

Davis School District Policy and Procedures

Subject: 2HR-204 Ethical Conduct of District Employees

Index: Human Resources – Employee Legal Rights and Responsibilities

Revised~~DRAFT: July 16, 2019~~March 19, 2020

1. PURPOSE AND PHILOSOPHY

As an employee of the Davis School District (District) a person is placed under an affirmative duty to comply with various standards governing the ethical conduct of school district employees. Following the standards will ensure the highest principles of behavior and uphold the trust vested in District employees by the community.

2. UTAH PUBLIC OFFICERS' AND EMPLOYEES' ETHICS ACT

The intent of Utah Public Officers' and Employees' Ethic Act is to promote the public interest and strengthen the confidence of citizens in the integrity of their government; and to allow public employees to take advantage of opportunities available to all other citizens to acquire private economic or other interest where it will not interfere with the full and faithful discharge of their public duties.

2.1. Non Education-Related Outside Employment

A school district employee who participates in a non-education-related employment or business activities outside of their District employment may not:

- 2.1.1. accept employment or engage in any business or professional activity that would require disclosure of controlled information gained by reason of their employment;
- 2.1.2. disclose controlled, protected, or private information gained by reason of their employment to secure personal privileges or exemptions of self or others;
- 2.1.3. use their position as a District employee to further their own personal economic interest or secure special privileges or exemptions for self or others; or
- 2.1.4. accept outside employment that may impair independence of judgment in performing their public duties.

2.2. Accepting Gifts or Compensation

2.2.1. A District employee may not knowingly receive, accept, seek, or solicit, directly or indirectly, for themselves or another a gift of substantial value or a substantial economic benefit tantamount to a gift where:

- [a] It would tend to improperly influence the performance of job responsibilities;
- [b] It is intended as a reward for official action taken; or
- [c] The employee is currently, or in the near future will be involved in action directly affecting the donor, unless a disclosure of the gift or compensation and other relevant information has been made in the manner provided in Utah Code Ann. §67-16-6.

2.2.2. A District employee who is not involved in the procurement of goods or services, may accept an occasional nonmonetary gift having a value not exceeding \$50 and any award which may be publicly presented in recognition of public services.

2.3. This section does not apply to a public employee who engages in conduct that constitutes a violation of this section to the extent that the public employee is chargeable for the same conduct under Utah Code Ann. §63G-6a-2404 and District policy 6F-103 Purchasing Policy.

2.4. Participation in Transaction Involving Business as to Which Employee has Interest

A District employee may not participate in their official capacity in any transaction

between the District and any business in which they are an officer, director, employee, owner, or is a family member that stands to benefit by association unless the employee has appropriately disclosed the interest and is approved by the Board or designee.

[Disclosure Pursuant to Utah Public Officers' and Employees' Ethics Act](#)

3. CODE OF CONDUCT FOR EMPLOYEES

~~3.1. Professional Ethics~~

~~3.1. District employees shall represent the highest standards and values of the community in a manner characterized by trust, morality, and ethical principles act in a way that acknowledges and reflects their inherent positions of authority and influence over students. District employees:~~

~~3.1.1. must maintain verbal, physical, emotional, and social lines with students to ensure structure, security, and predictability in an educational environment as described in R277-515-2(1) "boundary violations District employees shall recognize and maintain appropriate personal boundaries in teaching, supervising, and interacting with students and shall avoid boundary violations including behavior that could reasonably be considered grooming or lead to even an appearance of impropriety";~~

~~3.1.2. must be role models of civic and societal responsibility (see rule R277-515-3);~~

~~3.1.3. must maintain a positive and safe learning and working environment (see rule R277-515-4);~~

~~3.1.4. must conduct themselves professionally (see rule R277-515-6); and~~

~~3.1.5-3.1.2. must comply with District policies (see rule R277-515-5).~~

3.2. **Appropriate Behavior**

~~3.2.1.~~ District employees shall maintain appropriate demeanor and relationships with students, both during and outside of school hours, as well as both on and off campus. A District employee:

[a] may not touch a student in a way that makes a reasonably objective student feel uncomfortable; and

[b] may not engage in any sexual conduct toward or sexual relations with a student including but not limited to:

(i) viewing with a student, or allowing a student to view, pornography or any other sexually explicit or inappropriate images or content, whether video, audio, print, text, or other format;

(ii) sexual battery; or

~~(iii)~~ sexual assault.

