

**WESTPORT BOARD OF EDUCATION  
POLICY COMMITTEE  
NOTICE OF SPECIAL MEETING  
AGENDA**

(Agenda Subject to Modification in Accordance with Law)

**WORK SESSION:**

8:30 a.m. Westport Town Hall, Room 307

**DISCUSSION/ACTION:**

1. Minutes: August 27, 2021, *page 1*

**DISCUSSION:**

1. Second Reading of the following:
  - Policy 1330/3515, "Use of School Facilities" (revision), *pages 2-6*
  - Policy 1250 "Visitors and Observations" (revision), *page 7*
  - Policy 1212 "Volunteers" (revision), *pages 8-9*
  - Policy 4118.11/4218.11, "Non-Discrimination" (revision), *pages 10-12*
  - Policy 4118.112/4218.112, "Sex Discrimination and Sexual Harassment" (revision), *pages 13-15*
2. Continued Discussion of the following:
  - Policy 1230, "Booster Clubs and Parent Organizations" (new), *pages 16-33*
  - Policy 6162.51 "Student Privacy" (revision), *pages 34-44*
  - Policy 1700, "Possession of Firearms on School Property" (new), *pages 45-46*
3. First Reading of the following:
  - BOE Bylaw 9324, "Meeting Conduct" (revision), *pages 47-48*
  - Policy 6161, "Instructional Materials Selection" (revision), *pages 49-53*
  - Policy 6141, Curriculum Design/Dev/Revision (new), *pages 54-56*
  - Policy 4152.6, FMLA (new), *pages 57-78*
4. Any Other Policy Matters

**ADJOURNMENT**

*It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or [eflug@westportct.gov](mailto:eflug@westportct.gov) at least three (3) business days prior to the scheduled meeting or event to request an accommodation.*

**WESTPORT BOARD OF EDUCATION  
POLICY COMMITTEE WORK SESSION MINUTES**

**Committee Members Present:**

Karen Kleine  
Resources  
Lee Goldstein

**Administrators Present**

Committee Chair      John Bayers      Director of Human

**PUBLIC CALL TO ORDER:** 8:13 a.m., Westport Town Hall, Room 307

**MINUTES:** Karen Kleine moved to approve the minutes of June 2, 2021; seconded by Lee Goldstein. (2-0-0).

**DISCUSSION**

1. Continued Discussion of Policy 1230, "Booster Clubs" (New)
2. Update to Policy and Regulations 6114.82-C19: The Committee determined no changes were needed on this item
3. Review of Shipman & Goodwin Model Policy Updates:
  - Use of School Facilities
  - Visitors and Observations (compliance with school health mandates)
  - Volunteers
  - Non-Discrimination (personnel)
  - Prohibition of Sex Discrimination and Sexual Harassment in the Workplace
  - Immunizations
  - Student Privacy
4. Review of Environmental School Policy - This Policy will be referred to the Finance and Facilities Committee for review
5. Any other Policy Matters: The Committee discussed additional policies to consider for the September agenda

**ADJOURNMENT**

Meeting adjourned at 10:05 a.m.

Respectfully submitted,  
Jennifer Caputo

## **Business/Non-Instructional Operations/Community Relations**

### **Use of School Facilities**

In accordance with Conn. Gen. Stat. § 10-239, the Board of Education may permit the use of any school facility for nonprofit educational or community purposes whether or not school is in session. The Board of Education may also grant the temporary use of any school facility for public, educational or other purposes, including the holding of political discussion, at such time the facility is not in use for school purposes. In addition, the Board shall grant such use for any purpose of voting under the provisions of Title 9 of the Connecticut General Statutes whether or not school is in session. In accordance with 20 U.S.C. § 7905, the Board of Education shall not deny equal access to or a fair opportunity to meet, or otherwise discriminate, against any group officially affiliated with the Boy Scouts of America (or any other youth group listed as a patriotic society in Title 36 of the United States Code) that wishes to conduct a meeting using school facilities pursuant to this policy. Such uses shall be governed by the following rules and procedures, and shall be subject to such restrictions as the Superintendent or his/her designee considers expedient.

Consistent with this policy, the Superintendent shall develop and promulgate Administrative Regulations and associated forms governing use of school buildings and facilities by community and other groups. Since the primary purpose of school facilities is for educational activities, such activities will have priority over all other requested uses.

#### **A. Authorized Users/Order Of Priority**

1. The Westport public school program has 1<sup>st</sup> priority in the use of all school facilities.
2. The Westport Continuing Education (WCE) program (including Adult Education and Summer School) has next priority after the regular program.
3. The Westport Department of Parks & Recreation (DPR) has 3<sup>rd</sup> priority for use of facilities.
4. Activities of school-related organizations, e.g., PTA, booster clubs and parent support groups shall have 4<sup>th</sup> priority for use of school facilities.
5. When not being used by the above groups, school facilities may be made available to other users, limited to agencies of the Town of Westport, and Westport-based, private non-profit groups, at least 50% of whose membership and/or participants must be Westport residents, for uses not directly competitive with school-sponsored activities, e.g., adult education, summer school, etc.

6. Use by the media or individual photographers, filmmakers, etc., wishing to photograph, televise or film school facilities or activities, is governed by the media access policy.

**B. Requirements and Application Procedures**

1. Written permission from the Superintendent or designee is required for all outsiders' use of buildings and equipment, use of grounds for any purpose involving 25 or more people (including participants and spectators), or use of parking lots on a weekend or after school hours by Westport residents for guest parking for a wedding or other private (non-commercial) event. Non compliance with this stipulation will constitute trespassing.
2. Applicants shall file a complete application with the facilities manager in the maintenance office.
3. All users not covered by the Westport Town/Board of Education insurance policy must provide a liability insurance certificate of no less than \$5 million, naming the Westport Board of Education/Town of Westport as additional named insureds. Insurance limits will be reviewed and updated periodically by the Assistant Superintendent for Business.

**B. Requirements and Application Procedures (continued)**

4. Police and/or fire department protection may be required at the users' expense. This condition is to be determined by the supervisor of buildings, in consultation with the relevant departments.

**C. Usage Types:**

**Standard Use** is defined as routine meetings, programs, classes, etc.

**Major Use** which requires a surcharge, is defined as having one or more of the following characteristics:

- Creates significant wear and tear.
- Funds are raised through admission charges (including "voluntary" contributions), sale of merchandise, raffles, door prizes, etc.
- Event uses vendors' or exhibitors' booths.
- Event uses the Staples field house.
- Event at any school requires two major facilities: (gym, cafeteria, auditorium). Ten or more classrooms = major facility.
- Event involves more than 500 participants or attendees.

**D. Classification Of Groups For Payment Of Fees And Rent**

(Identified groups are examples; groups not listed will be classified by Superintendent or designee).

**\*Category I Users No Rent For Standard Use**

**Category I includes:**

- a) **School-Related:** e.g., student organizations, PTAs, parent support groups affiliated with school teams, clubs, etc., recognized parent advocate groups such as CLASP, etc.
- b) **Town Groups:** Town boards, commissions, and committees; DPR, Senior Center, Health District, Library, Transit District, Levitt Pavilion, First Night, etc.
- c) **Youth-Serving:** Westport-based non-profit youth-serving groups, such as: Boy & Girl Scouts, Little League, PAL, Babe Ruth League, Westport Soccer Association.
- d) **Grandfathered Groups:** Power Squadron, Red Cross, Westport Arts Center.
- e) **Others:** Superintendent or designee may waive or reduce fees for state/national professional or educational organizations; or for other groups serving the public interest; or for elected officials holding public meetings.

**\*Category II Users Basic Rent: Westport-Based Community Groups**

**Category II includes:**

- a) Westport agencies supported by the United Way, and non-profit service organizations that serve Westport, e.g., Rotary, Kiwanis, Masons, Westport Woman's Club, Westport Young Woman's League, Veterans' groups, Nursing and Home Care, etc.
- b) Westport political, religious and ecumenical groups. (Depending on the nature of the activity, e.g., summer camps or on-going programs for which fees are charged, these groups may be classified as Category III for rental fee purposes.)
- c) Westport YMCA: for use of pool only, with special financial arrangements.

**\*Category III Users Basic Rent Doubled: Westport-Based Private, Non-profit, Educational, Recreational, Cultural, Social or Athletic Groups**

**Category III includes:** private schools, private nursery schools, dance academies, drama groups, music groups, children's activity programs, etc., at least 50% of whose members or participants are Westport residents.

**\*Category I, II And III Users: Additional Charges For Major Use**

When a Category II or III group makes major use of facilities for fund-raising programs involving commercial, entrepreneurial, profit-making organizations or activities, Superintendent or designee may require a contribution to the school's student activity fund, amount to be determined by Superintendent, but no less than \$1000.)

**Other Users:** Under unusual circumstances, the Superintendent may permit one-time or occasional use of facilities to educational, civic, cultural, etc., organizations from neighboring towns, etc.; the Superintendent shall judge requests individually and determine rental category.

**All Categories:** Must pay custodial, kitchen workers' and other applicable fees, including fees for covering the gym and field house floors if necessary. All groups pay surcharge for major use. Superintendent may reduce surcharge by 50% for Categories I and II if event is a fund raiser benefiting the Westport schools or the public, or when the event itself is a public service. Rental fees, administrative fee and surcharge required in advance. Personnel charges are billed.

**Special Conditions:** Regardless of user's category, the Superintendent (or designee) may

impose special conditions or may deny permission when it is judged that the requested use may produce undue wear and tear on facilities, would cause disruption to the regular school program, be detrimental to the public image of the school system, impact negatively on the scheduled maintenance or cleaning of the schools or otherwise not be in the interest of the school system or the Town.

#### **E. Restrictions On Use Of School Facilities**

1. Illegal activities will not be tolerated.
2. School facilities may not be rented by individuals, businesses or trade organizations or used for private purposes.
3. No school facility may be used by individual entrepreneurs, either Westport Board of Education employees or others, to give private instruction for a fee to individuals or groups.
4. School facilities may not be used for the promotion of any commercial interest or private or corporate gain except in conjunction with a fund-raising activity by a permitted, non-profit user. In such cases, regardless of category, users may be required to make a donation to the student activity fund of the school of a minimum of \$1,000 in addition to paying custodial costs and applicable rental fees. The decision about whether to require a donation, and the amount of the donation, will be made by the Superintendent or designee, in consultation with the sponsor of the program.
5. Use or possession of tobacco, alcoholic beverages or unauthorized controlled substances shall not be permitted on school property.
6. Advertising, decorations or other materials that promote the use of illegal drugs, tobacco products or alcoholic beverages shall not be permitted.
7. Obscene advertising, decorations or materials shall not be permitted on school property.
8. Users must comply with all administrative regulations governing use of school facilities. Non-compliance may result in revocation of privileges.

#### **F. Health and Safety Protocols**

In order to use school district facilities, any organization or individual requesting such use must agree to abide by all health and safety protocols in place by the school district at the time of use, including but not limited to protocols relating to cleaning of the facilities, signage, and health screenings of individuals requesting access to the facilities.

**All exceptions to this policy require approval of the Superintendent, whose decision on all aspects is final.**

Legal Reference: ~~Connecticut General Statutes~~ Conn. Gen. Stat. § 10-239 ~~Use of School Facilities for Other Purposes~~

Conn. Gen. Stat. § 10-215f

Conn. Gen. Stat. § 10-221q

Policy adopted: July 29, 2004

Revised: November 19, 2019

Revised: June 14, 2021

[Revised:](#)

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Community Relations

### POLICY REGARDING VISITORS AND OBSERVATIONS IN SCHOOLS

~~In order to~~To promote a safe and productive educational environment for all students and staff, the Board requires all visitors to receive prior approval from the school Principal or his/her designee before being permitted to visit any school building during the school day. The Board, through the administration, reserves the right to grant access to school buildings in accordance with the school's prescribed procedure for scheduling, as applicable, and administrative regulations.

The Board further desires to work collaboratively with parents with an educational nexus with the district, its educational programs or the student being observed, to observe their students in their current classrooms or observe proposed educational placements in the Board's schools. The Board, through the administration, reserves the right to limit observations of current and proposed educational placements in accordance with administrative regulations and the Board's Guidelines for Independent Educational Evaluations.

Upon arrival, all visitors and observers must comply with any and all applicable building security procedures, including but not limited to utilizing security buzzers for access, complying with requests for photo identification, reporting directly to and signing in and out at the visitors' reception area of the school office, prominently displaying visitors' badges or other identification required for visitors to the school buildings, limiting access to those areas of the buildings and grounds for which the visitors/observers have authorized access, and complying with directives of school officials at all times. All visitors and observers permitted into school buildings or on school grounds must comply with all school health and safety protocols in place at the time, including but not limited to any health screening protocols.

#### Legal References:

"Guidelines Regarding Independent Educational Evaluations at Public Expense and In-School Observations," Connecticut State Department of Education (Mar. 28, 2018).

Policy adopted: November 5, 2018

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut



## Community Relations

### School Volunteers, Student Interns and Other Non-Employees

The Board of Education recognizes the importance of school volunteers at all levels of schooling. Volunteers can enhance collaboration between the school and community, broaden the school's educational environment and ultimately enrich students' school experience. The Board further acknowledges that it may, from time to time, be asked to provide learning experiences for student interns within the school environments. In recognition of the benefit of having volunteers, interns and other such non-employees providing services within the schools, the Board supports the involvement of these individuals in accordance with suitable regulations and safeguards to be developed by the Administration.

Volunteers, interns and other such non-employees working within the schools ("volunteers") must work under the supervision of Westport Public Schools staff. Volunteers are held to the same standards of conduct as school staff and must observe all Board of Education policies, including applicable policies on the confidentiality of student information.

Volunteers may be required to submit to state and federal criminal record checks and a record check of the Department of Children and Families ("DCF") Child Abuse and Neglect Registry. No person who is required to register as a sex offender under state or federal law, or whose name is currently listed on the DCF registry, may volunteer in the Westport Public Schools.

[All volunteers must comply with all school health and safety protocols in place at the time, including but not limited to any health screening protocols.](#)

No employee of the Westport Public Schools shall serve as a volunteer in any capacity, except as may be approved by the Superintendent or his/her designee based on the specific situation.

Persons interested in volunteering their services should contact the school principal.

#### Legal Reference:

Connecticut General Statutes § 10-4g  
Connecticut General Statutes § 10-220  
Connecticut General Statutes § 10-235  
Connecticut General Statutes § 54-250 et seq.

Policy adopted: June 14, 2021

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Personnel --Certified/Non-Certified

### Non-Discrimination

The Board of Education will not make employment decisions (including decisions related to hiring, assignment, compensation, promotion, demotion, disciplinary action and termination) on the basis of race, color, religion, age, sex, marital status, sexual orientation, national origin, ancestry, disability, ~~(including pregnancy)~~, genetic information, veteran status, or gender identity or expression, except in the case of a bona fide occupational qualification.

It is the policy of the Board of Education that any form of discrimination or harassment on the basis of race, religion, color, national origin, sex, sexual orientation, marital status, age, disability, ~~(including pregnancy)~~, genetic information, veteran status, or gender identity or expression, or any other basis prohibited by state or federal law is prohibited, whether by students, Board employees or third parties subject to the control of the Board. The Board's prohibition of discrimination or harassment in its educational programs or activities expressly extends to academic, nonacademic and extracurricular activities, including athletics. It is also the policy of the Board of Education to provide for the prompt and equitable resolution of complaints alleging any discrimination on the basis of protected characteristics such as race, color, religion, age, sex, sexual orientation, marital status, national origin, disability, ~~(including pregnancy)~~, veteran status, or gender identity or expression.

