

2024 6000

Personnel

East Syracuse Minoa Central School District

NUMBER

PERSONNEL

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Personnel

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL**General Provisions**

The Board of Education of the East Syracuse Minoa Central School District recognizes that there are rules of ethical conduct that must be observed by all officers and employees of the District if a high degree of moral conduct is to be obtained in our unit of local government. This policy shall apply to all officers and employees of the District, whether paid or unpaid, including members of the Board of Education, and their professional or nonprofessional staff and appointees. It is the purpose of this policy to promulgate these rules of ethical conduct for the Board members and employees of the District. These rules shall serve as a guide for official conduct of the Board members and employees of the District. The rules of ethical conduct of this policy, as adopted, shall not conflict with, but shall be in addition to any other general or special law relating to ethical conduct and interest in contracts of Board members and employees. The terms “interest” and “conflict” used throughout this policy have the same meanings given to those terms in N.Y. General Municipal Law, Article 18.

Standards of Conduct

In addition to the prohibitions against conflicts of interest contained in N. Y. General Municipal Law, Art. 18, every officer or employee of the East Syracuse Minoa Central School District shall be subject to and abide by the following standards of conduct:

Gifts

Pursuant to General Municipal Law Section 805-a, a District officer or employee shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of seventy-five dollars (\$75) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended or expected to influence him/her in the performance of official duties or was intended as a reward for any official action on his/her part.

Confidential Information

A District officer or employee shall not disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interest.

Conflicts of Interest

Except as permitted by law, no person may have an interest in any contract with the District when he or she, individually, or as a member of the Board, has the power or duty to: negotiate, prepare, authorize, or approve the contract or authorize or approve payment under the contract; audit bills or claims under the contract; or appoint an officer or employer who has any of these powers or duties.

Likewise, unless permitted by law, no chief fiscal officer, treasurer, or his or her deputy or employee, may have an interest in a bank or trust company designated as a depository, paying agent, registration agent, or for investment of funds of the District.

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Personnel

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd)

No employee, officer, or agent will participate in selecting, awarding, or administering a contract supported by a federal award if he or she has a real or apparent conflict of interest. These conflicts could arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties has a financial or other interest in or a tangible personal interest benefit from a firm considered for a contract. Employees, officers, and agents will not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The District may, however, set standards for situations where the financial interest is not substantial or the gift is an unsolicited item of nominal value.

A District officer or employee will be considered to have an interest in the contract of: his or her spouse, minor children and dependents, except a contract of employment with the District; a firm, partnership or association of which he or she is a member or employee; a corporation of which he or she is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by him or her.

The provisions of this policy should not be construed to preclude the payment of lawful compensation and necessary expenses of any District officer or employee in one or more positions of public employment, not prohibited by law.

Disclosure of Interest in Contracts (Conflict of Interest)

Any District officer or employee, as well as his/her spouse, who has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the District shall publicly disclose the nature and extent of such interest in writing to his/her immediate supervisor and to the Board of Education as soon as he/she has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the Board minutes.

Disclosure of interest in matters before the Board

District officers and employees who participate in discussions with or give official opinions to the Board on any matter being considered by the Board must publicly disclose (in writing) to the Board, and (except for Board members) to their immediate supervisor, the nature and extent of any direct or indirect financial or other private interest he/she has in such matter. This interest also includes any interest a District officer's or employee's spouse may have, will have or will later acquire in such matters. Such disclosure must be made as soon as the individual has knowledge of his/her (or his/her spouse's) actual or prospective interest.

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Personnel

**SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT
PERSONNEL (Cont'd)**Representation before the Board

An individual shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Board or District if such individual is an officer, member or employee of the same, or if he/she has jurisdiction over the same or to the power to appoint any member, officer or employee of the same.

Representing Others in Matters Before the District

No person may receive, or enter into any agreement, express or implied, for compensation for services rendered in relation to any matter before the District. Likewise, no one may receive, or enter into any agreement, express or implied, for compensation for services rendered in relation to any matter before the District, where the individual's compensation is contingent upon any action by the District with respect to the matter.

Investments in conflict with official duties

District officers and employees shall not invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction, that creates a conflict with his/her official duties.

Private employment

District officers and employees shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his/her official duties.

Future employment

District officer and employees shall not, after the termination of service or employment with the School District, appear before any board or agency of the East Syracuse Minoa Central School District in relation to any case, proceeding, or application in which he/she personally participated during the period of his/her service or employment or which was under his/her active consideration.

Federally Funded Purchasing Conflict of Interest Statement

No employee, officer or agent may participate in the selection, award, or administration of a contract supported by a Federal award if there is a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, or any member of his or her immediate family, partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees or agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Disciplinary actions will be applied for violations of such standards.

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**SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT
PERSONNEL (Cont'd)**

Distribution/Posting of Code of Ethics

The Superintendent of the East Syracuse Minoa Central School District shall cause a copy of this code of ethics to be distributed to every Board member and employee of the School District within thirty (30) days after the effective date of this policy. Each Board member and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment. The Superintendent shall also cause a copy of General Municipal Law Sections 800-809 to be kept posted in each building in the District in a place conspicuous to its Board members and employees. Failure to distribute any such copy of this code of ethics or failure of any Board member or employee to receive such copy, as well as failure to post any such copy of General Municipal Law Sections 800-809, shall have no effect on the duty of compliance with such code of ethics or General Municipal Law Sections 800-809, nor with the enforcement of provisions thereof.

Penalties

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

Education Law Section 410
General Municipal Law Article 18 and Sections 800-809
2 CFR Section 200.318 (c) (2)

Adopted: 6/25/24

Personnel

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of this District to provide equal opportunities for employment, retention and advancement of all people regardless of race, color, creed, religion, national origin, political affiliation, sex, gender, sexual orientation, age, marital status, military status, veteran status, disability, predisposing genetic characteristics, use of a service animal, or domestic violence victim status. The District will also comply with the requirements of the Genetic Information Nondiscrimination Act (GINA). Pursuant to GINA, District officials will not ask for any “genetic information” (as that term is defined in the law) when requesting medical information about employees (for example, in connection with a fitness-for-duty examination).

The Superintendent and/or designee will be responsible for the publication and dissemination, internally and externally of this policy, and to ensure its availability to interested citizens and groups, and to promulgate regulations associated with filing, investigating and resolving complaints consistent with applicable law.

Age Discrimination in Employment Act, 29 USC Section 621

Americans With Disabilities Act, 42 USC Section 12101 et seq.

Prohibits discrimination on the basis of disability.

Genetic Information Nondiscrimination Act of 2008 (GINA) Public Law 110-233

Prohibits discrimination in the workplace based upon genetic information.

Section 504 of the Rehabilitation Act of 1973, 29 USC Section 794 et seq.

Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et seq.

Prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e et seq.

Prohibits discrimination on the basis of race, color, religion, sex or national origin.

Title IX of the Education Amendments of 1972, 20 USC Section 1681 et seq.

Prohibits discrimination on the basis of sex.

Civil Rights Law Section 40-c

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

Civil Service Law Section 75-B

Executive Law Section 290 et seq.

Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, predisposing genetic characteristics, marital status, use of a service animal, or domestic violence victim status.