~~(iii) 3.1.3.~~ District employees are subject to the Code of Conduct for District Employees.

~~3.2.~~ Conduct prohibited by this policy is considered a violation of this policy regardless of whether the student may have consented.

~~3.3.~~ The District recognizes that familial relationships between a staff member and a student may provide for exceptions to certain provisions of this policy.

~~3.2.2-3.4.~~ District employees shall receive training regarding this policy and shall acknowledge, through the District Encore Electronic Document Signing, having received

training and understanding the policy.

4. MEETING WITH STUDENTS OUTSIDE NORMAL SCHOOL DAY

School instruction, counseling, and other administrative tasks relating to students which require the presence of students should be accomplished on school premises within the normal school day.

- 4.1. Approval of the school principal is required whenever it becomes necessary for a District employee to meet with a student outside the normal school day.
- 4.2. Notice shall be given to a parent or legal guardian before detaining any student after school.
- 4.3. If detention is necessary for the student's health or safety, an exception may be made to the notice requirement.
- 4.4. District personnel are not authorized to invite school-aged persons from the District to the employee's home.
- 4.5. All extra-curricular student activity programs require authorization of the school principal.
- 4.6. District employees shall avoid traveling alone with a student.

5. EDUCATIONAL SERVICES OUTSIDE OF EDUCATOR'S REGULAR EMPLOYMENT

A District employee who desires to participate in a private, but public educational-related activity where the principle clients are current or prospective students must abide by applicable state laws, rules, and District policy.

- 5.1. A District employee's participation in outside activities must be separate and distinguishable from their school employment.
- 5.2. A District employee may not promote the activities by contacting students at the public schools or by using education records or information obtained through their District employment unless the records or information are readily available to the general public.
- 5.3. A District employee may not use school time, materials, or equipment to discuss, promote, or prepare for any private activity.
- 5.4. A District employee may not state or imply to any person that participation in a regular school activity or program or the receipt of school credit is conditioned on participation in a private activity.
- 5.5. A District employee shall assure that any advertising of the outside activity is in compliance with state law, rule, and District policy.
- 5.6. A District employee shall provide a copy of any contract entered into with an activity sponsor to their direct supervisor and the Superintendent's Office.

6. VIOLATIONS OF POLICY

- 6.1. A District employee should report known violations of this policy to the employee's supervisor. In situations where the supervisor is alleged to be in violation of this policy,

the reporting employee shall notify the School Director or the Human Resources Director.

6.1-6.2. A District employee shall cooperate in any investigation concerning allegations of actions, conduct, or communications that if proven, would violate this policy.

6.2 Any District employee who violates the established standards of ethical decorum and behavior will be subject to disciplinary action up to and including dismissal from employment in accordance with state law, rule, and District policy.

DEFINITIONS

“Activity sponsor” means a private or public individual or entity that employs an employee in any program in which public school students participate.

“Boundary violation” means crossing verbal, physical, emotional, or social lines that staff must maintain in order to ensure structure, security, and predictability in an educational environment. A boundary violation may include the following, depending on the circumstances: (1) isolated, one-on-one interactions with a student out of the line of sight of others; (2) meeting with a student in rooms with covered or blocked windows; (3) telling risqué jokes ~~to,~~ or using profanity in the presence of a student; (4) employing favoritism to a student; (5) giving gifts inappropriate gift giving to individual students; (6) ~~staff member initiated frontal hugging or other uninvited touching uninvited or inappropriate touching~~; (7) photographing an individual student for a non-educational purpose or use; (8) engaging in inappropriate or unprofessional contact outside of educational program activities; (9) exchanging personal email or phone numbers with a student for a non-educational purpose or use; (10) interacting privately with a student through social media, computer, or handheld devices; and (11) discussing with a student inappropriate details about an employee’s personal life or a student’s personal issues with a student life or personal issues; (12) discussing issues restricted under the Utah Protection of Pupil Rights Amendments (PPRA) without authorization.