For the purposes of this policy, "genetic information" means the information about genes, gene products, or inherited characteristics that may derive from an individual or a family member. "Genetic information" may also include an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

For the purposes of this policy, "veteran" means any person honorably discharged from, ~~or~~ released under honorable conditions from [or released with an other than honorable discharge based on a qualifying condition from](#) active service in, the United States Army, Navy, Marine Corps, Coast Guard and Air Force and any reserve component thereof, including the Connecticut National Guard. ["Qualifying condition" means \(A\) a diagnosis of post-traumatic stress disorder or traumatic brain injury made by an individual licensed to provide health care services at a United States Department of Veterans Affairs facility, \(B\) an experience of military sexual trauma disclosed to an individual licensed to provide health care services at a United States Department of Veterans Affairs facility, or \(C\) a determination that sexual orientation, gender identity, or gender expression was more likely than not the primary reason for an other than honorable discharge, as determined in accordance with Conn. Gen. Stat. §§ 27-103\(c\), \(d\).](#)

For the purposes of this policy, "gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

[For the purposes of this policy, "race" is inclusive of ethnic traits historically associated with race, including but not limited to, hair texture and protective hairstyles. "Protective hairstyles" includes, but is not limited to, wigs, headwraps and hairstyles such as individual braids, cornrows, locs, twists, Bantu knots, afros and afro puffs.](#)

Any employee wishing to file a complaint regarding discrimination may obtain a copy of the Board's complaint procedures and complaint form which are included in the Board's Administrative Regulations Regarding Non-Discrimination/Personnel. These regulations accompany Board Policy #4111.1 and Board Policy #4211.1 and are available online at <http://www.westportps.org/district/policies> or upon request from the main office of any district school.

If a complaint involves allegations of discrimination or harassment based on reasons such as gender/sex of

disability, such complaints will be handled under other appropriate policies (e.g., Policy #[4118.112](#) and Policy #[4218.112](#), Sex Discrimination/Harassment in the Workplace; Policy #[4111.4](#) and [4211.4](#), Section 504/ADA).

Any employee also may file a complaint with the Office for Civil Rights, U.S. Department of Education (“OCR”):

Office for Civil Rights, Boston Office  
U.S. Department of Education  
8th Floor  
5 Post Office Square  
Boston, MA 02109- 3921  
(617) 289-0111  
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Employees may also file a complaint regarding employment discrimination with the Equal Employment Opportunity Commission:

Equal Employment Opportunity Commission, Boston Area Office  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
(800-669-4000)

Employees may also file a complaint with the Connecticut Commission on Human Rights and Opportunities:

Connecticut Commission on Human Rights and Opportunities  
450 Columbus Blvd.  
Hartford, CT 06103-1835  
(800-477-5737)

Anyone who has questions or concerns about this policy, or would like a copy of the Board’s complaint procedures or complaint forms related to claims of discrimination, may contact:

### **The Office of the Superintendent, 203-341-1025**

Anyone who has questions or concerns about the Board’s policies regarding discrimination on the basis of gender/sex may contact the Board’s Title IX Coordinator:

### **~~Director~~ [Assistant Superintendent](#) of Human Resources and General Administration, 203-341-1023**

Anyone who has questions or concerns about the Board’s policies regarding discrimination on the basis of disability may contact the Board’s Section 504/ADA Coordinator:

### **Assistant Superintendent of Pupil Personnel Services, 203-341-1250**

#### **Legal References:**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Age Discrimination in Employment Act, 29 U.S.C. § 621

Americans with Disabilities Act, 42 U.S.C. § 12101

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794

Title II of the Genetic Information Nondiscrimination Act of 2008, Pub.L.110-233, 42 U.S.C. § 2000ff; 29 CFR 1635.1 et seq.

Connecticut General Statutes § [10](#)-153. Discrimination on basis of marital status

Connecticut Fair Employment Practices Act, Connecticut General Statutes § [46a](#)-60

Connecticut General Statutes § [46a](#)-81a Discrimination on basis of sexual orientation: Definitions

Connecticut General Statutes § [46a](#)-81c Sexual orientation discrimination: Employment.

Public Act 17-127, An Act Concerning Discriminatory Practices Against Veterans, Leaves of Absence for National Guard Members, Application for Certain Medicaid Programs, and Disclosure of Certain Records to Federal Military Law Enforcement.

**Policy adopted: October 1976** WESTPORT PUBLIC SCHOOLS

**Policy amended: December 1978** Westport, Connecticut

**Policy amended: March 2005**

**Policy amended: January 22, 2018**

**Policy amended: November 11, 2019**

**Policy amended:**

~~WESTPORT PUBLIC SCHOOLS~~

~~Westport, Connecticut~~

## Personnel -- Certified/Non-Certified

### Prohibition of Sex Discrimination and Sexual Harassment in the Workplace

It is the policy of the Westport Board of Education (the “Board”) for the Westport Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. It is the policy of the Board to maintain a working environment free from harassment, insults or intimidation on the basis of an employee's sex and free from discrimination based on sex. ~~Verbal or physical conduct by a supervisor or co-worker relating to an employee's sex that has the effect of creating an intimidating, hostile or offensive work environment, unreasonably interfering with the employee's work performance, or adversely affecting the employee's employment opportunities is prohibited.~~

The Board does not discriminate on the basis of sex in the education programs or activities that it operates and the Board is required by Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”), [Title VII of the Civil Rights Act of 1964 \(“Title VII”\), and Connecticut law](#) not to discriminate in such a manner. [Discrimination or harassment on the basis of sex includes discrimination or harassment on the basis of gender identity or sexual orientation.](#) Students, Board employees and third parties are required to adhere to a standard of conduct that is respectful of the rights of all parties. Any employee or student who engages in conduct prohibited by this Policy shall be subject to disciplinary action, up to and including termination or expulsion, respectively. Third parties who engage in conduct prohibited by this Policy shall be subject to other sanctions, which may include exclusion from Board property and/or activities. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties.

For conduct to violate [Title IX](#) ~~this Policy~~, the conduct must have occurred in an education program or activity of the Board; the conduct must have occurred within the United States of America; and the complainant must be participating in or attempting to participate in the education program or activity of the Board. Conduct that does not meet these requirements still may constitute a violation of [Title VII, Connecticut law, and/or](#) another Board policy.

The Superintendent of Schools shall develop Administrative Regulations implementing this Policy and in accordance with Title IX, [Title VII, and Connecticut law](#) (the “Administrative Regulations”).

**Sex discrimination** occurs when an employer refuses to hire, disciplines or discharges any individual, or otherwise discriminates against an individual with respect to his or her compensation, terms, conditions, or privileges of employment on the basis of the individual’s sex. Sex discrimination also occurs when a person, because of his or her sex, is denied participation in, or the benefits of, any education program or activity receiving federal financial assistance.

**Sexual harassment** [under Title IX](#) means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Board's education programs or activities; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment under Title VII and Connecticut law means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

### Reporting Sex Discrimination or Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination and/or sexual harassment to report such claims. Employees are encouraged to report complaints of sex discrimination and/or sexual harassment promptly in accordance with the appropriate process set forth in the Administrative Regulations. The Board directs its employees to respond to such complaints in a prompt and equitable manner.

Violations of this Policy by employees will not be permitted and may result in discipline up to and including discharge from employment. Individuals who engage in acts of sex discrimination or sexual harassment may also be subject to civil and criminal penalties. Retaliation against any employee for complaining about sex discrimination or sexual harassment is prohibited under this Policy and illegal under state and federal law.

Any Board employee with notice of sex discrimination and/or sexual harassment allegations shall immediately report such information to the building principal and/or the Title IX Coordinator, or if the employee does not work in a school building, to the Title IX Coordinator.

The Westport Public Schools administration (the "Administration") shall provide training to Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process (as set forth in the Administrative Regulations.). ~~Such training will include information on~~ which training shall include, but need not be limited to, the definition of sex discrimination and sexual harassment, the scope of the Board's education program and activity, how to conduct an investigation and implement the grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Administration shall make the training materials used to provide these trainings publicly available on the Board's website. The Administration shall also periodically provide training to all Board

employees on the topic of sex discrimination and sexual harassment under Title IX, [Title VII, and Connecticut law](#), which shall include but not be limited to when reports of sex discrimination and/or sexual harassment must be made. The Administration shall distribute this Policy and the Administrative Regulations to employees, union representatives, students, parents and legal guardians and make the Policy and the Administrative Regulations available on the Board's website to promote an environment free of sex discrimination and sexual harassment.

The Board's Title IX Coordinator is John Bayers, Director of Human Resources and General Administration. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact:

**110 Myrtle Avenue  
Westport, CT 06880  
[jbayers@westportps.org](mailto:jbayers@westportps.org)  
203-341-1004**

[Board employee in receipt of allegations of sex discrimination or sexual harassment, or in receipt of a formal complaint, shall immediately forward such information to the Title IX Coordinator. Board employees](#) ~~Any individual~~ may also make a report of sexual harassment and/or sex discrimination to the U.S. Department of Education: Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone: 617-289-0111).

Employees may also make a report of sexual harassment and/or sex discrimination to the Connecticut Commission on Human Rights and Opportunities, 450 Columbus Boulevard, Hartford, CT 06103-1835 (Telephone: 860-514-3400).

#### Legal References:

Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a).  
Equal Employment Opportunity Commission Policy Guidance on Current Issues of Sexual Harassment (N-915.050), March 19, 1990.  
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.  
Title IX of the Education Amendments of 1972, 34 CFR § 106, et seq.  
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)  
Conn. Gen. Stat. § 46a-54 - Commission powers  
Connecticut General Statutes § 46a-60 Discriminatory employment practices prohibited.  
Conn. Gen. Stat. § 46a-81c - Sexual orientation discrimination: Employment  
Conn. Gen. Stat. § 10-153 - Discrimination on the basis of sex, gender identity or expression or marital status prohibited  
Conn. Agencies Regs. §§ 46a-54-200 through § 46a-54-207

Policy adopted: June 23, 1995  
REVISED: January 22, 2018  
REVISED: August 31, 2020  
[REVISED:](#)

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut



# **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

PAGE 1

*(Background Information for Policy Review Committee)*

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Booster and parent organizations are composed of parents, community members and staff members coming together for the purpose of supporting specific school activities for the benefit of students, such as athletic teams, musical groups, drama groups or academic activities. Such groups are commonly referred to as school-connected organizations. They are an important means of connecting parents and other community members with the curricular and co-curricular activities of students.

In addition, many districts, in response to budget constraints, continue to rely more on alternate sources of revenue to support non-classroom and extracurricular activities. Fundraising by outside support organizations, such as booster clubs and parent groups is increasingly used to supply sports and band equipment, playground equipment, fund field trips and provide other activities or items that may be more difficult to fund through a district's operating budget.

This alternate source of revenue, however, may pose some legal and political consequences, but it remains unreasonable to expect that school districts would disassociate themselves with such outside support organizations and their valuable financial support. Some potential trouble spots are described in the following material. Taking a proactive approach in dealing with booster clubs and parent groups will result in school districts reaping the benefits of support from their dedicated community members and reducing potential liability issues.

## **Potential Trouble Areas**

Typical fundraising activities by booster and parent groups include activities that may include some risk of injury, which may result without proper supervision or sufficient safety measures. The relationship between the outside organization and the school district may dictate who will be responsible in a potential negligence lawsuit. A booster or parent group which is indistinguishable from the school district could result in the district being held responsible for the group's negligence. Factors to consider include (1) whether the group is permitted special access to school facilities and communication forums; (2) school employees routinely assisting in the group's activities; (3) routine use is allowed of the school's name, mascot, or logo; (4) the group is not a separate legally established not-for-profit corporation; and (5) announcements for group-related functions do not provide a clear indication of whether the event is sponsored by the group or the school district.

Another potential problem pertains to the possibility of embezzlement of funds from these groups. There is often a public perception that the district oversees and controls the organizations. This creates a public relations situation for the school district if it fails to take an active role in recovering or reimbursing the embezzled funds, should embezzlement occur.

Discrimination is also a potential trouble spot. Under Title IX, donations by booster clubs may not create vast differences in benefits or services to female and male athletes. Even though the school district is not the direct source of the financial support, Title IX imputes liability to the school district if unequal treatment occurs as a result of the actions of a booster club. Districts have an obligation under Title IX to ensure that the contributions of a booster club do not create disparities in participation opportunities, equipment, and facilities between male and female athletic teams.

## **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

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Failure to ensure equity could result in court ordered penalties or sanctions administered by the Office of Civil Rights (OCR).

OCR stresses that it is the school district's responsibility under Title IX to ensure that boys' and girls' athletic teams are provided with equivalent benefits, services, or opportunities regardless of the source of funding. OCR has no jurisdiction to investigate independent booster groups, but it provides the following guidance on assessing a school district's ultimate responsibility for ensuring Title IX compliance in regards to booster donations:

Where booster clubs provide benefits and services that assist only teams of one sex, the institution shall ensure that teams of the other sex receive equivalent benefits and services. If booster clubs provide benefits and services to athletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, then the institution shall take action to ensure that benefits and services are equivalent to both sexes.

In short, school districts are responsible for Title IX compliance regardless of whether the disparate benefits are created by booster clubs or other sources of outside financial assistance.

In addition, it is important that booster clubs do not violate established athletic (CIAC) association regulations. Such violations could provide the basis for the association to impose various penalties.

In order to limit the risk of school district liability for the activities of booster clubs and parent groups, certain measures are recommended. These measures are outlined below.

### **Policies and Procedures**

The adoption of appropriate board policies and administrative regulations is recommended. These should clarify the relationship between the school district and its booster clubs and parent groups. Groups and clubs that are not incorporated under law as not-for-profit corporations could be categorized as "internal groups" under school district policies. These groups would be subjected to greater district oversight, which would require the groups' income to be deposited in the school's internal accounts and subjects the groups to all policies and procedures related to receiving and disbursing funds.

Other groups and clubs that have incorporated could be classified as "external groups" or independent organizations with bank accounts separate from the school district. Booster groups and related parent organizations need to be properly organized and demonstrate fiscal responsibility by being a 501(c)(3) organization, obtaining a bond and/or arranging regular audits. In order to minimize liability, the school district's errors and omissions insurance should cover parent organizations and booster clubs.

The policy and/or regulations should provide parameters for using the school district's name, logo or mascot. Such use should be revocable and contingent upon complying with school district policies.

## **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

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The district could also require accounting procedures for “external groups.” Such procedures could include the following specific accounting practices to include (1) the treasurer of the group to handle all funds; (2) two signatures required for all checks; (3) funds to be always deposited into the authorized bank account; (4) two people count money and provide the treasurer with a signed proceeds receipt; (5) school employees shall not be authorized to sign checks drawn on the bank account; (6) sales slips, receipts, or invoices are provided for every expenditure; (7) bank statements are reconciled by the treasurer and reviewed by someone without check signing authority; and (8) a copy of the budget shall be provided to the school or district at the beginning of each school year.

The policy and/or procedures could also require prior written approval of the group’s activities by a building principal or designee. Announcements of the event should clearly indicate that it is sponsored by the group and not the school or school district.

### **Insurance**

A general liability insurance policy should be maintained by booster clubs and parent groups. The policy should name the school district as an additional insured party. In some cases, coverage for liability claims made against individuals participating in booster club or parent organization events are limited to events that are sponsored by the school district in cooperation with the outside group. Some policies may only cover booster clubs and parent groups for events during school hours or on school property.

Therefore, it would be prudent for school districts to seek complete coverage by mandating that the outside support organizations obtain comprehensive liability policies and consider property coverage, officer’s liability, and bond coverage for the treasurer or fund custodian.

### **Audits**

Audits help provide a defense against embezzlement and fraud. Therefore, booster clubs and parent groups should be encouraged, if not required, to conduct annual audits of their financial records. The audit should be performed by someone who is independent from the group’s day-to-day financial activities. The completed audit should be presented to the group’s board of directors and also filed with the school district.

### **Record Keeping**

Compliance with Title IX places an obligation on school administrators to monitor the distribution of all benefits to athletic teams provided by the school district and booster clubs.

### **Sharing Information**

Booster clubs and parent groups should receive information on policies relating to sexual harassment, nondiscrimination, fundraising, alcohol and drug-free schools, facility use, donations, advertising, and other issues that could affect the organization and their activities. The athletic booster clubs should also be made aware of pertinent high school athletic association regulations that cover undue influence, compensating coaches and out-of-season activity restrictions.

### **Policy Implications**

Policy #1230, “Parent Organizations and Booster Clubs,” and its accompanying administrative regulation pertain to this topic. This is considered an optional policy for inclusion in a district’s policy manual. It has been updated and follows for your consideration. In addition, a new version of this policy has also been developed and follows.

**April 2020**

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*Version #1 of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

Parent organizations and booster clubs are invaluable resources to the District's schools. The Board of Education (Board) recognizes that parent organizations and extracurricular support groups, or "booster clubs" provide important support to District schools, and can be valuable means of stimulating community interest in the aims and activities of District schools. All such groups must receive the approval of the school Principal, Superintendent and the Board in order to be recognized as a parent or booster organization.