Labor Law Section 201-f

Military Law Sections 242 and 243

Adopted: 6/25/24

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

East Syracuse Minoa Central School District is committed to maintaining a workplace free from sexual harassment. Sexual/Workplace harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual or other forms of harassment in the workplace. This Policy is one component of the District's commitment to a discrimination-free work environment. Sexual/Workplace harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual/workplace harassment by filing a complaint internally with the District. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The District's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the District. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual/Workplace harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual/workplace harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual/workplace harassment complaint. The District will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual/workplace harassment. Any employee of the District who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or Building Principal. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

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¹ Harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity or expression, familial status, predisposing genetic characteristics, and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

4. Sexual/Workplace harassment is offensive, is a violation of our policies, is unlawful, and may subject the District to liability for harm to targets of sexual/workplace harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual/workplace harassment, including managers and supervisors who engage in sexual/workplace harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. The District will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual/workplace harassment, or otherwise knows of possible sexual/workplace harassment occurring. The District will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual/workplace harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual/workplace harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The District will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Director of Employee Engagement and Accountability and the Title IX Officer(s).
8. This policy applies to all employees, paid or unpaid interns, and non-employees, such as contractors, subcontractors, vendors, consultants or anyone providing services in the workplace, and all must follow and uphold this policy. This policy is provided to all employees and posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and provided to employees upon hiring.

What Is “Sexual/Workplace Harassment”?

Sexual/Workplace harassment is a form of discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual/Workplace harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, as well as race, age, religion, national origin, disability, veteran status and all other categories of individuals protected from unfair treatment under federal, state and/or local law.

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE**A. Sexual Harassment**

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

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

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex or done so in reckless disregard of the fact that the act could be offensive on that basis. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

- Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties.

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

B. Other Forms of Harassment

Other forms of prohibited workplace discrimination and harassment include unfair treatment on the basis of an employee's membership in a category of people protected by federal, state and/or local law. In other words, decisions which significantly affect the employment status of an individual cannot be based on the individual's race, age, religion, national origin, disability, marital status, veteran status, etc. These include decisions to hire, fire, promote, demote, alter compensation/benefits, give undesirable reassignments, etc. Like sexual harassment, this type of harassment is also unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment.

This unfair treatment also extends to hostile work environment harassment. A harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are directed at an individual because of that individual's protected category or done so in reckless disregard of the fact that the act could be offensive on that basis. This type of harassment also consists of any derogatory statements or discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance. This unwelcome conduct need not be severe or pervasive to be unlawful and can be harassing conduct that consists of more than petty slights or trivial inconveniences.

As with sexual harassment, any employee who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Other Forms of Harassment

The following describes some of the types of acts that may be unlawful workplace harassment and that are strictly prohibited:

- Racial slurs, insults, jokes or related degrading comments;
- Intolerance toward religious holidays, traditions and customs; cruel religious jokes;
- Degrading stereotypical comments about national origin, age, disability, race, religion, etc.;
- Teasing about an individual's disability, patronizing comments, refusals to reasonably accommodate a disability or isolation of such individual;
- Teasing or patronizing comments, jokes, etc. about an individual's age or any other protected category;

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

- Display of intimidating, demeaning, insulting or sexually suggestive objects, pictures, as well as written, recorded, or electronically transmitted messages.

Likewise, any of the following prohibited actions which are motivated by the recipient's membership in a protected category will also violate this policy (as well as other work rules against workplace violence).

- Direct threats of intent to inflict harm
- Physical attacks (hitting, shoving, kicking)
- Threatening behavior (shaking fists angrily)
- Destroying property to intimidate

Who can be a target of these types of harassment?

Workplace harassment can occur between any individuals in the workplace setting. A perpetrator of harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can this harassment occur?

Unlawful workplace harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual/workplace harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual/workplace harassment, either internally or with any anti-discrimination agency;

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

- testified or assisted in a proceeding involving sexual/workplace harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual/workplace harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual/Workplace Harassment

Preventing sexual/workplace harassment is everyone's responsibility. The District cannot prevent or remedy sexual/workplace harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual/workplace harassment is encouraged to report such behavior to a supervisor, manager or Building Principal. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or Building Principal.

Reports of sexual/workplace harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual/workplace harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual/workplace harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual/workplace harassment, observe what may be harassing behavior or for any reason suspect that sexual/workplace harassment is occurring, **are required** to report such suspected harassment to the Building Principal and the Title IX Officer(s).

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

In addition to being subject to discipline if they engaged in harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual/workplace harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual/Workplace Harassment

All complaints or information about sexual/workplace harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual/workplace harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual/workplace harassment. The District will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Deputy Superintendent will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:

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- A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
 - Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
 - Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual/workplace harassment is not only prohibited by the District but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the District, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. This law also prohibits other forms of workplace discrimination and harassment against employees on the basis of age, race, religion, etc. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within three years** of the alleged harassment.

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the District does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, threats of violence, destruction of property, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

SUBJECT: EVALUATION OF PERSONNEL**All Staff Members**

The administration shall undertake a continuous program of supervision and evaluation of all personnel in the School District to promote improved performance and to make decisions about the occupancy of positions.

Teachers and Administrators

The East Syracuse Minoa Central School District is committed to supporting the development of effective teachers and administrators. To this end, the District shall provide procedures for the evaluation of all professional staff. District plans for Annual Professional Performance Review (APPR) of teachers and Principals shall be developed in accordance with applicable laws, Commissioner's Regulations, and Rules of the Board of Regents.

The primary purposes of these evaluations are:

- a) To encourage and promote improved performance;
- b) To guide professional development efforts; and
- c) To provide a basis for evaluative judgments by applicable school officials.

Annual professional performance reviews of individual teachers and Principals shall not be subject to disclosure under the Freedom of Information Law (FOIL).

Education Law 3012-c
Public Officers Law Sections 87 and 89
8 NYCRR Sections 80-1.1 and 100.2(o)

Adopted: 6/25/24

SUBJECT: EMPLOYEE MEDICAL EXAMINATIONS**Preemployment Medical Examinations**

In accordance with the Americans with Disabilities Act, as amended, the School District shall not require applicants for positions to undergo a medical examination prior to an offer of employment. Further, the District shall not make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

However, the District may make preemployment inquiries into the ability of an applicant to perform job-related functions.

The Board reserves the right to request a medical examination at any time during employment, at School District expense, in order to determine whether any employee can perform the essential functions of the position with or without reasonable accommodation.

Annual or more frequent examinations of any employee may be required, when, in the judgment of the school physician/nurse practitioner and the Superintendent, such procedure is deemed necessary.

All bus drivers and substitute bus drivers shall have yearly physical examinations in accordance with applicable law. Each bus driver initially employed by the School District shall have a physical examination within the four (4) weeks prior to the beginning of service.

The final acceptance or rejection of a medical report with reference to the health of an employee lies within the discretion of the Board. The decision of the physician designated by the Board as the determining physician shall take precedence over all other medical advice.

All medical and health related information will be kept in accordance with applicable law.

