall not operate a cell phone unless the vehicle is safely off the road with the parking brake engaged.

Legal References: A.C.A. § 6-19-120

ADE Rules and Regulations Governing Mobile Phone Usage by School Bus Drivers

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

## **8.25—NONCERTIFIED PERSONNEL CELL PHONE USE**

Use of cell phones or other electronic communication devices by employees during their designated work time is strictly forbidden unless specifically approved in advance by the Director, or designee.<sup>1</sup>

In any instance where the school issues a cell phone or school computer to a school employee for use for school business purposes, the employee shall not use the equipment for personal use.<sup>2</sup> Any employee who uses a school issued cell phones and/or computers for non-school purposes, except as permitted by the school's Internet/computer use policy, shall be subject to discipline, up to and including termination.

**Notes:** This policy is similar to Policy 3.34.

<sup>1</sup> The goal is to eliminate the use of cell phones during designated work time. We may change who has the authority to approve the use of cell phones if you wish to.

<sup>2</sup> This sentence has been added to address concerns by Legislative Audit relating to the inappropriate use of school equipment by school employees.

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.26—NONCERTIFIED PERSONNEL RESPONSIBILITIES GOVERNING BULLYING**

School employees who have witnessed, or are reliably informed that, a student has been a victim of bullying as defined in this policy, including a single action which if allowed to continue would constitute bullying, shall report the incident(s) to the Director. The Director or his/her designee shall be responsible for investigating the incident(s) to determine if disciplinary action is warranted.

The person or persons reporting behavior they consider to be bullying shall not be subject to retaliation or reprisal in any form.

School staff are required to help enforce implementation of the school's anti-bullying policy. The school's definition of bullying is included below. Students who bully another person are to be held accountable for their actions whether they occur on school equipment or property; off school property at a school-sponsored or school-approved function, activity, or event; or going to or from school or a school activity. Students are encouraged to report behavior they consider to be bullying, including a single action which if allowed to continue would constitute bullying, to their teacher or the building Director. The report may be made anonymously.

**Definitions:**

**Bullying** means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that causes or creates a clear and present danger of:

- Physical harm to a public school employee or student or damage to the public school employee's or student's property;
- Substantial interference with a student's education or with a public school employee's role in education;
- A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or
- Substantial disruption of the orderly operation of the school or educational environment;

**Electronic act** means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager that results in the substantial disruption of the orderly operation of the school or educational environment. Electronic acts of bullying are prohibited whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school, and has a high likelihood of succeeding in that purpose;

**Harassment** means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

**Substantial disruption** means without limitation that any one or more of the following occur as a result of the bullying:

- Necessary cessation of instruction or educational activities;
- Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;
- Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or
- Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

Examples of "Bullying" may include but are not limited to a pattern of behavior involving one or more of the following:

1. Sarcastic "compliments" about another student's personal appearance,
2. Pointed questions intended to embarrass or humiliate,
3. Mocking, taunting or belittling,
4. Non-verbal threats and/or intimidation such as "fronting" or "chesting" a person,
5. Demeaning humor relating to a student's race, gender, ethnicity or personal characteristics,
6. Blackmail, extortion, demands for protection money or other involuntary donations or loans,
7. Blocking access to school property or facilities,
8. Deliberate physical contact or injury to person or property,
9. Stealing or hiding books or belongings, and/or
10. Threats of harm to student(s), possessions, or others.

**Notes:** A school employee who has reported violations under the school's policy shall be immune from any tort liability which may arise from the failure to remedy the reported incident. This policy is similar to Policy 3.38.

Legal Reference: A.C.A. § 6-18-514

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### **8.27—NONCERTIFIED PERSONNEL LEAVE — INJURY FROM ASSAULT**

Any staff member who, while in the course of their employment, is injured by an assault or other violent act; while intervening in a student fight; while restraining a student; or while protecting a student from harm, shall be granted a leave of absence for up to one (1) year from the date of the injury, with full pay.

A leave of absence granted under this policy shall not be charged to the staff member's sick leave.

In order to obtain leave under this policy, the staff member must present documentation of the injury from a physician, with an estimate for time of recovery sufficient to enable the staff member to return to work, and written statements from witnesses (or other documentation as appropriate to a given incident) to prove that the incident occurred in the course of the staff member's employment.