Boundary violation does not include: (1) offering praise, encouragement, or acknowledgment; (2) offering rewards available to all who achieve; (3) asking permission to touch for necessary purposes; (4) giving a pat on the back or a shoulder; (5) giving a side hug; (6) giving a handshake or high five; (7) offering warmth and kindness; (8) utilizing public social media alerts to groups of students and parents; or (9) contact permitted by an IEP or 504 plan.

“Controlled, private or protected information” means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access Act (GRAMMA), or other applicable provision of law, including 20 U.S.C. §1232g Family Educational Rights and Privacy Act (FERPA) which governs student records.

“Economic benefit tantamount to a gift” includes: (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and (b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

“Gift or compensation” means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the employee for or in consideration of personal services, materials, property, or any other thing whatsoever.

“Private, but public education-related activity” means any type of activity by an employee in which the principle clients are current or prospective students of the employee and for which the employee receives compensation. Such activities include: (1) tutoring; (2) lessons; (3) clinics; (4) camps; or (5) travel opportunity.

“Sexual conduct” includes any sexual contact or communication between a staff member and a student including but not limited to: (1) **“sexual abuse”** meaning the criminal conduct described in UCA §76-5-404-1(2) and includes, regardless of the gender of any participant: (a) touching the anus, buttocks, pubic area, or genitalia of a student; (b) touching the breast of a female student; or (c) otherwise taking indecent liberties with a student, with the intent to: cause substantial

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emotional or bodily pain; or arouse or gratify the sexual desire of any individual. (2) “**sexual battery**” meaning the criminal conduct described in UCA §76-9-702.1 and includes intentionally touching, whether or not through clothing, the anus, buttocks, or any part of the genitals of a student, or the breast of a female student, and the actor’s conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the student touched; or a staff member and student sharing any sexually explicit or lewd communication, image, or photograph. “**Student**” means a child under the age of 18 or over the age of 18 if still enrolled in a public secondary school.

REFERENCES

[Utah Code Ann. 63G-7-301\(3\)](#) – Waivers of immunity.

[Utah Code Ann. Title 67, Chapter 16](#) – Public Officers’ and Employees’ Ethics Act.

[Utah Administrative Code R277-107](#) – Educational Services Outside of Educator’s Regular Employment.

[Utah Administrative Code R277-217 Educator Standards and LEA Reporting](#)

[Utah Administrative Code R277-322 – LEA Codes of Conduct](#)

[Utah Administrative Code R277-515 – Utah Educator Standards.](#)

FORMS AND OTHER LINKS

[Avoiding Conflicts of Interest as a Public School Employee](#)

[Disclosure Pursuant to Utah Public Officers’ and Employee’ Ethics Act](#)

[Code of Conduct for District Employees](#)

[Written Verification by Employee \(Private but Public Education-Related Activities\)](#)

RELATED POLICIES

[4I-203 Licensing of Material Developed with Public Education Funds](#)

[6F-103 Purchasing Policy Section 14- Violations and Penalties](#)

[11IR-100 Student Data and Family Privacy Protection](#)

DOCUMENT HISTORY:

Adopted: March 17, 2009

Revised: September 1, 2009 – Added section 4 Meeting with Students Outside the Regular School Day. This language was previously found in 5S-400 School Attendance and Discipline when the policy was revised, renumbered and renamed to 5S-100 Student Conduct and Discipline.

Revised: September 22, 2010 (by consent) – As part of a five-year review, including a reorganization of the Table of Contents, policy was renumbered from 2HR-119 to 2HR-204. No substantive changes.

Revised: July 1, 2014 – Updated with minor revisions consistent with changes in law and rule.

Revised: May 2, 2017 – Updated to comply with new Administrative Code R277-517.

Revised: July 16, 2019 - Updated to comply with legislation (HB391). Added appropriate behavior policy.

Revised: - Updated to comply with revised to Utah Administrative Code R277-210 definition of boundary violation; R277-217 Educator Standards and LEA Reporting; R277-322 LEA Codes of Conduct; and SB21 (2020) changing appropriate behavior policy in immunity code to code of conde.