The District shall not require a medical examination and shall not make inquiries as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325)
Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191
45 CFR Parts 160 and 164
Education Law Sections 913 and 3624
8 NYCRR Section 156.3(2)
10 NYCRR Part 14
15 NYCRR Part 6

Adopted: 6/25/24

Personnel

SUBJECT: DRUG-FREE WORKPLACE

The Board of Education, recognizing that students are often influenced by teachers and other members of a school's staff, impresses upon staff members the importance of maintaining a high level of professionalism appropriate to their position, which, in turn, shall set a positive example for students. The Board, therefore, prohibits the consumption, sharing and/or selling, use and/or possession of illegal drugs, counterfeit and designer drugs or alcoholic beverages in the workplace, or when the effects of such drugs and/or alcohol use may impair an employee's job performance.

The possession, manufacture, use or distribution of illicit drugs and alcohol on school premises or as a part of school activities is strictly prohibited.

Employees under the influence of alcohol, drugs, or controlled substances while on duty are a serious risk to themselves, to students and to other employees. Employees who display physical manifestations of drug or alcohol use while on duty, may be subject to drug testing. Any employee who violates this policy will be subject to disciplinary action up to and including termination as provided for by statute and/or collective bargaining agreement, as well as referral for prosecution. Employees may also be required to satisfactorily participate in rehabilitation programs.

As a condition of employment, all employees must abide by the terms of this policy. Employees who are convicted of a drug offense which occurred on school premises or while on duty must notify the Superintendent of their conviction. Notification must be made by the employee to the Superintendent within 5 days of the conviction. Within 10 days, the Superintendent will provide notice of such violation to the Impact Aid Program, United States Department of Education, or other appropriate government agency.

The District administration will conduct a drug-free awareness program to inform employees of: (1) the dangers of drug and alcohol abuse in the workplace; (2) this policy of maintaining a drug-free workplace; (3) available counseling and rehabilitation; and (4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The District will conduct a biennial review of this policy to determine its effectiveness, implement necessary changes, and to see that the disciplinary sanctions are consistently enforced. This policy should be distributed in writing to all present and future employees. The Board of Education directs the administration to develop regulations to comply with this policy, and further supports such actions and activities of the administration as shall be required to maintain a drug-free workplace.

Drug-Free Workplace Act, 20 USC Section 7101 et seq.
21 USC Section 812
21 CFR Sections 1308.11-1308.15
34 CFR Part 86

NOTE: Refer also to Policies #3410 -- Code of Conduct on School Property
#6150 -- Alcohol, Drugs and Other Substances (School Personnel)
#6530 -- Employee Assistance Program (EAP)
#7320 -- Alcohol, Tobacco, Drugs and Other Substances (Students)
District Code of Conduct on School Property

Adopted: 6/25/24

Personnel

SUBJECT: PROFESSIONAL GROWTH/STAFF DEVELOPMENT

It is the policy of the District that attention be given to in-service, pre-service, and other staff development programs which are believed to be of benefit to the School District and its students. The Superintendent, in consultation with the appropriate administrative staff and/or teacher committees, is directed to arrange in-service programs and other staff development opportunities which will provide for the selection of subjects pertinent to the curriculum in the schools, to build from these subjects those topics or courses for in-service or staff development which will help employees acquire new methods of performing their job responsibilities or help staff improve on those techniques which are already being used in the schools, with the objective of improving professional competencies.

The Board directs the administration to develop meaningful in-service and/or staff development programs which will achieve the following:

- a) Contribute to the instructional program of the schools;
- b) Contribute to improved education for students;
- c) Achieve state mandates; and
- d) Enhance the professional competencies and/or instructional abilities of staff members.

The Board of Education also encourages all employees to improve their competencies beyond that which they may obtain through the regular performance of their assigned duties. Opportunities should be provided for:

- a) Planned in-service programs, courses, seminars, and workshops offered both within the School System and outside the District.
- b) Visits to other classrooms and schools, as well as attendance at professional meetings, for the purpose of improving instruction and/or educational services.
- c) Orientation/re-orientation of staff members to program and/or organizational changes as well as District expectations.

Attendance at such professional development programs must be directly linked to the duties and responsibilities comprising the job description of the employee. Consequently, employees are encouraged to participate in the planning of staff development programs designed to meet their specific needs.

Members of the staff are also encouraged to continue their formal education as well as to attend their respective work-related workshops, conferences and meetings.

(Continued)

SUBJECT: PROFESSIONAL GROWTH/STAFF DEVELOPMENT (Cont'd.)

Funds for participating at such conferences, conventions, and other similar professional development programs will be budgeted for by the Board of Education on an annual basis. Reimbursement to District staff for all actual and necessary registration fees, expenses of travel, meals and lodging, and all necessary tuition fees incurred in connection with attendance at conferences and the like will be in accordance with established policies and regulations for conference attendance and expense reimbursement.

The Superintendent of Schools or his/her designee has authority to approve release time and expenses for staff members' attendance at professional training conferences, study councils, in-service courses, workshops, summer study grants, school visitations, professional organizations and the like within budgetary constraints.

A conference request form/course approval form must be submitted by the employee and approved by the designated administrator prior to the employee's attendance at such conference or other professional development program.

The administration shall establish regulations regarding the reimbursement of appropriate expenses related to professional development, including but not limited to conferences, conventions and other similar professional development programs.

Mentoring Programs for First Year Teachers

First year teachers must participate in a mentoring program as a component of the School District's Professional Development Plan. The purpose of the mentoring program is to increase the retention of new teachers and improve their ability to assist students in attaining State learning standards. The mentor's role is to provide guidance and support to a new teacher. However, additional mentor responsibilities may be negotiated and reflected in a collective bargaining agreement.

Education Law Sections 1604(27), 3004 and 3006

General Municipal Law Sections 77-b and 77-c

8 NYCRR Sections 52.21(b)(3)(xvi), 52.21(b)(3)(xvii), 80-3.4(b)(2), 80-5.13, 80-5.14 and 100.2(dd)

NOTE: Refer also to Policy #6213 -- Professional Certification: 175 Hours of Professional Development Requirement

Adopted: 6/25/24

Personnel

SUBJECT: SAFETY OF STUDENTS (FINGERPRINTING CLEARANCE OF NEW HIRES)

Unless otherwise authorized in accordance with law and regulation, the District shall not employ or utilize a prospective school employee, as defined below, unless such prospective school employee has been granted a "full" clearance for employment by the State Education Department (SED). The School District shall require a prospective school employee who is not in the SED criminal history file to be fingerprinted for purposes of a criminal history record check by authorized personnel of the designated fingerprinting entity.

The District shall utilize SED's Web-based application known as TEACH for instantaneous access to important information about certification and fingerprinting.

Safety of Students – Emergency/Conditional Appointments

The District will develop internal building and/or program procedures to help ensure the safety of students who have contact with an employee holding conditional appointment or emergency conditional appointment. If an employee is serving under a conditional appointment or emergency conditional appointment pending employment clearance from the State Education Department, the Superintendent, or designee, will advise the employee's immediate supervisor and/or building principal of such appointment status, and request that he/she provide enhanced supervision as deemed appropriate to address safety of children who have contact with the employee. Such safety procedures will address the safety of students in the classroom, students attending off-campus activities under the supervision of the School District, and students participating in extracurricular and/or co-curricular activities (including sports and athletic activities). Safety procedures to be addressed include, but are not limited to, the following: supervision of the employee holding conditional appointment/emergency conditional appointment as determined appropriate by the applicable building/program administrator; and periodic visitations by the building/program administrator to the classroom, program and/or activity assigned to the employee holding conditional appointment/emergency conditional appointment.