Support organizations may be defined in two ways:

1. an organization which is created to foster community support and provide resources for a particular sport or activity in the school or school system; or
2. an organization which is created to foster community support and raise funds for the school's general extracurricular program.

While parent organizations and booster clubs have no administrative authority and cannot determine District policy, the Board welcomes their suggestions and assistance. It shall be the duty of the Superintendent and respective Building Principal to represent the best interest of the Board and school system in the functioning of these organizations.

Parent organizations and booster clubs are recognized by the Board of Education and permitted to use the District's name, a District school's name, or a District school's team name, or any logo attributable to the District provided they first receive the Superintendent or designee's express written consent.

The Superintendent or his/her designee may revoke the authorization to use the District's name, logo, or mascot if the Superintendent or designee determines that the booster or parent organization has failed to comply with the terms of this policy or any other District policies. The Superintendent or designee will notify the applicable organization in writing of the reasons for the revocation. The revocation decision may be appealed to the Board, whose decision shall be final.

Consent to use one of the above-mentioned names or logos will generally be granted if the organization or club has bylaws containing the following:

1. The organization's or club's name and purpose, such as, to enhance students' educational experiences, to help meet educational needs of students, to provide extra athletic benefits to students, to assist specific sports teams or academic clubs through financial support, or to enrich extracurricular activities.
2. The rules and procedures under which it operates.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

3. An agreement to adhere to all Board policies and administrative procedures.
4. A statement that membership is open and unrestricted, meaning that membership is open to parents/guardians of students enrolled in the school, district staff, and community members or an agreement not to engage in discrimination based on someone's innate characteristics or membership in a suspect classification.
5. A statement that the District is not, and will not be, responsible for the organization's or club's business or the conduct of its members.
6. An agreement to maintain and protect its own finances. The group must maintain bank, financial, and tax exempt status separate from the school or District. The organization will provide to the Board annually or upon request a complete set of financial records or detailed treasurer's report.
7. A recognition that money given to a school cannot be earmarked for any particular expense. Booster clubs may make recommendations, but cash or other valuable consideration must be given to the District to use at its discretion. The Board of Education's legal obligation to comply with Title IX by providing equal athletic opportunity for members of both genders will supersede an organization or club's recommendation.

Parents and other interested community members who wish to organize a parent organization or booster club for the purpose of supporting a specific school program or activity are encouraged to do so as long as the activities of such organizations do not interfere unduly with the total educational program or disrupt District operations in any way. To this end, parent organizations/booster club/support organizations must follow these guidelines:

1. be voluntary;
2. submit an activity schedule in advance to the Superintendent of Schools or his/her designee for prior approval. Any time a booster club uses the name of the District or any language suggesting that the District has endorsed, sponsored or otherwise approved of the club's activities, there must be prior approval by the Superintendent or his/her designee;
3. seek advance approval for any use of school facilities and/or equipment and such use will comply with all policies and regulations established by the Board;
4. avoid interference with any previously approved student activity;
5. seek approval in advance of all fundraising activities by the Superintendent or building Principal;
6. understand and respect the authority of District employees in the administration of their duties;

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

7. assume all financial responsibility for the booster club, including but not limited to the provision of adequate insurance coverage, as appropriate; and
8. submit an annual financial report to the Superintendent or his/her designee (or Building Principal) giving a full accounting of its financial transactions for the year, including monies raised and expended. Adequate financial records shall be maintained at all times.

If a booster club wishes to make a contribution of money, service time or tangible property such as equipment or supplies, a representative of the organization should first meet with the Superintendent or his/her designee. The Superintendent or his/her designee must identify the District's terms and conditions of accepting such gifts in concert with the District's policy pertaining to gifts, grants and bequests.

All items donated become the property of the District and may be used or disposed of in accordance with District policy and any applicable state law. The District reserves the right to modify the use if the needs of the students or the District change.

Booster club proposed plans, projects and other activities must be evaluated and promoted in light of their stated contribution to the academic as well as the extracurricular school programs.

Careful consideration should be given to the total value of the contribution to all students, and not just to specific student groups.

The Board retains final responsibility and authority on all activities which have an impact on students, school programs and/or school owned property.

Further, the Board recognizes its responsibility to ensure that equivalent benefits and services are provided to members of both sexes. The Board will consider gender equity and budget implications before accepting booster club donations. Therefore, if booster clubs provide benefits, services or tangible property that assist only teams or programs of one gender, the Board shall ensure that teams or programs of the other gender receive equivalent benefits, services or tangible property. If a booster club provides benefits, services or tangible property which are greater than that which the District is capable of providing to the athletes or programs of the other gender, the administration shall take action, within policy parameters, to ensure equivalency for both sexes.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

##### **Alternative/Additional Language:**

*The Board of Education is responsible for providing funding for the safe and effective operation of the interscholastic sports program. There may be occasions when Board funding is unavailable to provide everything requested by a coach. All booster club donations must be approved by the Superintendent of Schools or his/her designee (Board of Education) in advance to ensure equity in all sports. “Necessary” expenditures must be provided by the Board of Education through its approved budget. Items that would be “nice” or “beneficial” to have are viewed as appropriate for booster club financial support. Any booster club purchase or expenditure must receive the approval of the team’s head coach and the Athletic Director following the aforementioned approval by the Superintendent of Schools or his/her designee (Board of Education).*

*The Board reserves the right to revoke approval of any booster group if it is found that the group’s operations and purposes are inconsistent with Board policies.*

(cf. 1110.1 - Parental Involvement)  
(cf. 1140 - Distribution of Materials by Students)  
(cf. 1210 - School Community Associations)  
(cf. 1323 - Gifts to Students)  
(cf. 1330 - Use of School Facilities)  
(cf. 3280 - Gifts, Grants and Bequests)  
(cf. 3281 - School Fund Raising)  
(cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

cps 1/01  
rev 11/08  
rev 4/20



*Version #2 of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations**

The Board of Education recognizes that booster clubs perform a valuable service to the schools, and the Board expects school personnel to support such organizations accordingly. It shall be the duty of the Superintendent and respective principals to represent the best interests of the Board, school system and schools in the functioning of such organizations.

Each booster club which is involved with school activities or school students shall develop and maintain a constitution and bylaws setting forth the purposes of the organization and the general rules and procedures by which it shall operate. Each booster club shall provide a copy of its constitution and bylaws, and any revision thereof, to the Superintendent or his/her designee.

Booster clubs shall secure the advice and approval of the Building Principal before planning any function, including fundraising activities, in which students are to participate while under supervision of the District.

A booster organization shall secure the prior advice and approval of the Building Principal before planning any fund-raising activity intended to benefit a school program. The Principal shall suggest needs of the school, including those not requiring fund-raising, that are conducive to the active involvement and significant numbers of interested parents in meaningful service to the school and its students.

Each booster organization shall establish its own system for handling and disbursing its funds; however, all applicable Board policies must be followed when expenditures are for school activities or when funds are to be raised through the use of students and District facilities.

Any item purchased by booster clubs for school or school activity use shall become the property of the District, and may be used or disposed of in accordance with District property and any applicable state law. The District reserves the right to modify the use if the needs of the students or District change.

The Board recognizes its responsibility to ensure that equivalent benefits and services are provided to members of both sexes. The Board will consider gender equity and budget implications before accepting booster club donations. Therefore, appropriate actions will be taken to ensure that benefits and services are equivalent for both sexes, regardless of funding sources.

The Superintendent is directed to develop regulations containing guidelines by which booster clubs shall operate in the District. Such guidelines shall include, but not be limited to, such topics as permissible awards, fund raising, insurance requirements, annual reporting, use of facilities, recognition functions, concessions at school events and expenditures for student equipment and supplies.

## Community Relations

### Other School-Connected Organizations

#### Booster Clubs/Organizations (continued)

Permission to use the name of the District or any District school, or logos or mascots may be rescinded at any time and does not constitute permission to act as the District's representative. At no time does the District accept responsibility for the actions of any parent organization or booster club regardless of whether it was recognized and/or permitted to use any of the above-mentioned names or logos. The Superintendent or his/her designee may revoke the authorization to use the District's name, logo, or mascot if the Superintendent or designee determines that the booster or parent organization has failed to comply with the terms of this policy or any other District policies.

#### Alternative Language:

*The Board of Education is responsible for providing funding for the safe and effective operation of the interscholastic sports program. There may be occasions when Board funding is unavailable to provide everything requested by a coach. All booster club donations must be approved by the Superintendent of Schools or his/her designee (alternative: Board of Education) in advance to ensure equity in all sports. "Necessary" expenditures must be provided by the Board of Education through its approved budget. Items that would be "nice" to have are viewed as appropriate for booster club financial support. Any booster club purchase or expenditure must receive the approval of the team's head coach and the Athletic Director following the aforementioned approval by the Superintendent of Schools or his/her designee (and/or Board of Education).*

*The Board reserves the right to revoke approval of any booster group if it is found that the group's operations and purposes are inconsistent with Board policies.*

- (cf. 1110.1 - Parental Involvement)
- (cf. 1140 - Distribution of Materials by Students)
- (cf. 1210 - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. 1330 - Use of School Facilities)
- (cf. 3280 - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.  
34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

rev 11/08  
rev 4/20

*A detailed sample regulation to consider/modify.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations**

Booster organizations are important to the extracurricular activities provided for District students. Such organizations provide positive support to the students, the program, and the personnel in a particular program. Booster organizations shall comply with established guidelines in cooperation with the Superintendent or his/her designee. The following guidelines regulate booster organization within this District.

##### **1. Constitution/Bylaws/Officers**

Each booster organization involved with school activities or students shall develop and maintain a constitution and bylaws for the organization setting forth the purposes of the organization and the general rules and procedures by which it shall operate. A copy of the constitution and bylaws shall be forwarded to the Superintendent or his/her designee. Each booster organization shall submit a list of officers annually to the Superintendent or his/her designee.

##### **2. Fund Raising Activities**

Fund raising activities shall be requested in writing to the Building Principal, reviewed at the building level, approved by the Superintendent or his/her designee and conform to District guidelines. Two (2) major fund-raising activities involving students shall be permitted each year; exceptions may be granted by the Superintendent. Fund-raising activities may occur during the length of a particular athletic/sport season or as a special activity approved by the Superintendent or his/her designee. No student time during the regular school day shall be allowed for fund-raising activities for any booster organization. Student solicitation within the community for any booster organization shall be minimal.

Announcements of booster organization events and activities shall clearly indicate that it is sponsored by the group and not the school or District. Groups should warrant that the activities will be adequately supervised.

##### **3. Permissible Awards**

An approved booster organization may purchase a sweater, jacket, blazer, blanket, shorts, jersey, cap, watch, ring, photograph, medal, plaque, or similar trophy with appropriate insignia of comparable identification, for an athlete, in recognition of his/her athletic performance, and present such awards at a time appropriate to such recognition.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

##### **4. Insurance**

Each booster organization shall maintain appropriate insurance coverage recommended by the District for bodily injury and property damage, naming the District as additional insureds. Proof of such coverage shall be submitted to the District's Business Office.

##### **5. Audit/Treasurer's Report**

Booster organizations shall handle their own accounting and bookkeeping procedures and maintain their own separate accounts for income and expenditures.

Each booster organization shall prepare an audit or treasurer's report at least once a year. A copy of the audit/treasurer's report shall be submitted to the Superintendent or his/her designee and forwarded to the Board of Education upon request. Such report shall provide a full accounting of the organization's financial transactions for the year, including money raised and expended.

##### **6. Use of Facilities**

Booster organizations requesting use of facilities and/or services shall initiate those requests with the Building Principal and in compliance with the District's policy on facility usage. No activity shall be permitted without such approval.

##### **7. Recognition Functions**

A booster club may sponsor athletic banquets to which student athletes may be invited without charging admission to such athlete.

A booster club planning a recognition event shall request permission of the Building Principal to conduct such an event and to clear the date for the event.

##### **8. Concessions**

Booster organizations involved in concessions at school events shall follow applicable District guidelines.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

#### **9. Expenditures for Equipment, Supplies, etc.**

All game uniforms shall be purchased by the District. The “game uniform” shall include any clothing, headgear or shoes that (a) display the school colors or logo (except shoes), (b) are purchased by the District, (c) are worn in warm-up for a contest, during the contest, or immediately subsequent to the contest, and (d) is intended to be collected by the school at the conclusion of the season. Ancillary gear and apparel such as coaching aid equipment items, shoes, bags or totes, etc., may, however, be purchased and/or donated by booster groups, corporate sponsors, or other non-school sanctioned entities. Items purchased or donated other than by the District must meet the criteria as defined below:

- The donation/purchase of goods shall meet all applicable policies and procedures of the District;
- The donation/purchase of goods shall adhere to all applicable Board policies and guidelines;
- The donation/purchase of goods shall have the written approval of the Building Principal and Athletic Director prior to any deliberations commencing with a potential provider;
- Any donation of goods may not be in conflict with any District-level sponsorships that may be in effect;
- Any agreement or contract proposed shall be reviewed by the District’s attorney and the Superintendent or his/her designee;
- Consideration must be given to the impact of booster organization purchases, donations or services on Title IX compliance. Approval will be based on maintaining the necessary equivalence of benefits and services to both genders.

#### **10. Compliance**

Should any situation emerge between a booster organization and the administration regarding the management of any school-related activity, the Superintendent or his/her designee shall resolve the issue within these established guidelines or Board policy. No booster organization shall engage in any activity outside these guidelines. Further, in conducting its activities, booster organizations shall comply with all state and federal laws, as applicable.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

##### **Other language to consider:**

- *The organization may not use school materials in advertising its activities.*
- *All funds raised by the booster organization will be used to achieve the stated purposes and goals of the organization. No administrative fees or stipends to officers or others will be permitted.*
- *The booster organization must maintain bank, financial, and tax exempt status separate from the District.*

(cf. 1110.1 - Parental Involvement)

(cf. 1140 - Distribution of Materials by Students)

(cf. 1210 - School Community Associations)

(cf. 1323 - Gifts to Students)

(cf. 1330 - Use of School Facilities)

(cf. 3280 - Gifts, Grants and Bequests)

(cf. 3281 - School Fund Raising)

(cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Regulation approved:

rev 11/08

rev 4/20

*Another version of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

The Board of Education (Board) recognizes the importance of athletic and extracurricular activities in the well-rounded development of public school students. Participation in such athletic and activities programs builds character, a sense of responsibility and discipline, and promotes proper conduct, all of which are central to the educational mission of the District.

The Board further recognizes the contribution and support which its athletic, extracurricular activities and educational programs receive from parents and members of the community who have organized booster clubs, parent-teacher organizations (PTO's/PTA's) and other support groups with similar purposes. This policy is adopted to define the relationship between the Board of Education and athletic booster clubs, PTO's and similar groups whose purpose is to support the school District's athletic activities and educational programs.

#### **Group Status**

Booster clubs and parent-teacher organizations (PTO's/PTA's) are neither school-sponsored clubs nor student-initiated clubs as those clubs or groups are defined in Board policy. Booster clubs and PTO's/PTA's shall constitute "outside clubs or groups" which are school-related but must meet the terms of this policy in order to use the School District's or an individual school's name, mascot or logo and to use School District facilities as a school-related organization.

#### **Booster Clubs**

Booster clubs for such activities including, but not limited to, athletics, band, cheerleading, drama, choir, fine arts or academic activities are welcome to form, support and assist such student activities or programs, both financially and with volunteer assistance. Booster clubs must comply with the requirements of this Policy in order to use the name of the individual school or School District, school or School District mascots or logos, and to have access to School District facilities as a school-related organization.

A booster club must prepare and submit to the Board of Education a copy of its organizational bylaws and constitution by presenting the same to the Superintendent of Schools prior to initiating such support or assistance. All booster organizations must operate within the applicable standards and guidelines set by the Connecticut Interscholastic Athletic Conference (CIAC), and shall not either promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards.

Upon formation and annually thereafter, each booster club shall provide the Superintendent with the names, telephone numbers and addresses of each officer of the booster club, and the position held.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

##### **Parent Teacher Organizations**

The Board encourages the formation and operation of parent-teacher organizations at each school site or campus in the School District to provide financial support or volunteer assistance to the school. Parent-teacher organizations must comply with the requirements of this policy in order to use the name of the individual school or School District, school or School District mascots or logos, and to have access to School District facilities as a school-related organization. Each parent teacher organization shall prepare and submit to the School Board a copy of its organizational bylaws and constitution to the Building Principal and the Superintendent prior to initiating such support or assistance. Upon formation and annually thereafter, each organization must provide the Building Principal and the Superintendent with the names, telephone numbers and addresses of each officer of the organization, and position held.