**Note:** This policy is similar to Policy 3.15.

Legal Reference: A.C.A. § 6-17-1308

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### **8.28— DRUG FREE WORKPLACE - NONCERTIFIED PERSONNEL**

The conduct of school staff plays a vital role in the social and behavioral development of our students. It is equally important that the staff have a safe, healthful, and professional environment in which to work. To help promote both interests, the school shall have a drug free workplace. It is, therefore, the school's policy that school employees are prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, alcohol, as well as inappropriate or illegal use of prescription drugs. Such actions are prohibited both while at work or in the performance of official duties while off school property; violations of this policy will subject the employee to discipline, up to and including termination.

To help promote a drug free workplace, the school shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the school's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance abuse programs, and the penalties that may be imposed upon employees for drug abuse violations. (Insert substance abuse resources here.)<sup>1</sup>

Should any employee be found to have been under the influence of, or in illegal possession of, any illegal drug or controlled substance, whether or not engaged in any school or school-related activity, and the behavior of the employee, if under the influence, is such that it is inappropriate for a school employee in the opinion of the Director, the employee may be subject to discipline, up to and including termination. This policy also applies to those employees who are under the influence of alcohol while on campus or at school-sponsored functions, including athletic events.

Possession, use or distribution of drug paraphernalia by any employee, whether or not engaged in school or school-related activities, may subject the employee to discipline, up to and including termination. Possession in one's vehicle or in an area subject to the employee's control will be considered to be possession as though the substance were on the employee's person.

It shall not be necessary for an employee to test at a level demonstrating intoxication by any substance in order to be subject to the terms of this policy. Any physical manifestation of being under the influence of a substance may subject an employee to the terms of this policy. Those physical manifestations include, but are not limited to: unsteadiness; slurred speech; dilated or constricted pupils; incoherent and/or irrational speech; or the presence of an odor associated with a prohibited substance on one's breath or clothing.

Should an employee desire to provide the School with the results of a blood, breath or urine analysis, such results will be taken into account by the School only if the sample is provided within a time range that could provide meaningful results and only by a testing agency chosen or approved by the School. The School shall not request that the employee be tested, and the expense for such voluntary testing shall be borne by the employee.

Any employee who is charged with a violation of any state or federal law relating to the possession, use or distribution of illegal drugs, other controlled substances or alcohol, or of drug paraphernalia, must notify his immediate supervisor within five (5) week days (i.e., Monday through Friday, inclusive, excluding holidays) of being so charged. The supervisor who is notified of such a charge shall notify the Director immediately.

If the supervisor is not available to the employee, the employee shall notify the Director within the five (5) day period.

Any employee so charged is subject to discipline, up to and including termination. However, the failure of an employee to notify his supervisor or the Director of having been so charged shall result in that employee being recommended for termination by the Director.

Any employee convicted of any criminal drug statute violation for an offense that occurred while at work or in the performance of official duties while off school property shall report the conviction within 5 calendar days to the Director. Within 10 days of receiving such notification, whether from the employee or any other source, the school shall notify federal granting agencies from which it receives funds of the conviction. Compliance with these requirements and prohibitions is mandatory and is a condition of employment.

Any employee convicted of any state or federal law relating to the possession, use or distribution of illegal drugs, other controlled substances, or of drug paraphernalia, shall be recommended for termination.

Any employee who must take prescription medication at the direction of the employee's physician, and who is impaired by the prescription medication such that he cannot properly perform his duties shall not report for duty. Any employee who reports for duty and is so impaired, as determined by his supervisor, will be sent home. The employee shall be given sick leave, if owed any. The School or employee will provide transportation for the employee, and the employee may not leave campus while operating any vehicle. It is the responsibility of the employee to contact his physician in order to adjust the medication, if possible, so that the employee may return to his job unimpaired.

Should the employee attempt to return to work while impaired by prescription medications, for which the employee has a prescription, he will, again, be sent home and given sick leave, if owed any; Should the employee attempt to return to work while impaired by prescription medication a third time the employee may be subject to discipline, up to and including a recommendation of termination.

Any employee who possesses, uses, distributes or is under the influence of a prescription medication obtained by a means other than his own current prescription shall be treated as though he was in possession, possession with intent to deliver, or under the influence, etc. of an illegal substance. An illegal drug or other substance is one which is (a) not legally obtainable; or (b) one which is legally obtainable, but which has been obtained illegally. The School may require an employee to provide proof from his physician and/or pharmacist that the employee is lawfully able to receive such medication. Failure to provide such proof, to the satisfaction of the Director, may result in discipline, up to and including a recommendation of termination.

**Notes:** <sup>1</sup> This is where we insert the drug counseling services, rehabilitation, and employee assistance abuse programs available within your school. For example, "Such services are available from the following sources..."