The immediate supervisor or building principal will, upon the commencement of the staff member's employment, meet with the staff member to review safety considerations and expectations for any contact such staff member will have with students. The Superintendent or designee will promptly notify the immediate supervisor or building principal of any changes in the employee's appointment status, including receipt of clearance for employment.

Correction Law Article 23-A

Education Law Sections 305(30), 305(33), 1604, 1709, 1804, 1950, 2503, 2554, 2590-h, 2854, 3004-b, 3004-c
and 3035

Executive Law Section 296(16)

Social Services Law Article 5, Title 9-B

8 NYCRR Sections 80-1.11 and Part 87

Adopted: 6/25/24

Personnel

SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION)

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

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

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

Inappropriate fraternization of staff with students is against District policy and may be in violation of professional standards of conduct and New York State Law. However, inappropriate employee conduct does not need to rise to the level of criminal activity for such conduct to be in violation of District rules and subject to appropriate disciplinary sanctions.

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

(Continued)

SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)

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

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

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

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

The Board of Education prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of allegations of inappropriate staff-student relations. Any act of retaliation is subject to appropriate disciplinary action by the District.

District Responsibility/Training

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

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

Disciplinary Sanctions

Any staff member who engages in inappropriate conduct with a student, prohibited by the terms of this policy, shall be subject to appropriate disciplinary measures up to and including termination of employment in accordance with legal guidelines, District policy and regulation, and the applicable collective bargaining agreement. A violation of this policy may also subject the employee to criminal and/or civil sanctions as well as disciplinary action by the State Education Department.

Title IX of the Education Amendments of 1972, 20 USC Section 1681 et seq.
Education Law Article 23-B
Social Services Law Sections 411-428
8 NYCRR Part 83

Adopted: 6/25/24

SUBJECT: EMPLOYMENT OF RELATIVES

The Board of Education is committed to avoiding any situation in which the existence of simultaneous, conflicting interests in any officer or employee may call into question the integrity of the management or operation of the School District. Therefore, no person employed by the District shall recommend for hire, directly supervise, evaluate, promote, review, or discipline any other employee who is a member of the same family (spouse, domestic partner, child, stepchild, grandchild, parent, stepparent, grandparent, brother, sister, or in-law of any type). In the event that a change in or situation of employee relationship occurs during the course of the school year, including but not limited to marriage, promotion, or reorganization that results in a situation not in compliance with the policy, the District will effectuate a reassignment or transfer, and/or designate an alternate individual who is not a family member to conduct supervision, evaluation, promotion, review and/or discipline for such employee will be effected, in accordance with the applicable provisions of any collective bargaining agreement, to correct the situation. If such an instance occurs during the school year, the Board of Education grants the Superintendent of Schools until July 1 of the following school year to effect appropriate staff reassignment.

Employment of Relatives of Board Members

The appointment of a teacher who is related by bloodline or legal process (including marriage) to any member of the Board of Education shall be subject to the consent of two-thirds (2/3) of the members of the Board of Education to be determined at a Board meeting and to be entered upon the proceedings of the Board.

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

Personnel

SUBJECT: WORKPLACE VIOLENCE PREVENTION POLICY

The District is committed to the safety and security of our employees. Workplace violence presents a serious safety hazard to our staff, students and the entire school community.

Workplace violence is defined as any physical assault or act of aggressive behavior occurring where employees perform any work-related duty in the course of their employment including but not limited to an attempt or threat, whether verbal or physical, to inflict physical injury upon an employee; any intentional display of force which would give an employee reason to fear or expect bodily harm; intentional and wrongful physical contact with a person without their consent that entails some injury; or stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

All employees are responsible for notifying their supervisor or the designated contact person (noted below) of any violent incidents or threatening behavior in the workplace, including threats they have witnessed or received, or have been told that another person has witnessed or received.

Designated Contact Person: Grenardo L. Avellino
Title: Deputy Superintendent
Phone: (315) 434-3006
E-mail: gavellino@esmschools.org

All acts of workplace violence will be promptly and thoroughly investigated, and appropriate action will be taken, including contacting law enforcement where necessary.

The District employees, with the participation of authorized employee representatives, will develop and implement a Workplace Violence Prevention Program to comply with the applicable law and its implementing regulations. The Program will include:

- a. A statement regarding the risk factors present in the workplace;
- b. The methods the District will use to prevent incidents of violence in the workplace, including the specifically identified hazards;
- c. A system to report workplace violence incidents in writing;
- d. A written outline for employee training;
- e. A plan for annual program review.

This policy will be posted where notices to employees are normally posted.

Ref: Labor Law §27-b
12 NYCRR §800.6

Adopted: 6/25/24

Personnel

SUBJECT: CERTIFICATION AND QUALIFICATIONS

The following provisions shall govern certification and qualifications of District personnel:

- a) In accordance with applicable statutes, Rules of the Board of Regents, and Regulations of the Commissioner of Education, each employee whose employment requires certification or other licensure shall inform the Superintendent of Schools immediately of any change in the status of his/her certification or licensure. The changes shall include, but not be limited to, the granting, revocation, upgrading, expiration, conversion and/or extension of these documents as to their periods of validity or their titles.
- b) Through the New York Patriot Plan, Commissioner's regulations have amended education law. Provisions extend the expiration dates for various certificate holders engaged in active military service for the period of active service and an additional 12 months from the end of such service. These also reduce the professional development requirements for certification holders called to active duty for the time of such active service.
- c) The original certificates and/or licenses must be presented for examination and copying in the Office of the Superintendent of Schools as soon as they are available to the employee. The copies will be maintained in the employee's personnel file in support of the legitimate employment of each affected employee. The failure of any such employee to possess the required certification or other licensure may result in the discharge of that employee.
- d) Whether or not the District verifies an individual's certification or licensure does not waive the responsibility of the employee to maintain what is required for his/her assignment.

Parent Notification

In accordance with applicable law, the District is required to provide parents, upon request, with specific information about the professional qualifications of their children's classroom teachers. The following shall be provided by the District upon such requests:

- a) If the teacher has met New York State qualifications and licensing criteria for the grade levels and subject areas he/she teaches;
- b) Whether the teacher is teaching under emergency or other provisional status through which the State qualification or licensing criteria have been waived;
- c) The teacher's college major; whether the teacher has any advanced degrees and, if so, the subject of the degrees; and
- d) If the child is provided services by any instructional aides or similar paraprofessionals and, if so, their qualifications.

All requests shall be honored in a timely manner.

(Continued)

SUBJECT: CERTIFICATION AND QUALIFICATIONS**Incidental Teaching**

The Superintendent may assign a teacher to teach a subject not covered by such teacher's certificate or license in accordance with the requirements as enumerated in Commissioner's Regulations and in accordance with any applicable District policies and procedures.

20 USC Section 7801(23)

34 CFR Sections 200.55 and 200.56

Education Law Sections 210, 305, 3001, 3001-a, 3004, 3006 and 3008

8 NYCRR Subparts 52.21, 57-3, 80-1, 80-2, 80-3, 80.4, 80.5, 100.2(dd) and 100.2(o)

SUBJECT: PROBATION AND TENURE**Probation**

Certified staff members will be appointed to a probationary period by a majority vote of the Board upon recommendation of the Superintendent.

Teachers, all other members of the teaching staff, administrators, directors, supervisors, principals, and all other members of the supervisory staff, will be appointed to a probationary period in accordance with applicable law and regulation.