##### **Accounting by Booster Clubs and PTO's/PTA's**

Each booster club or parent teacher organization must have its own checking account and the bylaws for the group must require two signatures for any disbursement from that account. Booster club or PTO/PTA funds and accounts are not District accounts and will not be included in the District's budgeting and accounting for annual District audit purposes. Funds collected by the booster club or PTO/PTA are not to be deposited into the District's student activity accounts.

However, as an express condition to the Board's consent for the booster club or parent teacher organization to use the District's name, school name, school or District mascots or logos, or to use District facilities as a school-related organization, the booster club or PTO/PTA shall conduct an annual accounting or audit of its receipts and disbursements and submit a financial or audit report, performed in accordance with generally accepted auditing principles, to the Superintendent of Schools by October 1 of each calendar year. In the alternative, the booster club or parent teacher organization shall permit the District's school finance director or designee to audit the accounts of the booster club or PTO/PTA on request, no less than annually. Officers of a booster club or PTO/PTA shall be responsible for safeguarding any funds raised by the organization and to ensure that funds are spent only for purposes related to the goals and objectives of the booster club or PTO/PTA, and the published or advertised reasons for the particular fund-raising activity. The organization's bylaws shall specify reasonable procedures for internal financial control which shall be reviewed by the District's finance director.



## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

##### **Accounting by Booster Clubs and PTO's/PTA's (continued)**

The booster club or PTO/PTA shall not represent or imply that its activities, contracts, purchases, or financial commitments are made on behalf of or binding upon any school of the School District or the School District itself. Such a statement shall appear on all purchase orders, contracts or other forms of financial commitment issued by the booster club or PTO/PTA.

#### **Fundraising**

Each booster club or parent teacher organization shall hold a limited number of (or: be limited to two) fundraisers each school year which involve students in fundraising activities outside of the school setting. Booster clubs and PTO's/PTA's shall notify and obtain the approval of the Superintendent of Schools or his/her designee to assure that scheduling of fundraisers does not conflict with District programs or activities, and that the fund-raising process is consistent with the goals and mission of the school or District.

School employees, including athletic coaches, trainers or sponsors of school-sponsored student groups, shall not act as the primary organizers or spokespersons for any booster club or PTO/PTA fundraising event. Participation in fundraising activities by a booster club or PTO/PTA shall not be considered as a factor in a student's level of participation in any school activity or athletic program.

#### **Title IX Compliance**

The Board discourages the formation or organization of booster clubs which sponsor, assist or support student activities or athletic programs which predominantly serve student participants of a single sex. In order to assure that contributions or support by booster clubs and PTO's/PTA's do not create inequities or significant disparities in the program, equipment and facilities made available to students participating in single sex sports, the booster club or PTO/PTA shall only donate funds or tangible personal property contributed to the District's educational, extracurricular or athletic programs, by program or sport, through Board Policy #3280. Support provided to a single athletic program, regardless of source, must be included in the District's evaluation of its overall athletic program and the comparability of benefits made available to male versus female athletes.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

- (cf. 1110.1 - Parental Involvement)
- (cf. 1140 - Distribution of Materials by Students)
- (cf. 1210 - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. 1330 - Use of School Facilities)
- (cf. 3280 - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

cps 4/20

## Instruction

### Survey of Students/Student Privacy~~Student Privacy~~

Surveys can be a valuable resource for schools and ~~communities in determining student needs for educational services.~~ ~~W~~hen a survey is used, ~~every~~ effort should be made to ask questions in a neutral manner to help ensure the accuracy of the survey.

Administrators, teachers, other staff members and the Board of Education may use surveys for many purposes. Such purposes may include, but are not limited to, determining the need for student services, ~~the determination of~~ determining prevailing views pertaining to proposed policies and/or practices, or determining ~~the determination of~~ student knowledge and/or attitudes related, to a specific subject or units. These are examples of surveys and not intended to be an all-inclusive listing. Surveys require ~~A~~ administrative approval, as applicable. ~~is required for surveys.~~ Responses to surveys will not be used in any identifying manner unless a legally recognized exception or exemption applies.

In accordance with federal law, the Board of Education adopts ~~, in consultation with parents,~~ the following provisions related to student privacy.

### I. Definitions

- A. "Invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.
- B. "Parent" includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child).
- C. "Personally identifiable information" includes, but is not limited to,
  - 1. the student's name;
  - 2. the name of the student's parent or other family members;
  - 3. the address of the student or student's family;
  - 4. a personal identifier, such as the student's social security number, student ID number, student email, computer ID, other tracking code, or biometric record;
  - 5. other information that, alone or in combination, is linked or linkable to a specific student that would allow ~~a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify~~ the identification of the student with reasonable certainty; or

6. information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

D. "Personal information" means individually identifiable information including—

1. a student's or parent's first and last name;
2. a home or other physical address (including a street name and the name of a city or town), an email address, -or physical or technical (device) address or identifier;
3. a telephone number; or
4. a Social Security identification number.

E. "Survey" ~~includes an evaluation~~ is defined as the collection of information from a ~~sample of~~ two or more individuals through their responses to questions, but does not include a survey or evaluation administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.).

## II. Student Surveys

All student surveys must be reviewed by the Superintendent, recommended to the Board of Education by the Superintendent, and shall have the approval of the Board of Education as to content and purpose.

Surveys conducted for agencies, organizations, or individuals other than the Westport Public Schools must have the recommendation of the Superintendent, or ~~his/her~~ their designee, and approval of the Board of Education as to content and purpose.

A. Surveys Funded in Whole or in Part by the U.S. Department of Education require an active opt-in by parents for student participation~~a~~:

1. The administration shall make available for inspection by parents all instructional materials, including teacher's manuals, films, tapes or other supplementary material which will be used in connection with any survey, analysis, or evaluation funded in whole or in part by the U.S. Department of Education.
2. The administration shall obtain the prior written consent of the parent or student (if the student is an adult or an emancipated minor), prior to requiring a student to submit to a survey, analysis, or evaluation funded in whole or part by the U.S. Department of Education that reveals information concerning any of the following topics:
  - a. political affiliations or beliefs of the student or the student's parent;
  - b. mental or psychological problems of the student or the student's parent;
  - c. sex behavior or attitudes;

- d. illegal, anti-social, self-incriminating, or demeaning behavior;
- e. critical appraisals of other individuals with whom respondents have close family relationships;
- f. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- g. religious practices, affiliations, or beliefs of the student or of the student's parent; or
- h. income (other than that required by law to determine eligibility in a program or for receiving financial assistance under such program).

B. All Other Surveys shall require the administration to give ample and adequate notice, offer parents the option to review the survey, and opt out of one or all surveys. When possible, the student should be given the option to complete a survey on paper (not digital platform). ~~Whether Funded by Sources Other than the U.S. Department of Education, or Not Funded by Any Source:~~

1. Third Party Surveys

- a. ~~a. —~~ Prior to distributing any ~~third party~~ survey, the administration shall give specific, stand-alone notification, at least two weeks in advance, of that particular survey ~~notice~~ to parents (or in the case of an adult or emancipated minor, ~~him or herself~~ ~~himself~~) of the district's intent to distribute a ~~survey on behalf of a third party~~ survey. The administration shall give parents the option of email or written opt-out. If possible, the student should be given the option to take the survey using pencils/pen and paper.
- b. The notice for any survey shall contain information fully disclosing the group or groups who are conducting the survey, the purpose of the survey, clear disclosure on whether any question in the survey would be considered a confidential/sensitive topic, the timing/date of when the survey will be administered, and the date by which an opt-out would need to be received and the link or email address to which to send the opt-out. ~~with a written opt out or option for pen/pencil survey.~~
- ~~b.c.~~ Upon request, the administration shall permit parents to inspect any ~~third party~~ survey before it is administered or distributed by a school to a student. The administration shall ~~grant reasonable access to the survey within a reasonable period of time after a parental request is received.~~ make electronic or print versions of a survey available to parents for a minimum of 10 school days. Communication to parents about how and where to review the survey shall be clear and communicated in a dedicated email. The communications shall clearly state that the school is unable to guarantee that a survey is anonymous. The school shall make every

effort to make it easy for parents to review surveys.

- c. At no time are surveys considered student records and any survey results shall receive the highest level of data and privacy protections. All survey results shall be subject to the ~~Student responses to third party surveys that contain personally identifiable information shall be considered student records, and shall be subject to the~~ district's Confidentiality and Access to Student Records Policy and any administrative regulations or procedures governing ~~the confidentiality~~ student data privacy confidentiality. ~~of student records.~~

## 2. Confidential Topic Surveys

- a. The provisions of this subsection apply to any survey (i.e., any ~~collection of personally~~ access to, linkage with, or collection of personally identifiable information from students, whether or not it resembles a formal "survey), regardless who sponsors it, or whether it is sponsored at all, which (~~sponsored by the school district or a third party~~) which contains questions pertaining to one or more of the following items ("Confidential Topic Surveys"):

- i) political affiliations or beliefs of the student or the student's parent,
- ii) mental or psychological problems of the student or the student's parent,
- iii) sex behavior or attitudes,
- iv) illegal, anti-social, self-incriminating, or demeaning behavior,
- v) critical appraisals of other individuals with whom respondents have close family relationships,
- vi) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers,
- vii) religious practices, affiliations, or beliefs of the student or of the student's parent,
- viii) income (other than that required by law to determine eligibility in a program or for receiving financial assistance under such program).
- ix) biometric records
- x) medical/genetic information

- b. ~~b.~~ Prior to distributing any survey, the administration shall give specific, stand-alone notification, at least two weeks in advance, of that particular survey to par

case of an adult or emancipated minor, themselves) of the district's intent to distribute a survey. The administration shall give parents the option of email or written opt-out. If possible, the student should be given the option to take the survey using pencils/pen and paper.

~~At the beginning of the school year, the administration or faculty shall give direct notice to parents of affected students of the district's intent to distribute one or more Confidential Topic Survey(s). Such notice shall include the specific or approximate dates during the school year of such distribution. This notice shall also permit the parent or student (if an adult or emancipated minor) to opt in or opt out of all such Confidential Topic Surveys for the year, and shall further permit the parent or student to choose to opt in solely through the use of paper and pencil for such surveys, in lieu of a web-based platform.~~

- c. ~~e. —~~ The notice for any survey shall contain information fully disclosing the group or groups who are conducting the survey, the purpose of the survey, clear disclosure on whether any question in the survey would be considered a confidential/sensitive topic, the timing/date of when the survey will be administered, and the date by which an opt-out would need to be received and the link or email address to which to send the opt-out..
- d. Upon request, the administration shall permit parents to inspect any survey before it is administered or distributed by a school to a student. The administration shall make electronic or print versions of a survey available to parents for a minimum of 10 school days. Communication to parents about how and where to review the survey shall be clear and communicated in a dedicated email. The communications shall clearly state that the school is unable to guarantee that a survey is anonymous. The school shall make every effort to make it easy for parents to review surveys.

~~Upon request, the administration shall permit parents to inspect any Confidential Topic Survey before it is administered, distributed or used by a school to or with a student. The administration shall grant reasonable access to the Confidential Topic Survey within a reasonable period of time after a parental request is received.~~

- d. Confidential Topic Surveys may only be administered to students whose parents (or, in the case of an adult or emancipated minor, the student him or herself) has submitted a written opt-in for such Surveys. Where parents (or adult or emancipated minor students) have not opted in to all such Surveys at the beginning of the year, the administration or individual teachers may solicit a written opt-in in advance of a specific Survey. A written opt in for that Survey shall only apply to that Survey, and shall include the option to use paper and pencil for that Survey, in lieu of a web-based platform. not be administered to students whose parents (or, in the case of an adult or emancipated minor, the student him or herself themselves)

has submitted a written opt-out for such Surveys. Where parents (or adult or emancipated minor students) have not opted out to all such Surveys at the beginning of the year, the administration or individual teachers shall solicit a written opt-out in advance of a specific Survey. A written opt-out for that Survey shall only apply to that Survey, and shall include, where possible, -the option to use paper and pencil for that Survey, in lieu of a web-based platform. Furthermore, it shall be the responsibility of the administration to provide, at a minimum, annual training on policies governing the use of Confidential Topic Surveys.

- e. At no time are surveys considered student records and any survey results shall receive the highest level of data and privacy protections. All survey results shall be subject to the district's Confidentiality and Access to Student Records Policy and any administrative regulations or procedures governing student data privacy confidentiality.

~~Student responses to any Confidential Topic Survey that contains personally identifiable information shall be considered student records, and shall be subject to the district's Confidentiality and Access to Student Records Policy and any administrative regulations or procedures governing the confidentiality of student records.~~

~~e. Upon written request, the administration shall permit the parent or student (if an adult or emancipated minor) to opt out of participation in any Confidential Topic Survey described in this subparagraph.~~

### III. Collection of Personal Information

- A. The provisions of this subsection apply to any instrument designed to collect personal information from a student for the purpose of marketing, selling or otherwise distributing such information or providing that information to others for that purpose. The provisions of subsection II, above, apply to any instruments described in this section that also meet the requirements of subsection II.
- B. At the beginning of the school year, the administration shall give direct notice to parents of affected students (or to the students aged eighteen (18) or older or emancipated minors) of the district's intent to collect, disclose or use personal information collected from students for the purpose of marketing, selling or otherwise distributing such information or providing that information to others for that purpose. Such notice shall include the specific or approximate dates during the school year of such collection, disclosure or use of personal information.
- C. Upon written request, the administration shall permit parents to inspect an instrument designed to collect personal information of students before it is administered or distributed by a school to a student. The administration shall grant reasonable access to the instrument within a reasonable period of time after a parental request is received.
- D. The administration will require parents (or students aged eighteen (18) or older or emancipated minors) to opt in to participation in the collection, disclosure or use of personal information obtained from students for the purposes of



selling or otherwise distributing the personal information to others for that purpose.

E. The provisions regarding the collection, disclosure and/or use of personal information do not apply to personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

1. college or other post-secondary education recruitment, or military recruitment\*;
2. book clubs, magazines, and programs providing access to low-cost literary products;
3. curriculum and instructional materials used by elementary schools and secondary schools;
4. tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students;
5. the sale by students of products or services to raise funds for school-related or education-related activities;
6. student recognition programs.

\*Note: Notwithstanding the foregoing, the district will permit parents and students over the age of eighteen (18) or emancipated minors to prevent disclosure of secondary school students' names, addresses and telephone numbers to military recruiters and institutions of higher education, in accordance with the district's Confidentiality and Access to Student Records Policy.

#### **IV. Non-Emergency Invasive Physical Examinations and Screenings:**

A. The provisions described in this subparagraph shall apply to any non-emergency, invasive physical examinations/screenings conducted by the school district, when such examinations/screenings meet the following conditions:

1. they are required as a condition of attendance;
2. they are administered by the school and scheduled by the school in advance;
3. they are not necessary to protect the immediate health and safety of the students; and
4. they are not required by state law.

B. At the beginning of the school year, the administration shall give direct notice to parents of affected students (or the affected student if eighteen (18) or older or an emancipated minor) of the district's intent to conduct non-emergency invasive physical examination(s)/ screening(s) described above, except for

or scoliosis screenings. Such notice shall include the specific or approximate dates during the school year of the administration of such the non-emergency invasive physical examination(s) / screening(s).

- C. Upon written request, the administration shall permit parents of affected students or the affected students (if adults or emancipated minors) to opt out of participation in the non-emergency invasive physical examination(s)/screening(s) described in this subparagraph.