This policy addresses the requirement for Safe and Drug Free Schools which is required for your school to be eligible to receive **any** federal grants. It is required that all employees receive a copy of the policy and be advised of the contents and requirements of the policy. In addition to publishing a policy statement, the statutes require employers to establish a drug-free awareness program to educate employees about the dangers of drug abuse as well as about the specifics of their policy. The statute does not specify a particular format for the awareness program, although it does state that the education effort must be ongoing and not just a one-time event. For assistance in constructing a drug awareness program the Department of Labor has the following web site: <http://www.dol.gov/asp/programs/drugs/workingpartners/materials/materials.asp>.

This policy is similar to Policy 3.31.

Legal References: 41 USC § 702, 703, and 706

Date Adopted: May 28, 2008

Last Revised: May 27, 2009

## **8.28F—DRUG FREE WORKPLACE POLICY ACKNOWLEDGEMENT CERTIFICATION**

I, hereby certify that I have been presented with a copy of the \_\_\_\_\_ School's drug-free workplace policy, that I have read the statement, and that I will abide by its terms as a condition of my employment with OCABS.

Signature \_\_\_\_\_ Date \_\_\_\_\_

## **8.29—NONCERTIFIED PERSONNEL VIDEO SURVEILLANCE**

The board has a responsibility to maintain discipline, protect the safety, security, and welfare of its students, staff, and visitors while at the same time safeguarding school facilities, vehicles, and equipment. As part of fulfilling this responsibility, the board authorizes the use of video/audio surveillance cameras. The placement of video/audio surveillance cameras shall be based on the presumption and belief that students, staff and visitors have no reasonable expectation of privacy anywhere on or near school property, facilities, vehicles, or equipment, with the exception of places such as rest rooms or dressing areas where an expectation of privacy is reasonable and customary.

Signs shall be posted on school property and in or on school vehicles to notify students, staff, and visitors that video cameras may be in use. Violations of school personnel policies or laws caught by the cameras may result in disciplinary action.

The school shall retain copies of video recordings until they are erased which may be accomplished by either deletion or copying over with a new recording.

Videos containing evidence of a violation of school personnel policies and/or state or federal law shall be retained until the issue of the misconduct is no longer subject to review or appeal as determined by board policy or staff handbook; any release or viewing of such records shall be in accordance with current law.

Staff who vandalize, damage, defeat, disable, or render inoperable (temporarily or permanently) surveillance cameras and equipment shall be subject to appropriate disciplinary action and referral to appropriate law enforcement authorities.

Video recordings may become a part of a staff member's personnel record.

Note: This policy is similar to policies 4.48 and 3.41.

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Last Revised: May 27, 2009

## **8.30—NONCERTIFIED PERSONNEL REDUCTION IN FORCE**

### **SECTION ONE**

The School Board acknowledges its authority to conduct a reduction in force (RIF) when a decrease in enrollment or other reason(s) make such a reduction necessary or desirable. A RIF will be conducted when the need for a reduction in the work force exceeds the normal rate of attrition for that portion of the staff that is in excess of the needs of the school as determined by the Director.

In effecting a reduction in force, the primary goals of the school shall be: what is in the best interests of the students; to maintain accreditation in compliance with the Standards of Accreditation for Arkansas Public Schools and/or the North Central Association; and the needs of the school. A reduction in force will be implemented when the Director determines it is advisable to do so and shall be effected through non-renewal, termination, or both. Any reduction in force will be conducted by evaluating the needs and long- and short-term goals of the school in relation to the staffing of the school.

If a reduction in force becomes necessary, the RIF shall be conducted separately for each occupational category of classified personnel identified within the school on the basis of each employee's years of service. The employee within each occupational category with the least years of experience will be laid off first. The employee with the most years of employment in the school as compared to other employees in the same category shall be laid off last. In the event that employees within a given occupational category have the same length of service to the school the one with the earlier hire date, based on date of board action, will prevail.

All credited years of service must be verified by documents on file with the School by October 1 of the current school year. All non-certified employees shall receive a listing of the personnel within their category with corresponding point totals. Upon receipt of the list, each employee has ten (10) working days within which to appeal his or her assignment of points with the Director whose decision shall be final.

Total years of service to the school shall include non-continuous years of service; in other words, an employee who left the school and returned later will have the total years of service counted, from all periods of employment. Working fewer than 120 days in a school year shall not constitute a year. Length of service in a certified position shall not count for the purpose of length of service for a non-certified position. There is no right or implied right for any employee to “bump” or displace any other employee. This specifically does not allow a certified employee who might wish to assume a classified position to displace a classified employee.