During the probationary period, a staff member will be given assistance in adjusting to the new position, but the essential qualifications for acceptable performance will be assumed because the staff member attained the required certification or license.

A staff member's appointment may be discontinued at any time during his/her probationary period upon the recommendation of the Superintendent and by majority vote of the Board in conformance with Education Law. Any person not recommended for tenure appointment will be notified in writing by the Superintendent, in accordance with applicable law and regulation, before his/her probationary period expires.

Tenure

The Board will follow all applicable laws and regulations regarding tenure.

At the expiration of the probationary period or within six months prior, the Superintendent will make a written report to the Board recommending for appointment to tenure

1) those non-teaching certified staff members who successfully completed their probationary period in the District, and

2) teachers and principals who have been found competent, efficient, and satisfactory, and who have received the APPR rating of effective or highly effective in at least three of the preceding four years. If a teacher or principal receive an APPR rating of ineffective in their final probationary year, the Board may not award tenure, but may extend that teacher's or principal's probationary time by an additional year. The teacher or principal may be eligible for immediate tenure if he/she successfully appeals the ineffective rating. The Board may then, by a majority vote, appoint on tenure any or all of the persons recommended by the Superintendent.

(Continued)

Personnel

SUBJECT: PROBATION AND TENURE (Cont'd.)

When the initial probationary period expires, a teacher or principal will remain on probationary status until the end of the school year in which he/she received APPR ratings of effective or highly effective. The Board may also grant tenure contingent upon a teacher's or principal's receipt of a minimum APPR rating in the final year of the probationary period.

Disciplining of a Tenured Teacher or Certified Personnel

Tenured teachers and certain certified personnel may be subject to disciplinary charges that are set forth in the Education Law.

Procedures for a hearing regarding these disciplinary measures will be in accordance with Education Law Section 3020-a and/or in accordance with applicable contractual provisions and District policies.

Professional Staff: Separation

A probationary professional staff member may be discontinued at any time during his/her probationary period on the recommendation of the Superintendent and by a majority vote of the Board of Education.

If the Superintendent will be submitting to the Board a negative recommendation for tenure or a recommendation to discontinue the services of a probationary professional staff member, the Superintendent must give the probationary employee written notice, in accordance with applicable law and regulation, prior to the Board meeting at which such recommendation will be considered. If a majority of the Board accepts the recommendation and votes to dismiss, the professional staff member must then be given written notice, in accordance with applicable law and regulation, prior to the effective date of termination of services.

Education Law §§ 2509, 2573, 3012, 3012-c, 3012-d, 3014, and 3031
8 NYCRR §§ 30-1.3, 80-3.6, 80-3.9, and 80-3.10

Adopted: 6/25/24

SUBJECT: TEMPORARY PERSONNEL

District's needs may sometimes require temporary appointments. The terms of these appointments shall be defined by the Board of Education on a case-by-case basis.

Student Teachers

The East Syracuse Minoa Central School District shall cooperate with teacher training institutions in the placement of student teachers in order to provide beginning teachers with the best possible student teaching experience.

Schools are required to allow student teachers to videotape themselves providing instruction in a classroom to meet their instruction component for their teaching certification. The video must remain confidential and is not subject to viewing or disclosure to an individual or entity other than the student teacher applicant and relevant personnel.

Substitute Teachers

A substitute teacher qualified to teach in the East Syracuse Minoa Central School District shall be employed, whenever possible, by the Superintendent of Schools in the absence of a regular teacher. It is recognized that fully certified persons will not always be available for employment as substitute teachers.

The Board of Education shall annually establish the ordinary rate for per diem substitute teachers.

Education Law Section 3023
8 NYCRR Sections 80-1.5 and 80-5.4

Adopted: 6/25/24

SUBJECT: SUPPLEMENTARY SCHOOL PERSONNEL**Teacher Aides**

In accordance with the Regulations of the Commissioner, the Board of Education may employ teacher aides to assist in the daily operation of the school through non-teaching duties.

The duties and responsibilities to be assumed by teacher aides shall be outlined by the Superintendent in accordance with Civil Service guidelines. Teacher aides shall be responsible to the Building Principal/designee.

A teacher aide may be assigned to assist teachers in such non-teaching duties as:

- a) Managing records, materials and equipment;
- b) Attending to the physical needs of children; and
- c) Supervising students and performing such other services as support teaching duties when such services are determined and supervised by a teacher.

Teaching Assistants

In accordance with the Regulations of the Commissioner, the Board of Education may employ teaching assistants to provide, under the general supervision of a licensed or certified teacher, direct instructional service to students.

Teaching assistants assist teachers by performing duties such as:

- a) Working with individual students or groups of students on special instructional projects;
- b) Providing the teacher with information about students that will assist the teacher in the development of appropriate learning aspects;
- c) Assisting students in the use of available instructional resources and assisting in the development of instructional materials;
- d) Utilizing their own special skills and abilities by assisting in instructional programs in such areas as foreign language, arts, crafts, music, and similar subjects; and
- e) Assisting in related instructional work as required.

(Continued)

SUBJECT: SUPPLEMENTARY SCHOOL PERSONNEL (Cont'd.)

Teaching assistants who hold a pre-professional teaching assistant certificate shall have the same scope of duties as enumerated above for other teaching assistants. Within that scope of duties, teaching assistants holding a pre-professional teaching assistant certificate may, at the discretion of the District, and while under the general supervision of a teacher, perform such duties as:

- a) Working with small groups of students so that the teacher can work with a large group or individual students;
- b) Helping a teacher to construct a lesson plan;
- c) Presenting segments of lesson plans, as directed by the teacher;
- d) Communicating with parents of students at a school site or as otherwise directed by a teacher;
and
- e) Helping a teacher to train other teaching assistants.

Licensure and certification requirements shall be as mandated pursuant to Commissioner's Regulations.

8 NYCRR Section 80-5.6, 80-5.9

Adopted: 6/25/24

Personnel

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

The Board of Education will provide staff with access to various computerized information resources through the District's computer system (DCS hereafter) which may include, but are not limited to, software, hardware, computer networks, wireless networks/access and electronic communication systems, whether on a District-provided or personal device. This may include access to electronic mail, or other online services. It may also include the opportunity for staff to have independent access to the DCS from their home or other remote locations, and/or to access the DCS from their personal devices. All use of the DCS and the internet/wireless network, including independent use off school premises and use on personal devices, shall be subject to this policy and accompanying regulations.

The Board anticipates that staff access to various computerized information resources will both expedite and enhance the performance of tasks associated with their positions and assignments. To that end, the Board directs the Superintendent or his/her designee(s) to provide staff with training in the proper and effective use of the DCS.

Staff use of the DCS is conditioned upon written agreement by the staff member that use of the DCS will conform to the requirements of this policy and any regulations adopted to ensure acceptable use of the DCS. All such agreements shall be kept on file in the District Office.

This policy does not attempt to articulate all required and/or acceptable uses of the DCS; nor is it the intention of this policy to define all inappropriate usage. Administrative regulations will further define general guidelines of appropriate staff conduct and use as well as proscribed behavior. Generally, the same standards of acceptable staff conduct which apply to any aspect of job performance shall apply to use of the DCS. Employees are expected to communicate in a professional manner consistent with applicable District policies and regulations governing the behavior of school staff. District staff shall also adhere to the laws, policies and rules governing computers including, but not limited to, copyright laws, rights of software publishers, license agreements, and rights of privacy protected by federal and state law.