## V. Complaint Procedure

Parents or students (if adults or emancipated minors) who believe that their rights under this policy have been violated may file a complaint with:

Family Policy Compliance Office  
United States Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-8520

~~Surveys can be a valuable resource for schools and communities in determining student needs for educational services. When a survey is used, every effort should be made to ask questions in a neutral manner to ensure the accuracy of the survey.~~

~~Administrators, teachers, other staff members and the Board of Education may use surveys for many purposes. Such purposes may include, but are not limited to, the need for student services, the determination of prevailing views pertaining to proposed policies and/or practices, or the determination of student knowledge and/or attitudes related, to a specific subject or units. These are examples of surveys and not intended to be an all-inclusive listing. Administrative approval is required for surveys. Responses will not be used in any identifying manner.~~

~~Surveys used in any experimental program or research project will be subject to the requirements of Policy 6141.11. Parents shall have the right to inspect all instructional material that will be used for a survey, analysis, or evaluation as part of a federal program.~~

~~Prior to administering a survey, the Board of Education must approve all that are received by the Superintendent that include reference to any of the factors listed below. In addition, no student may, without parental consent, take part in a survey, analysis, or evaluation that reveals information concerning:~~

- ~~—political affiliations or beliefs of the student or the student's parents;~~
- ~~2. mental or psychological problems of the student or the student's family;~~
- ~~3. sex behavior or attitudes;~~
- ~~4. illegal, anti-social, self-incriminating and demeaning behavior;~~
- ~~5. critical appraisals of other individuals with whom respondents have close family relationships;~~
- ~~6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers;~~

~~7. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program); or~~

~~8. religious practices, affiliations or beliefs of the student or the student's parent/guardian.~~

~~Surveys conducted for other agencies, organizations or individuals must have the recommendation of the Superintendent of Schools and the approval of the Board of Education as to content and purpose. The results of such approved surveys must be shared with the Board of Education.~~

~~Parents/guardians shall have the right to inspect, upon their request, a survey created by a third party before the survey is administered or distributed by a school to a student. Such requests shall be made in writing with a response to be at least two weeks in advance of any survey to be given.~~

~~For surveys not funded in any part by the federal government, parents/guardians need not give written consent, but must instead be given prior notice of the survey with the opportunity to opt their child out of participation if the survey elicits information concerning any of the eight protected areas listed above.~~

~~Overall survey results following decisions must be shared with all parties who request such information.~~

~~Parents/guardians shall be notified at least annually, at the beginning of the school year, of this policy and when enrolling students for the first time in district schools. This notification must explain that parent/guardians, or students 18 or older, have the right to "opt the student out of participation," in writing, in the following activities:~~

~~1. The collection, disclosure and use of personal information gathered from students for the purpose of marketing or selling that information. This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to students, such as:~~

~~a. College or other post-secondary education recruitment, or military recruitment;~~

~~b. Book clubs, magazines and programs providing access to low-cost literary products;~~

~~c. Curriculum and instructional materials used in schools;~~

~~d. Tests and assessments;~~

~~e. Student recognition programs; and~~

~~f. The sale by students of products or services to raise funds for school-related activities;~~

~~2. The administration of any survey that delves into the restricted sensitive subject areas identified and listed above, or~~

~~3. The administration of any non-emergency, invasive physical examination~~

~~that is required as a condition of attendance, administered by the school not necessary to protect the immediate health or safety of the student or other students and not otherwise permitted or required by state law.~~

~~*Note: The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision or scoliosis screening.*~~

~~The term "personal information" means individually identifiable information including a student's or parent's name, address, telephone number, or social security number.~~

~~Parents/guardians of a student shall also have the right to inspect, upon request, any instructional material used as part of the educational curriculum. The District shall grant reasonable access to instructional material within a reasonable period of time after a parental request is received.~~

~~*Note: The term "instructional material" means instructional content that is provided to a student, regardless of format. It does not include tests or academic assessments.*~~

~~(cf. 6161 – Instructional Materials Selection)~~

#### Legal Reference:

Family Educational Rights and Privacy Act (FERPA), codified at 20 U.S.C. § 1232g; 34 CFR Part 99

Protection of Pupil Rights Amendment, Public Law 107-110, § 1061, codified at 20 U.S.C. § 1232h

~~Elementary and Secondary Education Act of 1965, 20 U.S.C. §1232h Protection of Pupil Rights Amendment, as amended by the Every Student Succeeds Act, Pub. L. 114-95~~

~~Regulation 34 CFR Part 98 (PPRA Regulations)~~

Policy adopted:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## **Community Relations**

### **Policy Regarding Possession of Deadly Weapons or Firearms**

#### **I. Definitions:**

**A. Deadly Weapon** means "any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles." Conn. Gen. Stat. § 53a-3 (6).

**B. Firearm** means "any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded from which a shot may be discharged." Conn. Gen. Stat. § 53a-3 (19).

**C. Peace Officer** means "a member of the Division of State Police within the Department of Emergency Services and Public Protection or an organized local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal while exercising authority granted under any provision of the general statutes, a judicial marshal in the performance of the duties of a judicial marshal, a conservation officer or special conservation officer, as defined in section 26-5, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19, an adult probation officer, an official of the Department of Correction authorized by the Commissioner of Correction to make arrests in a correctional institution or facility, any investigator in the investigations unit of the office of the State Treasurer, an inspector of motor vehicles in the Department of Motor Vehicles, who is certified under the provisions of sections 7-294a to 7-294e, inclusive, a United States marshal or deputy marshal, any special agent of the federal government authorized to enforce the provisions of Title 21 of the United States Code, or a member of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut created and governed by a memorandum of agreement under section 47-65c who is certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive." Conn. Gen. Stat. § 53a-3 (9).

**D. Real Property** means the land and all temporary and permanent structures comprising the district's elementary and secondary schools, and administrative office buildings. Real property includes, but is not limited to, the following: classrooms, hallways, storage facilities, theatres, gymnasiums, fields and parking lots.

**E. School-Sponsored Activity** means "any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property." Conn. Gen. Stat. § 10-233a(h).

#### **II. Prohibition of Deadly Weapons and Firearms**

In accordance with Conn. Gen. Stat. § 29-28(e) and § 53a-217b, the possession and/or use of a deadly weapon or firearm on the real property of any school or administrative office building in this

district, or at a school-sponsored activity, is prohibited, even if the person possessing the deadly weapon or firearm has a permit for such item.

### III. Peace Officer Exception

A peace officer engaged in the performance of his or her official duties who is in lawful possession of a deadly weapon or firearm may bring such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity.

### IV. Other Exceptions

~~Persons in lawful possession of a deadly weapon or firearm may possess such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity, if the person brings the deadly weapon or firearm on the real property of any school or administrative office building or to a school-sponsored activity for use in a program approved by school officials. In such case, the person must give school officials notice of his/her intention to bring such item, and the person must receive prior written permission from school officials.~~

### V. Consequences

A. Unless subject to one of the exceptions listed above, any person who possesses a deadly weapon or firearm on the real property of an elementary or secondary school in this district, or administrative office building, or at a school-sponsored activity, whether or not the person is lawfully permitted to carry such deadly weapon or firearm, will be reported to the local police authorities once school officials become aware of its possession.

B. A student who possesses and/or uses any deadly weapon or firearm on school property in violation of this policy shall be disciplined in accordance with Board of Education Student Discipline Policy.

C. The Board of Education reserves the right to forbid anyone caught possessing a deadly weapon or firearm on the real property of its school buildings or administrative office buildings, or at a school-sponsored activity, from using any and all school facilities.

This policy does not apply to persons in lawful possession of deadly firearms or weapons who enter a town office, other than a Board of Education office, that is located in the same building as the school administrative offices, in accordance with applicable law.

### Legal References:

	<u>Connecticut General Statutes § 10-233a</u>
	<u>§ 10-244a</u>
	<u>§ 29-28(e)</u>
	<u>§ 53a-3</u>
	<u>§ 53a-217b</u>

Policy approved:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Bylaws of the Board

### MEETING CONDUCT

#### 1. Meeting Conduct

- A. Meetings of the Board of Education shall be conducted by the Chairperson in a manner consistent with the provisions of the Freedom of Information Act and the adopted bylaws of the Board.
- B. All Board meetings shall commence at, or as close as practicable to, the stated time, provided there is a quorum.
- C. All regular and special Board meetings shall be guided by an agenda which will have been prepared and delivered in advance to all Board members and other designated persons.
- D. Robert's Rules of Order shall govern the proceedings of the Board except as otherwise provided by these bylaws.

#### 2. Smoking, Vaping, and Use of Electronic Nicotine Delivery Systems

- A. Use of tobacco, electronic nicotine delivery systems (e.g. e-cigarettes), or vapor products will not be permitted in any room in which a meeting of the Board of Education is being conducted, nor during the time immediately prior to the meeting.
- B. A sign notifying the public that no smoking is allowed in the place designated for the meeting will be prominently posted.

#### 3. Procedures for Participation By Means of Electronic Equipment

- A. Board members may participate in meetings by means of electronic equipment (e.g., telephone, video conference) under the conditions set forth herein. When such conditions are met, any Board member participating by means of electronic equipment shall be counted for the purpose of constituting a quorum. Conditions for participation are as follows:
  - 1. The facility that is made available to the public that wishes to attend the meeting must be located where the greatest number of Board of Education members are located;
  - 2. Any physical or demonstrable material that is used in the course of the proceedings must be present in the place where the public is located; and
  - 3. All those in attendance at the meeting, at whatever location, must be able to hear and identify all participants in the proceeding, including their individual remarks and votes.
- B. When a Board member is participating in a meeting by means of electronic equipment, the Chairperson shall take the necessary steps to ensure that the three conditions enumerated above are met. In addition, the Chairperson shall take the necessary steps to ensure that a Board member participating by means of electronic equipment has adequate opportunity to express himself/herself in Board discussion, including the opportunity to take the floor and make motions.

#### 4. Public Address

- A. The Board may permit any town resident or employee, or any parent/guardian of an enrolled student, to address the Board concerning any subject that lies within its jurisdiction during a portion of the Board's regular meetings so designated for such purpose.

~~(1)~~1. Two (2) minutes may be allotted to each speaker on non-agenda items and three (3) minutes on agenda items with a maximum of fifteen (15) minutes on non-agenda items. The Board may modify these limitations at the beginning of a meeting if the number of persons wishing to speak makes it advisable to do so.

~~(2)~~2. A Board of Education member shall be appointed by the Chairperson prior to the meeting to act as timekeeper for the meeting, if deemed necessary by the Chairperson.

~~(3)~~3. No boisterous conduct shall be permitted at any Board of Education meeting. Persistence in boisterous conduct shall be grounds for summary termination, by the Chairperson, of that person's



privilege of address.

(4) All speakers must identify themselves by name and address.

Legal References:

Connecticut General Statutes

[1-200](#) Definitions

[1-206](#) Denial of access of public records or meeting. Notice. Appeal.

[1-225](#) Meetings of government agencies to be public.

[1-232](#) Conduct of meetings. (re: disturbances)

Freedom of Information Commission Advisory Opinion #41 (April 9, 1980)

**Bylaw adopted by the Board: November 11, 2019**

**Revised: June 14, 2021**

WESTPORT PUBLIC SCHOOLS

Westport, Connecticut

## **Instruction**

### **Instructional Materials Selection**

#### **Preface**

We live in a democratic society which depends on the rights of its citizens to make choices. Making wise choices is possible only if there is freedom of speech, of press, of assembly and of teaching. These freedoms protect the people in their right to hear, to read, to discuss, and to reach judgments according to individual conscience. Without the possession and the exercise of these rights, democracy is impossible.

Ultimate responsibility for the instructional materials used in Westport town schools rests with the Board of Education which delegates the selection of materials to the Superintendent and the professional staff. It is the responsibility of the Superintendent and the staff to adopt and purchase those instructional materials which they believe will do the best job of carrying out the educational goals and objectives set by the Westport Board of Education.

#### **Purpose and Responsibilities**

The purpose of education remains what it has always been in a free society: to develop free and reasoning human beings who can think for themselves, who understand their own and to some extent, other cultures, who lives compassionately and cooperatively with others, who respect both themselves and others, who has developed self-discipline and self-motivation and exercises both; to teach them the basic skills; and to give them that foundation of knowledge needed by responsible and productive citizens.

In selecting instructional materials for young people, teachers and librarians consider the contribution that the materials may make to the education of the student, their aesthetic value, honesty, appropriateness, and suitability to the developmental goal of a group of students or of an individual student. Teachers, however, may use different works for different purposes. Choosing materials to be used by an entire class is somewhat different from choosing materials to be used by small groups or by individuals in a media center. The continuing concern, commitment, and action by teachers, administrators, school boards, professional organizations, students, and the citizenry can insure the reality of academic freedom in a changing society.

#### **Policy Objectives**

The first objective of this policy is to establish guidelines for the selection of all materials used in the Westport Public Schools.

Materials selected will:

- enrich and support the curriculum;
- stimulate growth in factual knowledge, literary appreciation, aesthetic values, and ethical standards;
- provide a background of information which enables pupils to make intelligent judgments in their daily lives;
- provide a wide variety of views on issues so that young citizens may develop, under guidance, the practice of critical analysis of all media, and may recognize that differing viewpoints are valuable and to be welcomed, for out of them may come the synthesis of a new idea;
- be representative of the many religious, ethnic, and cultural groups and their contributions to our American heritage and to world cultures;
- reflect the variety of roles individuals may play within the context of society, irrespective of origin or sex;
- place principle above personal opinion and reason above prejudice;
- be appropriate to the varied interests, abilities, and levels of maturity of students in form, structure, and content;
- be based upon critical review in educational and professional journals, in current periodicals, or

through professional analysis.

No one item or piece of educational material is expected to meet all of the above criteria.

The second objective of this policy is to establish appropriate procedures for the judicious consideration and resolution of complaints concerning educational materials in the Westport schools. Individuals having exhausted administrative channels should, if they desire, submit in writing to the Board of Education their complaints on the approved form entitled “Citizen’s Request for Reconsideration of Materials” within 30 days following the Superintendent’s decision.

**Policy adopted: 2006**

**6161**

## **Instruction**

### **Instructional Materials Selection**

#### **I. Review and Selection of Materials**

Administrators, librarians, and teachers are responsible for the selection of appropriate educational material in accordance with the guidelines set forth in the Board of Education Policy 6161.

In addition to the general policy guidelines, the following specific criteria are set forth below for greater clarification. Educational materials for purchase are to be considered on the basis of:

- overall purpose
- timeliness or permanence
- importance of the subject matter
- quality of the writing/production
- readability and literary quality
- authority and/or significance of the author/artist/composer/producer
- format, durability and price
- teachers’, students’ and parents’ suggestions and recommendations

Material selection is more than a process of material acquisition: it involves a process of continuous review of instructional materials. Administrators and teachers will regularly review procedures to assure the currency and adequacy of their materials collections.

#### **II. Complaint Procedures**

Despite the care taken to select worthwhile materials and the qualifications of teachers selecting and recommending materials, occasional objections may be made. In order to facilitate the handling of complaints, the following procedure has been established:

1. The complainant will identify him/herself and the specific nature of the complaint.
2. The complainant will talk to the educator(s) involved, seeking resolution of the issue and the educator(s) shall report same to the building principal, including the resolution thereof, if any.
3. The complainant will file, failing satisfactory resolution, a formal written complaint on the form entitled, “Request for Reconsideration of Materials” (available from the building principal.)\*

\*Adapted from:

“Academic Freedom: NCSS Policy Statements,” National Council for the Social Studies, Washington, D.C. “The Students’ Right to Read,” National Council of Teachers of English, Urbana, Illinois American Association of School Librarians, Washington, D.C.

4. The building principal will seek resolution with the complainant and the educator(s) involved on the basis of the written complaint.

5. If the issue remains unresolved, the building principal will submit the complaint to the Chairperson of the Superintendent’s Review Committee (SRC) who will be appointed by the Superintendent at that

time.

The committee will consist of:

- a. a member of the Superintendent's immediate staff;
  - b. the WEA president or designee;
  - c. the IAA president or designee;
  - d. no fewer than three classroom teachers, representing level and department or specialization germane to the complaint, and one librarian/media specialist who will be appointed jointly by the Superintendent and the president of the WEA. If good faith efforts by the Superintendent and the president of the WEA to agree on these appointments shall fail after a reasonable period of time, the Superintendent shall make these appointments to the committee;
  - e. three citizens, to be appointed by the Superintendent.
6. The Chairperson will schedule a hearing of the SRC with the parties to the complaint;
- a. the educator(s) involved in the complaint on matters relevant to the selection and educational use of the material in question.
  - b. the complainant on matters relevant to the material in question and on its educational use.
7. The SRC will render an evaluative judgment and recommendation, in writing, to the Superintendent.
8. Within ten days of receiving the SRC's recommendation, the Superintendent will render a disposition, in writing, to the parties involved in the complaint.
9. Complainant or educator(s) desiring to appeal the Superintendent's disposition to the Board of Education must do so within 30 days of the date on which the Superintendent has rendered the disposition.
10. Challenged materials, once judged appropriate, shall be reviewed, if challenged again, only if the Superintendent determines that circumstances so warrant.