Pursuant to any reduction in force brought about by consolidation or annexation and as a part of it, the salaries of all employees will be brought into compliance, by a partial RIF if necessary, with the receiving school’s salary schedule. Further adjustments will be made if length of contract or job assignments change.<sup>1</sup> A Partial RIF may also be conducted in conjunction with any job reassignment whether or not it is conducted in relation to an annexation or consolidation.

If an employee is non-renewed under this policy, he or she shall be offered an opportunity to fill a vacancy for which he or she is qualified for a period of up to two (2) years. The non-renewed employee shall be recalled for a period of two (2) years in reverse order of the layoff to any position for which he or she is qualified. Notice of vacancies to non-renewed employees shall be by certified mail and they shall have 10 working days from the date that the notification is received in which to accept the offer of a position. A lack of response or a non-renewed employee’s refusal of a position shall end the school’s obligation to replace the laid-off employee.

## **SECTION TWO**

### **Option A<sup>2</sup>**

In the event the school is involved in an annexation or consolidation, employees from all the schools involved will be ranked according to years of service. A year of employment at an annexed or consolidated school will be counted the same as a year at the receiving or resulting school. No credit for years of service will be given at other public or private schools, or for higher education or Educational Service Cooperative employment.

**Notes:** <sup>1</sup> For example, if OCABS’ salary schedule provided for a range of salaries for maintenance employees ranging from \$8.50 an hour to \$12.50 an hour, and one maintenance employee is making \$14.00 an hour, the Director, as part of the RIF, would send a letter of partial nonrenewal to the maintenance employee to bring the salary into compliance with the salary schedule.

Legal Reference: A.C.A. § 6-17-2407

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### **8.31—NONCERTIFIED PERSONNEL TERMINATION AND NON-RENEWAL**

OCABS has a waiver from the Public School Employee Fair Hearing Act A.C.A. § 6-17-1701 through 1705. The Act specifically is not made a part of this policy by this reference.

Legal reference: A.C.A. § 6-17-2301

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### **8.32—NONCERTIFIED PERSONNEL ASSIGNMENTS**

The Director shall be responsible for assigning and reassigning noncertified personnel.

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

### **8.33—NONCERTIFIED PERSONNEL SCHOOL CALENDAR**

The Director shall present to the PPC a school calendar which the board has adopted as a proposal. The Director, in developing the calendar, shall accept and consider recommendations from any staff member or group wishing to make calendar proposals. The PPC shall have the time prescribed by law and/or policy in which to make any suggested changes before the board may vote to adopt the calendar.

OCABS shall operate by the calendar attached at the end of this policy section.

Legal Reference: A.C.A. § 6-17-2301

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

### **8.34—NONCERTIFIED PERSONNEL WHO ARE MANDATORY REPORTERS DUTY TO REPORT CHILD ABUSE, MALTREATMENT OR NEGLECT**

It is the statutory duty of noncertified school employees **who are mandatory reporters**<sup>1</sup> and who have reasonable cause to suspect child abuse or maltreatment to directly and personally report these suspicions to the Arkansas Child Abuse Hotline, by calling 1-800-482-5964. Failure to report suspected child abuse, maltreatment or neglect by calling the Hotline can lead to criminal prosecution and individual civil liability of the person who has this duty. Notification of local or state law enforcement does not satisfy the duty to report; only notification by means of the Child Abuse Hotline discharges this duty.

The duty to report suspected child abuse or maltreatment is a direct and personal duty for statutory mandatory reporters, and cannot be assigned or delegated to another person. There is no duty to investigate, confirm or substantiate statements a student may have made which form the basis of the reasonable cause to believe that the student may have been abused or subjected to maltreatment by another person; however, a person with a duty to report may find it helpful to make a limited inquiry to assist in the formation of a belief that child abuse, maltreatment or neglect has occurred, or to rule out such a belief<sup>2</sup>. Employees and volunteers who call the Child Abuse Hotline in good faith are immune from civil liability and criminal prosecution.

By law, no school or school employee may prohibit or restrict an employee or volunteer **who is a mandatory reporter** from directly reporting suspected child abuse or maltreatment, or require that any person notify or seek permission from any person before making a report to the Child Abuse Hotline.

Notes: <sup>1</sup> For a listing of who qualifies as mandatory reporters refer to A.C.A. § 12-12-504(b).

<sup>2</sup> This is a delicate matter and the school would be wise to avail itself of professional development in this area available from DHS and other sources.

Legal References: A.C.A. § 12-12-504, 507, 517

Date Adopted: May 28, 2008 Last Revised: May 27, 2009

## **8.35**

**2009-2010 STUDENT CALENDAR**  
**(See attached at the end of these policies)**