Access to confidential data is a privilege afforded to District employees in the performance of their duties. Safeguarding this data is a District responsibility that the Board of Education takes very seriously. Electronic mail and telecommunications may be used to share confidential information about students or other employees only in accordance with established procedures and guidelines.

Staff members who engage in unacceptable use may lose access to the DCS and may be subject to further discipline under the law and in accordance with applicable collective bargaining agreements. Legal action may be initiated against a staff member who willfully, maliciously or unlawfully damages or destroys property of the District.

Social Media Use by Employees

The School District recognizes the value of teacher and professional staff inquiry, investigation and communication using new technology tools to enhance student learning experiences. The School District also realizes its obligations to teach and ensure responsible and safe use of these new technologies. Social media, including social networking sites, have great potential to connect people around the globe and enhance communication. Therefore, the Board of Education encourages the use of District approved social media tools to supplement the range of communication and educational services.

(Continued)

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)

For purposes of this Policy, the definition of public social media networks or Social Networking Sites (SNS) are defined to include, but not be limited to: websites, blogs, wikis, social networks, online forums, virtual worlds, video sites and any other social media generally available to the School District community which do not fall within the District's electronic technology network (e.g., Facebook, MySpace, Twitter/X, LinkedIn, Flickr, Instagram, SnapChat, blog sites, etc.). The definition of District approved password-protected social media tools are those that fall within the District's electronic technology network or which the District has approved for educational use. Within these internal forums, the District has greater authority and ability to protect minors from inappropriate content and can limit public access.

The use of social media (whether public or internal) can generally be defined as Official District Use, Professional/Instructional Use and Personal Use. The definitions, uses and responsibilities will be further defined and differentiated in the Administrative Regulation. The School District takes no position on an employee's decision to participate in the use of social media or SNS for personal use on personal time. However, personal use of these media during District time or on District-owned equipment is allowed on a limited basis. In addition, employees are encouraged to maintain the highest levels of professionalism when communicating, whether using District devices or their own personal devices, in their professional capacity as educators. They have a responsibility to address inappropriate behavior or activity on these networks, including requirements for mandated reporting and compliance with all applicable District Policies and Regulations.

Confidentiality, Private Information and Privacy Rights

Confidential and/or private data, including but not limited to, protected student records, employee personal identifying information, and District assessment data, shall only be accessed, stored or transferred in accordance with District policies and procedures and applicable law and regulation. Staff will not use unauthorized storage devices and/or storage services for confidential files.

Staff will not leave any devices unattended with confidential information visible. All devices are required to be locked down while the staff member steps away from the device, and settings enabled to freeze and lock after a set period of inactivity.

Staff data files and electronic storage areas shall remain District property, subject to District control and inspection. The Superintendent or the Superintendent's designee(s) may access all such files and communications without prior notice to ensure system integrity and that users are complying with requirements of this policy and accompanying regulations. Staff should **NOT** expect that information stored on the DCS will be private.

(Continued)

Personnel

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)**Use of Email in the School District**

Electronic mail or email is a valuable business communication tool, and users shall use this tool in a responsible, effective and lawful manner. Every employee/authorized user has a responsibility to maintain the District's image and reputation, to be knowledgeable about the inherent risks associated with email usage and to avoid placing the School District at risk. Although email seems to be less formal than other written communication, the same laws and business records requirements apply. School District employees/authorized users shall use the District's designated email system for all business email, including emails in which students or student issues are involved.

Employees and authorized users who receive offensive, unpleasant, harassing or intimidating messages via email or instant messaging shall inform their Principal/supervisor immediately.

Classified and Confidential

District employees and authorized users may not:

- a) Provide lists or information about District employees or students to others and/or classified information without approval. Questions regarding usage should be directed to a Principal/supervisor.
- b) Forward emails with confidential, sensitive, or secure information without Principal/supervisor authorization. Additional precautions should be taken when sending documents of a confidential nature.
- c) Use file names that may disclose confidential information. Confidential files should be password protected and encrypted, if possible. File protection passwords shall not be communicated via email correspondence in any event.
- d) Use email to transmit any individual's personal, private and sensitive information (PPSI). PPSI includes, but is not limited to, social security number, driver's license number or non-driver ID number, account number, credit/debit card number and security code, or any access code/password that permits access to financial accounts or protected student records.
- e) Send or forward email with comments or statements about the District that may negatively impact it.
- f) Send or forward email that contains confidential information subject to Health Insurance Portability and Accountability Act (HIPAA), Family Educational Rights and Privacy Act (FERPA), and other applicable laws.

(Continued)

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)**Personal Use**

All email accounts on the District's system are the property of the School District. Employees and authorized users may use the District's email system for limited personal use. However, there is no expectation of privacy in email use. Personal use should not include chain letters, junk mail, and jokes. Employees and authorized users shall not use the District's email programs to conduct job searches, post personal information to bulletin boards, blogs, chat groups and list services, etc. without specific permission from the Principal/supervisor. The District's email system shall not be used for personal gain or profit.

Personal accounts and instant messaging shall not be used to conduct official business.

Records Management and Retention

Retention of email messages are covered by the same retention schedules as similar records in other formats. Email shall be maintained in accordance with the NYS Records Retention and Disposition Schedule LGS-1 and as outlined in the District's Records Management Policy. Email records may consequently be deleted, purged or destroyed after they have been retained for the requisite time period established in the LGS-1 schedule.

All email sent and received to an employee's email account should be archived by the District for a period of no less than six (6) years. This time period was determined based on the possibility of emails that are the official copy of a record according to schedule ED-1. Depending on the District's archival system, employees may have access to view their personal archive, including deleted email.

Sanctions

Inappropriate use of email by an employee/authorized user should be reported to the employee/authorized user's Principal/supervisor who will take appropriate disciplinary action. Violations may result in a loss of email use, access to the technology network and/or other disciplinary action. When applicable, law enforcement agencies may be involved.

Confidentiality Notice

A standard Confidentiality Notice will automatically be added to each email as determined by the District.

(Continued)

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)

Implementation

Administrative regulations will be developed to implement the terms of this policy, addressing general parameters of acceptable staff conduct as well as prohibited activities so as to provide appropriate guidelines for employee use of the DCS.

NOTE: Refer also to Policies #5672 -- Information Security Breach and Notification
#6411 -- Use of Email in the School District
#7242 -- Student Data Breaches
#7316 -- Student Use of Personal Technology
#8271 -- Internet Safety/Internet Content Filtering Policy

Adopted: 6/25/24

Personnel

SUBJECT: EMPLOYEE PERSONNEL RECORDS AND RELEASE OF INFORMATION**Personnel Records**

Administrative regulations will be developed to implement the terms of this policy to maintain a personnel file for each teacher, administrator and support staff member employed by the District.

Regulations and procedures will be developed addressing the inspection by District employees of their personnel files.

Release of Personnel Information – Current or Former Employees

All steps should be taken to protect the privacy of the employees of the School District. Examination of current school employee personnel records by the Board of Education will be conducted in accordance with applicable law and regulations.

The District shall not publicly release information concerning the employment records, personnel file or past performance of a current or former employee, unless such information is permitted to be disclosed by law.