**Regulation approved: December 6, 1976**

## **Instruction**

### **Equipment/Books/Materials: Provision/Selection**

#### **General**

The Board of Education shall provide educational materials and equipment that support and enrich the curriculum and further the achievement of the school system's instructional goals.

Adoption of new textbooks shall require a two-thirds vote of all the members of the Board, notice of such intended change having been previously given at a meeting at least one week prior to the vote. Textbooks shall be defined as the primary or basic reading for students in a particular subject and student section in a semester or during the entire school year; supplemental and reference books shall not be considered to be textbooks.

#### **Selection**

Basic textbooks will be continuously reviewed to keep up with the expansion of knowledge and rapid changes in the world and to present balanced views on international, national, and local issues and problems of the past, present, and future. Textbooks should further:

1. provide materials to stimulate growth in factual knowledge, literary appreciation, aesthetic and ethical value;
2. provide materials to help students develop abilities in critical reading and thinking;
3. provide materials to help develop and foster an appreciation of cultural diversity and development in the United States and throughout the world;
4. provide for all students an effective basic education that does not discriminate on the basis of race, age, color, religion, national origin, sex, sexual orientation or disabilities;
5. allow sufficient flexibility for meeting the special needs of individual students and groups of students.

Any textbook or learning material that will serve the function of a textbook must be processed through the district primary learning material adoption procedure and formally adopted by the Board of Education. This applies to a textbook or material that will be used as a primary learning tool on an ongoing basis with the majority of students in a class, course, or learning group within a class.

Primary learning materials are textbooks, paperback books, audiovisual kits, or other instructional materials which are:

- used for the duration of a course or school year; the majority of assignments are derived from such material.
- used by all students in a class, course, or learning group within a class.

The administration will develop and maintain a procedure for selecting materials which meets the aforementioned criteria. Such procedure shall include the opportunity for professional staff to analyze, evaluate, and recommend primary learning materials for adoption.

#### **Instructional Materials**

Basic textbooks, instructional materials, and equipment shall be furnished by the Board of Education for all district students with the following exceptions:

1. Individual project materials to be used in the industrial arts, homemaking, and art courses.
2. Materials to be used for special projects not required for credit in a course.
3. Personal clothing items worn for physical education and other in-school athletic activities.

The administration will develop rules for textbook selection which meet the above criteria, including:

1. analysis, evaluation, and recommendation by professional staff.

2. the opportunity for interested citizens in the district to review recommended textbooks.

According to state law, the Board of Education will make final textbook selections.

(cf. [1220](#) Citizens' Ad Hoc Advisory Committees)

(cf. [1312](#) Public Complaints)

(cf. [4118.21](#) Academic Freedom)

(cf. [5145.2](#) Freedom of Speech/Expression)

(cf. [6144](#) Controversial Issues)

Legal Reference Connecticut General Statutes

[10-221](#) Boards of Education to prescribe rules.

[10-222a](#) Boards to have use of funds derived from repayment for school materials.

[10-228](#) Free textbooks, supplies, materials and equipment.

[10-229](#) Change of textbooks.

*President's Council, District 25 v. Community School Board no. 25*, 457 F.2d 289 (1972), cert. denied 409 U.S.C. 998 (Nov. 1972)

*Minarcini v. Strongsville City School District*, 541 F.2d 577 (6th Cir. 1976).

*Island Trees Union Free School District Board of Education v. Pico*, 457 US 853 (1982).

Academic Freedom Policy (adopted by Connecticut State Board of Education, 9/9/81)

Policy adopted:

## Instruction

### Curriculum Review

The Curriculum of the Westport Public Schools will be reviewed on a regular basis. Curriculum will be reviewed by subject area on a cyclical basis, and may be reviewed by project areas, instructional level, instructional strategies and other topics on an as needed basis.

### Stages of Curriculum Review

When a curriculum area is ready to go through a review, a curriculum review committee is established. This committee reports to the Assistant Superintendent of Curriculum and Instruction and is led by Chairpersons appointed by the Assistant Superintendent. Once established, the curriculum review committee is expected to complete its work in the following stages:

**Review:** The current curriculum is reviewed. All curriculum documents currently used by staff are examined, including the scope and sequence developed during prior curriculum reviews, curriculum maps, and statements of learning outcomes. Committee members visit Westport classrooms to observe the curriculum as implemented and discuss with all staff the strengths and weaknesses of the curriculum. Data will be collected, both quantitatively and qualitatively, from staff, parents and students as to their reactions to the current Curriculum. Influences on the curriculum such as budget, facilities, technology, local and state testing also will be reviewed.

**Research:** After the committee has collected information about the current curriculum, it researches developments in the field that may affect future decisions. Committee members and staff visit other schools and sites, attend professional conferences and workshops, and collect current research about their area of review.

**Revision:** When the current curriculum is reviewed and research into future curriculum developments has been completed, the committee then decides on those areas of the curriculum, if any, that require revision. They then create curriculum writing teams whose tasks it is to propose specific revisions to the curriculum, documenting the need for these revisions with information from the review and research stages of this review.

**Recommendation:** When the proposals for revision are completed by the curriculum writing teams, the committee brings these proposals forward to the larger school community. After hearing reactions to the proposals the committee then submits its final recommendations for curriculum revision to the Assistant Superintendent of Schools. Included in this report are any major staffing, materials and supplies, technology, and/or textbook needs required to implement the recommendations of the committee. The Assistant Superintendent submits her recommendations for change, based on this report, to the Superintendent of Schools.

If the recommendations to the Superintendent for curriculum revision are accepted. It is the responsibility of the staff to implement the proposed changes and evaluate the effectiveness of these changes prior to the next curriculum review.

### Parent Involvement in Curriculum Review

Parents of Westport students are encouraged to be part of the curriculum review process. Opportunities for participation are available in the following areas:

### Membership on Curriculum Review Committees

Parents are members of the curriculum review committees. Three parent volunteers, one from each instructional level-elementary, middle school, and high school will be appointed to the review committee by the Assistant Superintendent after consultation with the PTA leadership. Parents with expertise in the curriculum area under review will be given priority consideration.

Parents appointed to the committee are expected to serve for the length of the curriculum review. Their role on the committee during the different stage of review is:

**Review:** Parents attend curriculum review committee meetings and collect information necessary for the review.

**Research:** Parents conduct educational research with the committee and serve as a liaison to other parent groups informing them of emerging educational trends that are under consideration by the curriculum review team.

**Revision:** Parents work with the committee to decide upon areas of major revision and, as committee members, review work by the staff curriculum writing teams.

**Recommendation:** Parents work as committee members to propose curriculum revision recommendations and then communicate those final recommendations to the parent community.

### **Parent Involvement In Qualitative and Quantitative Research**

Parent opinion will be sought during the **review** and **recommendation** stages of the curriculum review. This will be accomplished through quantitative research technologies (such as questionnaires, surveys, polls, etc.) and through qualitative techniques (such as focus groups, parent meetings, etc.)

During the **review** stage parent reaction will be sought to our current curriculum. During the recommendation stage, parent reaction will be sought to the curriculum review committee's recommendations for revision.

**Regulation approved: 1995**





## Instruction

### Curriculum Design/Development

Curriculum development shall be guided by:

1. Needs assessments and information concerning the education of district students;
2. Range of student abilities, aptitudes, and interests;
3. Aspirations of school district residents for students;
4. Mobility of district population;
5. Avoidance of discrimination;
6. Reduction of duplication of effort and repetitive curricula among various school levels and coordination of courses of study and syllabi;
7. Provisions of negotiated agreements.

The curriculum development/revision process will be conducted by a District Curriculum Committee that has the responsibility to recommend, develop, review, and approve all curriculums for the District and said curriculum shall be subject to the approval of the Board of Education.

The Board of Education reserves the responsibility for establishing and approving curricula for the school district. Teachers shall teach within the approved curricula. (Alternative language: The Board of Education has responsibility and authority for the district's curriculum, subject to any limits specified by the State.)

(cf. [6121](#) Nondiscrimination: Instructional Program)

(cf. [6140](#) Curriculum)

Legal Reference: Connecticut General Statutes

[10-16b](#) Prescribed courses of study.

[10-16c](#) et seq. re family life education.

[10-17](#) English language to be medium of instruction.

[10-17](#) et seq. re Bilingual instruction.

[10-18](#) Courses in United States history, government and duties and responsibilities of citizenship.

[10-18a](#) Contents of textbooks and other general instructional materials.

[10-18b](#) et seq. re Firearms safety programs.

[10-19](#) Effect of alcohol, nicotine or tobacco and drugs to be taught. Training of personnel. Evaluation of programs by alcohol and drug abuse commission and department of education.

[10-19a](#) et seq. re Substance abuse prevention team.

[10-24](#) Course in motor vehicle operation and highway safety.

[10-21](#) et seq. re Vocational education and cooperation with business .

[10-220](#) Duties of boards of education as amended by PA 08-153.

[10-221a](#) High School graduation requirements.

Policy adopted:

**Personnel -- Certified/Non-Certified****Personal Leave****Family and Medical Leave Procedure****Purpose**

The purpose of this procedure is to establish guidelines for leaves taken by employees of the Westport Board of Education (the “Board”) pursuant to the Federal Family and Medical Leave Act of 1993 (“FMLA”). For eligible employees who are not covered by a collective bargaining agreement, the provisions of the FMLA became effective on August 5, 1993. For eligible employees who were covered by a collective bargaining agreement on August 5, 1993, the provisions of the FMLA are effective on the expiration date of the agreement, or February 5, 1994, whichever comes first.

Nothing in this procedure diminishes any rights which employees have under collective bargaining agreements that provide more generous benefits than the FMLA.

**Eligibility**

Employees who have worked for the Board for at least twelve (12) months, and who have worked at least 1,250 actual work hours during the previous twelve (12) months, may take up to twelve (12) weeks of unpaid leave per year for the reasons allowed by the FMLA. For the purpose of this procedure, a year is the twelve month period prior to the date requested leave begins.

**Reasons for Leave**

Leave under the FMLA may be taken for the following reasons:

- a) the birth and/or care of the employee’s newborn child;
- b) the placement of a child into the employee's family by adoption or by foster care arrangement;
- c) to care for the employee’s spouse, child or parent who has a serious health condition; or
- d) to care for the employee’s own serious health condition that renders the employee unable to perform the functions of his or her position.

**Types of Leave and Conditions**

FMLA leave may be taken on a full-time, intermittent or reduced schedule basis, subject to the conditions set forth below.

**Full-time Leave**

Full-time leave may be taken for any of the reasons permitted by the FMLA. Full-time leave excuses the employee from work for a continuous period of time. If the leave is for the birth or placement of a child and both spouses are employed by the Board, the combined leave for both spouses shall not exceed twelve (12) weeks.

For instructional employees, whose principal function is to teach, special rules apply to requests for FMLA leave near the end of an academic term. These rules are as follows:

Special rules apply for instructional employees beginning leave (a) more than five (5) weeks before the end of a term, (b) less than five (5) weeks before the end of a term, and (c) less than three (3) weeks before the end of a term;

If leave begins more than five (5) weeks before the end of a term, the instructional employee may be required to continue taking leave until the end of the term if the leave will last at least three (3) weeks, and the employee would return to work during the three (3) week period before the end of the term;

## **WPS Existing REGULATION – Needs Policy**

If leave begins during the five (5) weeks before the end of a term, for a reason other than the instructional employee's own serious health condition, the employee may be required to continue taking leave until the end of the term if the leave will last more than two (2) weeks, and the employee would return to work during the two (2) week period before the end of the term.

If the leave begins during the three (3) week period before the end of a term, for a reason other than the instructional employee's own serious health condition, and the leave will last more than five (5) working days, the employee may be required to continue taking leave until the end of the term.

### **Intermittent and Reduced Schedule Leave:**

Intermittent leave means leave taken in separate periods of time rather than for one continuous period of time. Examples of intermittent leave include: leave taken one day per week over a period of a few months; or leave taken on an occasional/as needed basis for medical appointments.

Reduced schedule leave is leave that reduces the employee's usual number of work hours per day for some period of time. For example, an employee may request half-time work for a number of weeks so the employee can assist in the care of a seriously ill parent.

An employee may take intermittent leave or reduced schedule leave whenever it is medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work. If intermittent or reduced schedule leave is medically required, the Superintendent may, in his sole discretion, temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates that type of leave.

Also, special arrangements may be required of an instructional employee who needs to take intermittent or reduced-schedule leave, to care for a family member, or for the instructional employee's own serious health condition, which is foreseeable based on planned medical treatment and which will involve absence for more than 20 percent of the work days in the period over which the leave will extend (for example, more than five days over a five-week period). In such circumstances, the instructional employee may be required to take a leave for a period of a particular duration, but not greater than the duration of the planned medical treatment. Or, the instructional employee may be transferred, temporarily to an available alternative position, for which the employee is qualified and which has equivalent pay and benefits, which better accommodates the leave than does the employee's regular position.

Please note, if the instructional employee fails to give the required notice of a foreseeable leave, to be taken intermittently or on a reduced schedule basis, the employee may be required to take a leave of a particular duration or to transfer temporarily to an alternative position. Or, the employee may be required to delay the taking of leave until the notice requirement is met.

Intermittent leave or reduced schedule leave for the birth, adoption or foster care placement of a child will be permitted only if the employee and the Superintendent mutually agree.

### **Requests for Leave**

Requests for family and medical leaves of absence must be submitted in writing to the personnel department, at least thirty (30) days' before the leave is to commence, or as soon as practicable if thirty (30) days notice is not possible due to unforeseen circumstances. For leaves taken because of the employee's or a family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form. This form may be obtained from the personnel department. Medical certification must be provided by the employee within fifteen (15) days of the request for leave, or as soon as is reasonably possible.

If an employee takes leave to care for the employee's own serious health condition, upon return to work the employee must provide medical certification that the health condition which created the need for the leave no longer renders the employee unable to perform the functions of the job. This certification must be submitted to the personnel department.

### **Use of Paid Leave**

Employees are required to use accrued vacation and personal leave as part of any family or medical leave. Accrued sick leave shall be used whenever the leave is taken because of the employee's serious health condition. The portion of the family and medical leave chargeable to sick leave will be in accordance with the applicable policy or contract.

## **Medical Insurance and Other Benefits**

During approved family and medical leaves of absence the Board will continue to pay its portion of medical insurance premiums for up to twelve (12) weeks. The employee must continue to pay his/her share of the premium, and failure to do so may result in loss of coverage. If the employee does not return to work after expiration of the leave, the employee will be required to reimburse the Board for payment of medical insurance premiums during the family and medical leave, unless the employee does not return because of a serious health condition that prevents the employee from performing the job or due to other circumstances beyond the employee's control.

During a leave, an employee shall not accrue seniority or other benefits, unless the employee's collective bargaining agreement provides for such. However, employment benefits accrued by the employee up to the day on which the leave begins will not be lost.

## **Reinstatement**

Except for changed circumstances unrelated to such leave, an employee who returns to work following the expiration of a family and medical leave is entitled to return to the job held prior to the leave or to an equivalent position with the same pay and benefits.

## **Additional Information**

Questions regarding family and medical leave may be directed to the personnel department.

**Regulation approved: 1993**

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**Series 4000  
Personnel**

**FAMILY AND MEDICAL LEAVE**

***PURPOSE***

The purpose of this policy is to establish guidelines for leaves taken by employees of the [\_\_\_\_\_] Board of Education (the “Board”) under the Federal Family and Medical Leave Act of 1993 (“FMLA”).

***ELIGIBILITY***

Employees who have worked for the Board for at least twelve (12) months, and who have worked at least 1,250 actual work hours, or, in the case of school paraprofessionals in an educational setting, who have worked at least 950 actual hours of work, during the twelve (12) months immediately preceding the start of a leave, are eligible for unpaid leave under the FMLA.

***REASONS FOR LEAVE***

Leaves under the FMLA may be taken for the following reasons:

- incapacity due to pregnancy, prenatal medical care or child birth; or
- to care for the employee's newborn child; or
- the placement of a child with the employee by adoption or for foster care; or
- to care for the employee's spouse, child or parent who has a serious health condition; or
- to care for the employee's own serious health condition that renders the employee unable to perform the functions of his or her position; or
- to care for an injured or ill service member (see below – Length of Leave – for further information); or
- a qualifying exigency arising out of a family member's military service, including one or more of the following reasons (note – more detailed information on the following categories is available from [e.g. the **Human Resources office**]):
  - short-notice deployment;

- military events and related activities;
- childcare and school activities;
- financial and legal arrangements;
- counseling;
- rest and recuperation;
- post-deployment activities;
- parental care leave for military member's parent who is incapable of self-care and care is necessitated by the member's covered active duty;
- additional activities that arise out of the active duty or call to active duty status of a covered military member, provided that the Board and the employee agree that such leave qualifies as an exigency, and agree to both the timing and the duration of such leave.