Public Officers Law Section 87
8 NYCRR Part 84

NOTE: Refer also to Policy #5673 -- [Employee Personal Identifying Information](#)

Adopted: 6/25/24

SUBJECT: EMPLOYEE ENGAGEMENT AND ACTIVITIES

The Board of Education expects all employees to conduct themselves in an ethical and professionally decorous manner relevant to the duties of their position and the goals of the School District. The following provisions will also apply to engagement and activities of employees.

Political Activities

The Board of Education recognizes the right of its employees, as citizens, to engage in political activities and to exercise their constitutionally-protected rights to address matters of public concern.

However, a District employee's constitutional rights to raise matters of public concern may be limited in certain circumstances, and the Board of Education reserves the right to impose reasonable restrictions on the time, place and manner of the speech or action, or otherwise regulate such speech when permissible and appropriate.

Teachers may not use their classrooms or school surroundings as a means to promote their personal political views and beliefs. However, teachers are encouraged to address issues of current events for their instructional and informational value to students, to invite public and/or political figures to visit the classroom as a community resource, and to motivate students to participate in the political process.

Solicitations by Staff

Staff members shall not be engaged in advertising or commercial solicitations on school time, except as authorized by the Superintendent and/or designee.

Employee Organizations

The legal status for negotiations is the Public Employees' Fair Employment Law (Taylor Law), Civil Service Law Article 14.

Organizations recognized for the purposes of collective bargaining include:

- a) East Syracuse Minoa United Teachers (NYSUT);
- b) East Syracuse Minoa Administrators and Supervisors Association (ESSA);
- c) East Syracuse Minoa Teaching Assistants' Association (NYSUT);
- d) East Syracuse Minoa Clerical Associations United (NYSUT);
- e) East Syracuse Minoa Custodial Unit (SEIU Local 200 United);
- f) East Syracuse Minoa Bus Driver and Bus Aide Unit (SEIU Local 200 United);
- g) East Syracuse Minoa Association of Auto and General Mechanics; and
- h) East Syracuse Minoa Per Diem Professionals Association.

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Personnel

SUBJECT: EMPLOYEE ENGAGEMENT AND ACTIVITIES

Jury Duty

A District employee called for jury duty shall receive his/her full day's pay from the School District plus mileage from the State. No employee shall be entitled to receive the per diem allowance from the Unified Court System for any regularly scheduled workday on which jury duty is rendered if on such a day his/her wages are not withheld on account of such service.

NOTE: Refer also to Policy #5560 -- Use of Federal Funds for Political Expenditures

Adopted: 6/25/24

Personnel

SUBJECT: EMPLOYEE ASSISTANCE PROGRAM (EAP)

East Syracuse Minoa Schools recognize that a wide range of problems not directly associated with one's job function can have an adverse effect on an employee's job performance. In many instances, the employee will overcome such personal problems independently and the effect on job performance will be negligible. In other instances, normal peer or supervisory assistance and/or progressive disciplinary procedures will be all that is necessary to guide an employee to return to a satisfactory performance level. In some cases, however, none of the above have the desired effect.

East Syracuse Minoa also recognizes that a wide range of problems, usually in their early stages, can affect an employee's well-being without having a noticeable effect on job performance.

Our District believes it is in the best interest of the employee, the employee's family and our District to provide an employee service which offers assistance in developing a plan to resolve such problems including early identification, motivation to seek help and referral to the best assistance available.

Our District recognizes that most human problems can be successfully treated and resolved when a referral is made for appropriate professional care. This is particularly true when the problem is identified in the earliest stage. Problems and diseases such as alcoholism and other chemical dependency, mental and emotional illness, physical illness, marital and family distress and dysfunction, financial problems, compulsive gambling and legal problems can be devastating to the individual, their family and the institution when left untreated. Therefore, it is the policy of the East Syracuse Minoa Central School District to handle such problems with an offer of assistance through our District's Employee Assistance Program. This policy enables the parties to resolve job performance problems through a system of self, peer, and supervisory referrals which provide confidential assistance to employees and family members who recognize they have personal problems that could pose a threat to their job or personal well-being.

The purpose of this policy is to assure employees that if personal problems/illnesses are the cause of unsatisfactory job performance they will receive an offer of assistance to help resolve such problems in an effective and confidential manner. The Employee Assistance Program policy handles such problems within the following framework:

- a) When an employee's job performance is unsatisfactory and the employee is unable to correct the situation either alone or with normal supervisory assistance, this may be an indication that some cause outside the realm of job responsibilities may be the cause of his/her problem.
- b) Referrals for an initial evaluation of a problem may be made by the employee's peers or supervisors. However, participation or non-participation in the Employee Assistance Program in no way should be a factor in evaluating an individual's job performance. Supervisory responsibility will be limited to assessing job performance and taking appropriate corrective action within the terms of negotiated agreements, law, and applicable rules and regulations.

(Continued)

SUBJECT: EMPLOYEE ASSISTANCE PROGRAM (EAP) (Cont'd.)

- c) Employees suffering from such problems/illnesses are also encouraged to independently seek assistance from the Employee Assistance Program on a strictly confidential basis.
- d) Participation in the Employee Assistance Program is, in all cases, strictly voluntary and confidential.
- e) Nothing in the policy or provisions relating to the Employee Assistance Program should be deemed to constitute a waiver of management's right to discipline employees nor does participation or non-participation in the Employee Assistance Program waive the rights of employees to protections under negotiated agreements, laws, and applicable rules and regulations.
- f) Any employee who seeks assistance independently or as a result of a referral will not jeopardize his/her job security or promotional opportunities as a result of seeking such assistance.
- g) Because an employee's work performance and well-being can be affected by the illnesses/problems of family members, the program is available to employees and those persons who reside in an employee's home. For persons who do not reside in the employee's home, eligibility is granted if the employee provides at least 50% of that person's support. East Syracuse Minoa Central School District retains the sole discretion to allow participation of additional individuals on a non-precedential, case by case basis.

SUBJECT: DEFENSE AND INDEMNIFICATION OF BOARD MEMBERS AND EMPLOYEES**Liability Protection Pursuant to Education Law**

The Board of Education recognizes its statutory obligation to indemnify School District employees (and in certain circumstances, Board of Education members and volunteers) pursuant to the provisions of Education Law Sections 3023, 3028 and 3811. For the purposes of this policy, the term "employee" shall be as defined in the applicable statute(s).

The District shall not be subject to the duty to defend unless the employee, within the time prescribed by statute, delivers appropriate notice of the claim to the Board of Education.

The District will provide legal defense and/or indemnification for all damages, costs, and reasonable expenses incurred in the defense of an action or proceeding if authorized pursuant to statute and provided that the alleged action or omission which occurred or allegedly occurred is covered by the appropriate statute(s). Furthermore, the District will not be required to provide indemnification protection and/or legal defense unless the employee was, at the time of the alleged incident, acting in the discharge of his/her duties within the scope of his/her employment or authorized volunteer duties and/or under the direction of the Board of Education.

Public Officers Law Section 18

The Board of Education hereby also confers the benefits of New York State Public Officers Law Section 18 upon the "employees" of the District, as defined in Public Officers Law Section 18; and the District assumes the liability for the costs incurred in accordance with the provisions of Public Officers Law Section 18. The benefits accorded to District employees under Public Officers Law Section 18 shall supplement and be available in addition to defense or indemnification protection conferred by other enactment or provisions of law.