### ***LENGTH OF LEAVE***

#### **(a) Basic FMLA Leave Entitlement**

If a leave is requested for one of the above-listed reasons, each eligible employee may take up to a total of twelve (12) weeks unpaid family or medical leave in any 12-month entitlement period.

The 12-month entitlement period for family or medical leave is measured on the basis of **[Employer has the option of selecting one of the four methods of calculating the 12-month period. If the employer has not chosen, then its inaction would require it to use the "best" (for the *employee* under the circumstances), of the following alternatives for each employee who takes leave: (1) the calendar year; (2) any fixed 12-month "leave year" such as a fiscal year or a year starting on the employee's anniversary date; (3) the 12-month period measured forward from the initial date of an employee's first leave under this policy; or (4) a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. Note, to change calculation methods, the employer must plan ahead, giving at least sixty (60) days' notice to all employees, and make no reduction in rights for employees using/requesting leave at the time of transition].**

#### **(b) Leave to Care for an Injured or Ill Service Member**

In addition to the reasons for leave listed above, an eligible employee may take up to twenty-six (26) workweeks of FMLA leave during a 12-month period to care for (i) an injured or ill service member who is the employee's spouse, parent, child or next of kin, and who incurred the injury or illness in the line of duty and while on active duty in the Armed Forces or had a preexisting injury or illness prior to beginning active duty that was aggravated by service in the line of duty on active duty in the Armed Forces; or, (ii) an injured or ill covered veteran who is the employee's spouse, parent, child or next of kin.

For service members, the injury or illness must render the service member medically unable to perform the duties of his/her office, grade, rank or rating. This provision applies to service members who are undergoing medical treatment, recuperation, or therapy, are in outpatient status, or who are on the temporary disability retired list, for a serious injury or illness.

For covered veterans, the veteran must be undergoing medical treatment, recuperation or therapy for a serious injury or illness and s/he (1) was a member of the Armed Forces (including the National Guard or Reserves); (2) was discharged or released under conditions that were other than dishonorable; and (3) was discharged within the five-year period before the eligible employee first takes FMLA military caregiver leave to care for the veteran.<sup>1</sup>

For covered veterans, serious injury or illness means any of the following:

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of

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<sup>1</sup> The employee's first date of leave must be within the five-year period. However, the employee may continue to take leave throughout the single 12-month period even if the leave extends past the five-year period. Note - special rules may apply to calculating the five year period for veterans discharged between October 28, 2009 and March 8, 2013. This period will effectively be excluded from the five-year calculation.

which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed twenty-six (26) weeks in a single twelve (12) month period. Standard FMLA leave procedures described below apply to all requests for and designation of leave for this purpose. *However*, in the case of leave to care for an injured or ill service member, the 12-month period begins on the day such leave actually commences.

### ***TYPES OF LEAVE AND CONDITIONS***

#### **(a) Full-Time, Intermittent and Reduced Schedule Leave**

Full-time unpaid leave may be taken for any of the reasons permitted by the FMLA. Full-time leave excuses the employee from work for a continuous period of time.

Intermittent leave means leave taken in separate periods of time rather than for one continuous period of time. Examples of intermittent leave include: leave taken one day per week over a period of a few months; or leave taken on an occasional/as-needed basis for medical appointments.

Reduced schedule leave is leave that reduces the employee's usual number of work hours per day for some period of time. For example, an employee may request half-time work for a number of weeks so the employee can assist in the care of a seriously ill parent.

An employee may take full-time, intermittent or reduced schedule leave whenever it is medically necessary for a serious health condition of the eligible employee, his or her spouse, child or parent. Intermittent leave or reduced schedule leave for other reasons will be permitted only with the approval of the Superintendent or his/her designee.

If intermittent or reduced schedule leave is medically required, the Board may, in its sole discretion, temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates the type of leave requested. Also, special arrangements may be required of an instructional employee who needs to take intermittent or reduced-schedule leave which will involve absence for more than twenty (20) percent of the work days in the period over which the leave will extend (for example, more than five days over a five-week period). For purposes of this policy, an instructional employee is defined as a teacher or other employee of the Board who is employed principally in an instructional capacity and whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel



such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

(b) Both Spouses Working for the Same Employer

If both spouses are employees of the Board and request leave for the birth, placement of a child by adoption or for foster care, or to care for a seriously ill parent, they only will be entitled to a maximum combined total leave equal to twelve (12) weeks in any 12-month entitlement period. If either spouse (or both) uses a portion of the total 12-week entitlement for one of the purposes in the preceding sentence, each is entitled to the difference between the amount he or she has taken individually and the 12 weeks for FMLA leave for their own or their spouse's serious health condition in the 12-month entitlement periods.

**[OPTIONAL SECTION– if employer offers temporary light duty**

(c) Light Duty

**Should an employee be offered a light duty opportunity during a period of FMLA leave, time spent performing the light duty assignment will not count against the employee's FMLA leave entitlement. The employee's right to restoration to his or her job will be held in abeyance during the light duty assignment, or until the end of the applicable 12-month FMLA leave period.]**

(d) Leave Taken by Instructional Employees Near the End of an Academic Term

If a leave taken by an instructional employee for any reason begins more than five (5) weeks before the end of an academic term, the Board may require that employee to continue the leave until the end of the term if the leave will last at least three (3) weeks and the employee would return to work during the three-week period before the end of the term.

If the employee begins a leave during the five-week period preceding the end of an academic term for a reason other than the employee's own serious health condition, the Board may require the employee to continue taking leave until the end of the term if the leave will last more than two (2) weeks and the employee would return to work during the two-week period before the end of the term.

If the employee begins a leave during the three-week period preceding the end of an academic term for a reason other than the employee's own serious health condition, the Board may require the employee to continue taking leave until the end of the term if the leave will last more than five (5) working days.

***REQUESTS FOR LEAVE***

Requests for a family or medical leave must be submitted to the personnel department at least thirty (30) days before the leave is to commence, if possible. If thirty (30) days' notice is not possible, requests must be submitted as soon as practicable under the circumstances.

For leaves taken because of the employee's or a qualifying family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form before the leave begins, if possible. This form may be obtained from the personnel department. If such advance certification is not possible, the medical certification must be provided by the employee within fifteen (15) calendar days of the Board's request for the medical certification.

If an employee takes leave to care for his or her own serious health condition, immediately upon return to work the employee must provide medical certification that the health condition which created the need for the leave no longer renders the employee unable to perform the functions of the job. This certification must be submitted to the personnel department.

In connection with the Board's request for medical information, employees must be aware that the Genetic Information Nondiscrimination Act of 2008 ("GINA") prohibits employers and other entities covered by Title II of GINA from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the Board requests that employees not provide any genetic information when responding to a request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

**[Note: The medical certification form should include the above language related to GINA.]**

### ***USE OF PAID LEAVE***

Accrued paid personal leave and accrued paid vacation will be substituted (in that order) for any unpaid portions of family or medical leave taken for any reason. However, where the leave is for the employee's own serious health condition, accrued paid sick leave shall be substituted for unpaid portions of family or medical leave prior to the substitution of accrued paid personal and accrued paid vacation leave. The amount of unpaid family or medical leave entitlement is reduced by the amount of paid leave that is substituted.

In addition, in cases involving absences due to a Workers' Compensation injury that also qualifies as an FMLA serious health condition, and if the employee agrees with

the Board to do so, the Board will apply the employee's available accrued paid leave in increments as a supplement to the Workers' Compensation weekly benefit in an appropriate amount so that the employee can maintain his or her regular weekly income level.

### ***MEDICAL INSURANCE AND OTHER BENEFITS***

During approved family or medical leaves of absence, the Board will continue to pay its portion of medical insurance premiums for the period of unpaid family or medical leave. The employee must continue to pay his/her share of the premium, and failure to do so may result in loss of coverage. If the employee does not return to work after expiration of the leave, the employee will be required to reimburse the Board for payment of medical insurance premiums during the family or medical leave, unless the employee does not return because of a serious health condition or circumstances beyond the employee's control.

During an FMLA leave, an employee shall not accrue **[list benefits, such as seniority, pension benefits, or sick or vacation leave]**, unless otherwise required by any applicable collective bargaining agreement or Board policy. However, unused employment benefits accrued by the employee up to the day on which the leave begins will not be lost upon return to work. Leave taken under this policy does not constitute an absence under Board's attendance policy.

### ***REINSTATEMENT***

Except for circumstances unrelated to the taking of a family or medical leave, an employee who returns to work following the expiration of a family or medical leave is entitled to return to the job such employee held prior to the leave or to an equivalent position with equivalent pay and benefits.

### ***ADDITIONAL INFORMATION***

Questions regarding family or medical leave may be directed to the Superintendent or his/her designee. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

#### **Legal References:**

##### **Connecticut General Statutes:**

Conn. Gen. Stat. § 31-51rr    Family and medical leave benefits for employees of political subdivisions

Regs. Conn. State Agencies 31-51rr-1, et seq.

United States Code:

Family and Medical Leave Act of 1993, 29 U.S.C. Section 2601 et seq., as amended

29 CFR Part 825.100 et seq.

Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff et seq.

29 CFR 1635.1 et seq.

ADOPTED: \_\_\_\_\_

REVISED: \_\_\_\_\_

6/26/16

Technical Rev. 9/16/20



4152.6

4252.6

## **Personnel -- Certified/Non-Certified**

### **Personal Leaves**

#### **Family and Medical Leave Act**

The Board will provide leave to eligible employees consistent with the Family and Medical Leave Act of 1993 (FMLA) as amended and the Family Medical Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances) and 2013 Final Rules. Eligible employees (employment for at least one-year and at least 1,250 hours actually worked in the twelve-month period immediately preceding the commencement of the leave) are entitled to up to 12 work weeks of unpaid family and medical leave in any 12-month period. The District will continue to pay the district's share of the employee's health benefits during the leave. In addition, the District will restore the employee to the same or an equivalent position with equivalent benefits, pay and other conditions of employment after the termination of the leave in accordance with Board policy and collective bargaining agreements.

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed for at least one year and for at least 950 hours over the previous twelve-month period preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

Eligible employees are entitled to take unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- ☐ A "qualifying exigency" as defined by Department of Labor regulations arising out of a covered family member's covered active duty or Federal call to covered active duty (including as a member of the National Guard or Reserves) in the Armed Forces including deployment to a foreign country or to international waters;
- ☐ To care for a covered family member who has incurred a serious injury or illness in the line of duty while on covered active duty in the Armed Forces (includes National Guard and Reserves) provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating; and/or
- ☐ To care for a covered family member who is a veteran who is undergoing medical treatment, recuperation or therapy for a service related illness or injury that was incurred or aggravated while on active duty and manifested itself before or after the member became a veteran, within five years after a veteran leaves service.
- ☐ To care for a parent of a military member called to active duty provided the military member is the spouse, (including same-sex marriages\*), parent or child of the employee.

\*Due to the Obergefell Supreme Court Decision, there is no distinction under the law between same sex and opposite sex spouses. It is advisable to refer to "marriage" and "spouse."

When leave is due to a "qualifying exigency" of a service member, an eligible employee may take up to 12 work weeks of leave during any 12-month period. When such leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period.

Employees will not be deprived of any employment benefits accrued before taking FMLA leave.

The District will maintain health insurance benefits at the same basis as is provided to other similarly situated employees. Conversely, employees on FMLA leave are not entitled to accrue any seniority or benefits during the leave unless determined otherwise due to a collective bargaining agreement. When an employee returns from FMLA leave, benefits will be resumed in the same manner as provided prior to taking the leave, subject to any changes in benefit levels that may have occurred during the FMLA leave period and which affect the entire work force. Leave available for eligible employees under FMLA is not intended to supplement leave otherwise provided to such employees. The District may require the eligible employee substitute any accrued vacation or sick leave for any part of the twelve-week period that may be taken for the serious health condition of a spouse, child or parent, or for the employee's own serious health condition.

In complying with the FMLA, the District will adhere to the requirements of the Americans with Disabilities Act as well as other applicable federal and state laws.

The Board, in compliance with state statute, shall provide to its employees who are a party to a civil union with the same family and medical leave benefits under the federal Family Medical Leave Act (FMLA) as are provided to employees who are party to a marriage. The term "marriage" includes a same-sex marriage which all states must now recognize, or common law marriages that either was entered into in Connecticut or another state that recognizes such marriages or if entered into out of Connecticut is valid in the place where entered into and could have been entered into in at least one state. In addition, the Board shall allow its employees leave time under this policy to serve as organ or bone marrow donors.

The District, in compliance with FMLA's regulations, will post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the provisions of the FMLA and providing information concerning the procedures for filing complaints of violations of the Act. Electronic posting may be utilized.

(cf. [4118.14](#) - Disabilities)

(cf. 4151.2 - Family Illness)

(cf. [4152.3](#) - Maternity; Adoptive; Child Care)

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

Legal Reference: P.L. 103-3 and 29 CFR Part 825 - The Family and Medical Leave Act of 1993, as amended by H.R. 4986, the National Defense Authorization Act for Fiscal Year 2008, Section 585. 29 U.S.C. §2601 et seq. and the National Defense Authorization act for Fiscal Year 2010, Public Law 111-84, section 565, Title V

Final Rule - published in Federal Register, Vol. 60, Nov. 4, Friday, January 6, 1995, as amended on February 3, 1995, March 30, 1995, and on November 17, 2008. Rules and Regulations (29 CFR Part 825).

Final Rule - published in Federal Register, Vol. 78, Wed. February 6, 2013

Final Rule - published in Federal Register, Vol. 80, No. 37 Wednesday, February 25, 2015

Connecticut General Statutes

[46b](#)-3800 Applicability of statutes to civil unions and parties to a civil union.

PA 07-245 An Act Concerning Family and Medical Leave for Municipal Employees.

PA 07-245 An Act Concerning Family and Medical Leave for Municipal Employees

PA 12-43 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees

United States v. Windsor, U.S. 133 S. Ct. 2675 (2013)

Obergefell v. Hodges, No. 14-556, 135 S. Ct. 2584 (2015)

**Policy adopted:**

**R4152.6**

**4252.6**

## **Personal Leaves**

### **Family and Medical Leave Act**

The following administrative regulations apply only to the Family and Medical Leave Act (FMLA).

For purposes of this regulation the term "marriage" is defined to include a same-sex marriage, legally recognized in all states.

For purposes of this regulation, the term "spouse" refers to any individuals who are lawfully married under any state law, including common law marriages.

### **Eligibility**

An employee who has worked for the District for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave. The 12 months of employment need not be consecutive months. Hours worked includes all hours, including overtime, an employee works but does not include paid leave time such as vacations, sick or personal leave, holidays etc. Full time professional instructional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement. Pursuant to USERRA, an employee returning from fulfilling his/her National Guard or Reserve military obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether he/she worked the 1,250 hours of service in the District. (§825.110)

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed for at least one year and for at least 950 hours over the previous twelve-month period preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

For purposes of FMLA leave a 12-month period is the district's fiscal year, July 1 through June 30. (Note: the district has the option of designating another 12-month period based on calendar year or other criteria set out in the act. The other options include calendar year; the 12-month period measured forward from the date of an employee's first FMLA leave date; 12-month period measured backward from the date the employee takes any FMLA leave.) The 12 months of employment need not be consecutive months.

### **Serious Health Condition**

A "serious health condition" that would entitle an employee to FMLA leave is one involving continuing treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves either treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider.

Over the counter medication, bed rest, taking of fluids, exercise and other activities that can be initiated without a visit to a health care provider do not constitute continuing treatment.

Chronic conditions such as asthma and diabetes are considered a serious health condition even if individual episodes of incapacity do not last more than three days. Furthermore, conditions need not be chronic or long term when the condition is one which is not ordinarily incapacitating but for which multiple treatments are given because the condition would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention. Regarding long-term chronic conditions, the condition need not be incurable. The condition may involve a permanent or long-term incapacity and be one for which treatment may not be effective. (29 C.F.R. 825.114.)