Exceptions to Liability Coverage

Indemnification coverage and/or provision of legal defense by the District will not apply unless the actionable claim is of the type covered by the statute(s) and/or is not otherwise exempt from coverage pursuant to law. Additionally, indemnification coverage and/or the duty to provide a defense shall not arise where such action or proceeding is brought by or on behalf of the School District.

Paul D. Coverell Teacher Protection Act of 2001, as authorized by the No Child Left Behind Act of 2001, 20 USC Section 6731 et seq.
Education Law Sections 1604(25), 1604(31-b), 1709(26), 1709(34-b), 2560, 3023, 3028 and 3811
General Municipal Law Sections 6-n and 52
Public Officers Law Section 18

Adopted: 6/25/24

SUBJECT: LEAVES OF ABSENCE

In general, leaves of absence shall be administered in accordance with applicable laws, regulations, collective bargaining agreements, and/or District policies.

The Board reserves the right to undertake appropriate disciplinary action where a leave of absence is falsely requested or improperly used.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC Sections 4301-4333
Civil Service Law Sections 71-73, 159-b and 159-c
Education Law Sections 1709(16), 3005, 3005-a and 3005-b
General Municipal Law Section 92-c
Labor Law Sections 202-a, 202-c, 202-i, 202-j and 206-c
Military Law Sections 242 and 243
Penal Law Section 215.14

Adopted: 6/25/24

SUBJECT: FAMILY AND MEDICAL LEAVE ACT

The Board of Education, in accordance with the Family and Medical Leave Act of 1993 (as amended) (FMLA), gives "eligible" employees of the District the right to take unpaid leave for a period of up to twelve (12) workweeks in a twelve-month period as determined by the District.

The School District computes the time frame of the twelve (12) month period for which FMLA leave is being requested based upon the fiscal year, July 1 through June 30. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

The entitlement to leave for the birth or placement of a child shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

Employees are "eligible" if they have been employed by the District for at least twelve (12) months and for at least 1,250 hours of service during the previous twelve-month period. Full-time teachers are deemed to meet the 1,250 hour test. However, a break in employment for military service (i.e., call to active duty) should not interrupt the twelve (12) month/1,250 hours of employment requirement and should be counted toward fulfilling this prerequisite. The law covers both full-time and part-time employees.

Family and Medical Leave Act of 1993 (as amended), Public Law 103-3
National Defense Authorization Act of 2008, Public Law 110-181
10 USC 101(a) (13)
29 USC 1630.1 and 2611-2654
29 CFR Part 825 and Part 1630
42 USC 12102
Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191
45 CFR Parts 160 and 164

NOTE: Refer also to Policy #6552 -- Uniformed Services Employment and Reemployment Rights Act (USERRA)/Military Leaves of Absence

Adopted: 6/25/24

Personnel

SUBJECT: UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)/MILITARY LEAVES OF ABSENCE

In accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and State Law, the School District, upon advance notice by the employee, shall grant leaves of absence for service in the uniformed services and/or military duty (hereinafter referred to as "military service" or "military duty") to its employees who are ordered to duty or volunteer for qualifying military service. The employee's notice may be either verbal or written. No advance notice is required if military necessity prevents the giving of notice, or the giving of notice is otherwise impossible or unreasonable under all the circumstances.

Employment Rights

Time during which an employee is absent pursuant to military leave shall not constitute an interruption of continuous employment in the School District and no such employee shall be subjected, directly or indirectly, to any loss or diminution of time service, increment, vacation or holiday privileges, or any other right or privilege, by reason of such absence; nor shall any employee be prejudiced by reason of such absence with reference to continuance in employment, reemployment, reinstatement, transfer or promotion.

Salary/Compensation and Benefits

When an employee is on military leave pursuant to this policy, this salary/compensation and benefits will be administered in accordance with applicable law and regulation.

Collective Bargaining Agreements/Contracts/Plans/Practices

In accordance with USERRA, any State or local law, contract, agreement, policy, plan, or practice that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit under USERRA, such greater employment right or benefit will supersede this Federal Law.

Notice of Rights and Duties

The District shall provide a notice of the rights, benefits and obligations of employees and the District under USERRA.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Public Law 108-454
38 USC Sections 4301-4333
20 CFR Part 1002
Education Law Section 3101
Military Law Sections 242 and 243

NOTE: Refer also to Policies #6212 -- Certifications and Qualifications
#6213 -- Professional Certification: 175 Hours of Professional Development Requirement
#6551 -- Family and Medical Leave Act

Adopted: 6/25/24

Personnel

SUBJECT: DETERMINATION OF EMPLOYMENT STATUS: EMPLOYEE OR INDEPENDENT CONTRACTOR

Regulations promulgated by the Office of the State Comptroller provide guidance to school districts to help them determine whether an individual is an employee, and therefore eligible for membership in the New York State and Local Retirement System (NYSLRS) and for service credit, or an independent contractor who is not eligible for membership.

A certification of the determination that an individual is an employee will now be required when the School District initially reports to the NYSLRS certain covered professionals -- those persons providing services as an attorney, physician, engineer, architect, accountant or auditor.

Employee shall mean an individual performing services for the School District for which the District has the right to control the means and methods of what work will be done and how the work will be done. Independent contractor shall mean a consultant or other individual engaged to achieve a certain result who is not subject to the direction of the employer as to the means and methods of accomplishing the result. (Guidance from the New York State Education Department emphasizes that School Districts and BOCES do not have the authority to enter into agreements with independent contractors for instructional services).

Employees to be Reported to NYSLRS

Only persons who are active members of NYSLRS and who have been assigned a registration number shall be included in the reporting requirements. In the case of employees who are in the process of being registered to membership, all service, salary and deductions data and mandatory contributions shall be accumulated by the District and such accumulation shall be included with the first monthly report which is due after the employee's registration number has been assigned.

An individual serving the District as an independent contractor or consultant is not an employee and should not be reported to the retirement system.

The District has the primary responsibility for determining whether an individual is rendering services as an employee or as an independent contractor. When making such a determination the District must consider the factors enumerated in State Regulations.

The District shall also complete, as necessary, a Certification Form for Individuals Engaged in Certain Professions (Form RS2414) as promulgated by the Office of the New York State Comptroller. As noted on the Certification Form instructions, when making a determination as to an individual's status as an employee or independent contractor, no single factor should be considered to be conclusive of the issue. All factors should be considered in making an assessment of an individual's status when engaged to perform services.

(Continued)

**SUBJECT: DETERMINATION OF EMPLOYMENT STATUS: EMPLOYEE OR
INDEPENDENT CONTRACTOR (Cont'd.)**

Written Explanation by District: Certain Professions

In the case of an individual whose service has been engaged by the School District in the capacity of attorney, physician, engineer, architect, accountant or auditor and the District has determined that the individual is rendering service as an employee and, therefore, may be eligible for credit with a retirement system, the District shall submit to the retirement system, in a form prescribed by the Comptroller and certified by the Chief Fiscal Officer of the District, an explanation of the factors that led to the conclusion that the individual is an employee and not an independent contractor or consultant.

Retirement and Social Security Law Sections 11, 34, 311, and 334
2 NYCRR Sections 315.2 and 315.3

Adopted: 6/25/24