### **Health Care Provider**

The definition of "health care provider" includes any health care provider recognized by the employer or accepted by the group health plan of the employer. It also includes clinical social workers. (29 C.F.R. 825.118.)

### **Types of Leave**

An eligible employee may take FMLA leave for: (§825.200)

- ☐ incapacity due to pregnancy, prenatal medical care;
- ☐ the birth and first-year care of a child; (§825.120)
- ☐ the placement of a child with the employee by adoption or foster placement of a child; (§825.121)
- ☐ the serious illness of an employee's spouse, parent or child; (§825.113, §825.122)
- ☐ the employee's own serious health condition that keeps the employee from performing the essential functions of his/her job; (§825.113, §825.123)
- ☐ to care for an eligible member\* of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or is otherwise on the temporary disability list for a serious injury or illness; (§825.122, §825.123);

\*spouse, son, daughter, parent or next of kin

- ☐ a qualifying exigency (such as making legal, financial, and child care arrangements and taking care of family obligations), as defined by Department of Labor regulations of a spouse, child, or parent of the employee who is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty status in the Armed Forces including deployment to a foreign country or to international waters; and
- ☐ a veteran suffering a service related illness or injury that was incurred or aggravated while on active duty (or existed before the beginning of the service member's active duty and was aggravated by service in the line of duty on active service) within five years after a veteran leaves service.

An employee may elect, or the District may require, an employee to use accrued paid vacation, personal or family leave for any unpaid portions of family or medical leave taken for any reason. In situations where the leave is for the employee's own serious health condition, accrued paid sick leave shall be substituted for unpaid portions of family or medical leave prior to the substitution of accrued paid personal and accrued paid vacation leave. The amount of unpaid family or medical leave entitlement is reduced by the amount of paid leave that is substituted. (An employee may elect, or the District may require, an employee to use accrued vacation, personal or medical/sick leave for purposes of a medical leave.) An employee cannot compel the District to permit the employee to use accrued medical/sick leave in any situation which the leave could not normally be used.

In cases in which the employee is absent due to a Worker's Compensation injury that also qualifies as an FMLA serious health condition, and if the employee agrees with the Board to do so, the Board will apply the employee's available accrued paid leave in increments as a supplement to the Worker's Compensation weekly benefit in an appropriate amount so that the employee can maintain his/her regular weekly income.

All FMLA absences for the same qualifying reason are considered a single leave and the employee maintains eligibility as to that reason for leave throughout the applicable 12-month period.

An eligible employee for FMLA leave must receive at the time of their eligibility notice a written notice of "Rights and Responsibilities" detailing their specific expectations and obligations and explaining the consequences of their failure to meet these obligations. This notice shall include any requirement to provide medical certification, the right to substitute paid leave, payment for benefits and job restoration rights upon expiration of the leave.

### **Spouses Employed by the School District**

If spouses, as defined in this regulation, eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness will be limited to a maximum combined total leave equal to 12 weeks in any twelve-month entitlement period. If either spouse or both uses a portion of the total 12-week entitlement for the above cited purposes, each is entitled to the difference between the amount he/she has taken individually and the 12 weeks of FMLA leave for their own or their spouse's serious health condition in the 12-month entitlement period. An employee may not take FMLA leave to care for a parent-in-law.

### **Unforeseeable, Continuous, Intermittent and Reduced Leave**

Unforeseeable leave involves situations such as emergency medical treatment or premature birth.



Continuous leave is taken for a set number of days or weeks.

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury rather than one continuous period of time.

Reduced leave is a leave schedule that reduces employee's usual number of hours per work week, or hours per work day.

Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child or to care for a newborn or recently adopted child. In the case of foreseeable intermittent or reduced leave, the employee must schedule the leave to minimize disruption to the district's operation.

An employee may take full-time, intermittent or reduced schedule leave whenever it is medically necessary for a serious health condition of the eligible employee, his or her spouse, child or parent. Intermittent leave or reduced schedule leave for other persons will be permitted only with the approval of the Superintendent or his/her designee.

The employee who wishes to use intermittent or reduced leave shall, whenever possible, give prior notification to the District. Although the District and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave but the district may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave provided said leave amounts to more than twenty (20) percent of the total number of working days in the period during which the leave would extend. The employee must furnish the District with the expected dates of the planned medical treatment and the duration of the treatment. The Superintendent must authorize such leave in writing.

### **Employee Entitlement to Service Member FMLA**

The federal FMLA and the Connecticut paraprofessional FMLA provisions entitles eligible employees to take leave for a covered family (spouse, son, daughter, parent) member's service in the Armed Forces. Except as listed in this section, an employee's rights and obligations to service member FMLA leave are governed by existing FMLA policy and regulations.

Service member FMLA provides eligible employees unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- ☐ A "qualifying exigency" arising out of a covered family member's active duty or call to covered active duty in the Armed Forces including deployment to a foreign country or to international waters may include issues arising from short notice deployment, attending certain military events, arranging for alternate childcare, attending school activities, addressing certain financial and legal arrangements, attending certain counseling sessions, engaging in rest and recuperation, parental care and attending post-deployment reintegration briefings as well as participating in additional activities arising out of the active duty or call to active duty. In order to secure leave for a qualifying exigency, employees must submit a completed DOL Form WH-384 along with a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status, and the dates of the military member's covered active duty service. DOL Form WH 384 must be completed and returned within 15 calendar days of the date the District distributes the Form to the employee;
- ☐ To care for a covered family member who has incurred a serious injury or illness in the line of duty while on covered active duty in the Armed Forces including a member of the National Guard or Reserves, provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating; and/or
- ☐ To care for a veteran suffering a service related illness or injury, as long as the veteran was a member of the Armed Forces, National Guard, or Reserves within five years of requiring care.

When leave is due to a "qualifying exigency" of a service member, an eligible employee may take up to 12 work weeks of leave during any 12-month period. Eligible employees can take more than one period of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 work weeks of leave may be taken within any single 12-

month period.

Leave that qualifies both as leave to care for a covered service member and leave taken to care for a family member with a serious health condition during the "single 12-month period" cannot be designated and counted as both leave to care for a covered service member and leave to care for a family member with a serious health condition.

Employees are not obligated to provide notice to the District when they first become aware of a covered family member's active duty or call to active duty status. An employee's obligation to provide notice of leave due to a qualifying exigency is triggered when the employee first seeks to take such leave. Where this leave is foreseeable, eligible employees must provide notice to the District that is "reasonable and practicable."

In compliance with the final FMLA rule, §825.310, separate certification requirements shall be utilized for military caregiver leave. The District shall use the DOL WH-385 (Revised February 2013) form in obtaining medical certifications of Military Caregiver Leave.

When such leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for the covered service member (either currently serving service member or covered veteran). Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. In order to care for a covered service member, an eligible employee must be the spouse, son, daughter, or parent or next of kin of a covered service member.

Service member FMLA runs concurrent with any other leave entitlements provided under federal, state or local law.

In order to secure this extended leave, employees must submit a completed DOL Form WH-385 (current service member) or WH-385 (veteran). This Form must be completed and returned within 15 days of the date the district distributes the Form to the employee.

## Definitions

**Covered Service Member:** A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy, and was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

**Covered Active Duty:** In the case of a member of a regular component of the Armed Forces, duty during deployment of the member of the Armed Forces to a foreign country; and in the case of a reserve component of the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. §101(a)(13)(B)

**Next of Kin:** The nearest blood relative of an individual. (In this order: brother, sister, grandparents, aunts, uncles, first cousins) Excluded are the covered service members' spouse, parent, son or daughter, as they already are entitled to leave for this purpose. A covered service member may designate, in writing, another blood relative as his or her nearest blood relative for purposes of military caregiver FMLA leave. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to care for the covered service member either consecutively or simultaneously. When a designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin.

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

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

**Qualifying Exigency:** The U.S. Department of Labor's definition of this term includes the following eight (8) situations: (1) short-notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post deployment activities, and (8) additional activities to address other events which arise out of the covered military member's active duty or call to active duty status, provided the employer and employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave. (See form WH-384)

**Single 12-Month Period:** The U. S. Department of Labor has determined that for purposes of military caretaker leave is a period that commences on the date an employee first takes leave to care for a covered service member with a serious injury or illness.

**Serious Injury or Illness:** In the case of a current member of the Armed Services, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.

In the case of a covered veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period of five (5) years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty on the Armed Forces or existed before the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces and that manifested itself or after the member became a veteran, and is

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

In order to secure this extended leave, employees must submit a completed DOL Form WH-385 (current service member) or WH-385V (veteran). This Form must be completed and returned within 15 calendar days of the date the District distributes the Form to the employee.

### **Leave to Care for a Covered Service Member**

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall:

1. make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the District; and
2. provide the District with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The Board of Education may require that a request for leave to care for a covered service member be supported by a certification issued by the health care provider of the person in need of care. The employee shall provide, in a timely manner, a copy of such certification to the district.

Certification will be sufficient if it states:

1. the date on which the serious health condition or serious injury or illness commenced;
2. the probable duration of the condition; and

3. the appropriate medical facts within the knowledge of the health care provider regarding the condition.

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

### **Leave Related to Active Duty or a Call to Active Duty**

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on covered active duty or has been notified of an impending call to active duty is foreseeable, the employee shall give such notice to the District as is reasonable and practicable.

The Board may require that a request for leave because of a qualified exigency arising from the fact that the employee's spouse, son, daughter, or parent or covered service member is on covered active duty or has been notified of an impending call to active duty be supported by a certification issued in accordance with regulations issued by the Secretary of Labor. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the school district.

### **Benefits**

The District will maintain the employee's health coverage under the District's group health insurance plan during the period of FMLA leave. The Board will continue to pay its portion of medical insurance premiums for the period of unpaid family or medical leave. The employee should make arrangements with the District to pay the employee's share of health insurance (e.g. family coverage) prior to the beginning of the FMLA leave, to avoid loss of coverage. If the employee does not return to work after the leave's expiration, the employee will be required to reimburse the District for payment of medical insurance premiums during the FMLA leave, unless the employee does not return because of a serious health condition or circumstances beyond the control of such employee.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

### **Notice**

When the FMLA leave is foreseeable, the employee must notify the District in writing of his/her request for leave at least 30 days prior to the date when the leave is to begin. The employee must explain the reasons for the needed leave so as to allow the District to determine whether the leave qualifies under FMLA. Failure to give notice may result in the leave beginning thirty days after notice was received. If the leave is not foreseeable, the employee must give notice as early as is practical under the facts and circumstances of the particular case, but no later than one to two work days after learning that leave will be necessary. A spouse or family member or other responsible party may give the notice if the employee is unable to personally give notice. When the employee requests medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the District's operations.

The District, as required, will post and keep posted on its premises, a notice explaining the provisions of FMLA and with information concerning the procedures for filing complaints of violations of the Act. Electronic posting is sufficient to meet this posting requirement. The notice must be posted even if the District has no FMLA-eligible employees. The FMLA notice, in the absence of an employee handbook, shall be given to each employee when hired.

The District, when a request for FMLA leave is received, will provide the employee the following information, listing the employee's obligations and requirements:

1. A statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement.
2. A reminder that employees requesting family and medical leave for a serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so.
3. An explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to

the substitution.

4. A statement notifying employees for paying any premium or other payments to maintain health or other benefits.

(This notice may be accompanied by the FMLA medical certification form if the District requests its employees to complete such form. The notice of rights and responsibilities may be distributed electronically.)

The District must notify the employee, in writing, of his/her eligibility to take FMLA leave within five (5) business days of receiving said request, with medical certification(s) and any other required information, absent extenuating circumstances. The District may provide the "Eligibility" and "Designation" notices at the same time if there is sufficient information to do so.

In situations where the District has failed to provide timely notice and the delay does not cause the employee harm or injury, retroactive notice may be provided. In all cases where leave would qualify for FMLA leave protection, the District and the employee can mutually agree that the leave be retroactively designated as FMLA leave.

District failure to provide required notice can be considered "interference" with an employee's FMLA rights.

The District may deny the leave if the employee does not meet the notice requirements.

The District shall require the employee to provide certification of the employee's serious health condition from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification a second, and, if necessary, a third opinion can be required both at the expense of the District. The health care provider designated or approved by the District may not be employed by the school system on a regular basis. In the case of a third opinion, the opinion of the third health provider will be binding on both the school district and the employee. The District shall also require the employee to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.

If the leave was for reasons related to the employee's serious health condition, upon the employee's return to work, the District will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

The required certifications must be obtained from the health care provider who is treating the individual with the serious health condition.

Medical certification must be provided fifteen days after the request for medical certification unless it is impracticable to do so. Employees taking family and medical leave for the birth, adoption or foster care of a son or daughter are not required to obtain a medical certification. The District may request recertification every thirty days. Recertification must be submitted within fifteen days of the District's request.

The District will utilize separate medical certificates forms when employees request leave to care for a family member with a serious health condition and for those situations when the medical need for leave is prompted by the employee's own serious health condition.

The District will notify employees, in writing, of any additional information that is necessary to complete the medical certificate and allow employees seven (7) calendar days to provide said additional information. If the employee fails to submit a complete and sufficient certification despite the opportunity to cure the deficiency, the District may deny FMLA leave.

Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification shall be denied until such certification is provided. The District requires sufficient FMLA certification in support of any request for FMLA leave for either the employee's own or a covered family member's serious health condition.

Verification must also be presented when requesting FMLA leave to care for the employee's spouse, son, daughter or parent with a serious health condition.

Upon request by the District, employees must provide FMLA certification even when substituting paid leave.

The District may request medical recertification for continuing, open-ended conditions, every six months. Medical recertification may be requested on a more frequent basis if there are other changed circumstances or for other reasons as outlined in the FMLA regulations.

The District may require annual medical certifications in cases where serious health conditions extend beyond a single leave year. This does not apply to certificates to support a request for injured service member leave.

## **Restoration**

An employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the position. The District may demand more than a "simple statement" of the ability to return to work. Fitness for duty certification for intermittent leave may be requested by the District if reasonable safety concerns exist.

When the employee returns from leave, the District will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment shift, and geographically proximate workplace in accordance with Board policy, practices and applicable collective bargaining unit agreements. Employees are entitled to any unconditional pay increase, such as cost of living increases, that occur during the period to their FMLA leave.

Under certain circumstances, the District may deny restoration to a key employee. The District will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the District to experience a substantial and grievous economic injury.

Further, the District may deny restoration to an employee if the District shows that the employee would not otherwise be employed at time of reinstatement for reasons such as layoff, shift or special project elimination. In addition, collective bargaining agreements between the Board and employee groups will not diminish the rights of the employee established by FMLA.

A returning employee cannot be restored to a position that requires additional licensure of certification.

Employees are not entitled to accrue seniority during any FMLA leave, but taking the leave may not result in the loss of any benefits that were accrued prior to the leave.

## **Instructional Employees**

Special rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is

1. to care for a family member, or
2. for the employees own serious health condition and
3. is foreseeable based on planned medical treatment (i.e. chemotherapy, prenatal visits, physical therapy etc.) and
4. the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, then the District may require the employee to choose either to:
  1. take the leave for a period of a particular duration, not greater than the duration of the planned treatment; or
  2. transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position. However, an instructional employee cannot be transferred to an alternative position when the employee takes intermittent leave that amounts to twenty (20) percent or less of the total number of working days in the period during which the leave would extend.

Intermittent leave is not available to take care of a newborn or recently adopted child.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester the District may require the

employee to continue taking leave until the end of the semester if:

1. the leave will last at least three weeks, and
2. the employee would return to work during the three-week period before the end of the semester.

An instructional employee, required to extend his/her leave by the District, shall not have the "extra" leave counted against the employee's 12 work week entitlement unless the employee requests said additional leave be counted against the FMLA entitlement.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the District may require the employee to continue taking leave until the end of the semester if

- (1) the leave will last more than two weeks, and
- (2) the employee would return to work during the two-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester, and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

Leave may not be counted against an employee during times (vacation periods) when they are not normally required to work.

When the employee is required to take leave until the end of the semester, only the time until the employee is "ready and able" to work shall be charged to FMLA leave.

### **Failure to Return**

The District is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence, or onset of a serious health condition or due to circumstances beyond the control of the employee.

### **Miscellaneous**

1. An employee's serious health condition may also be a disability within the meaning of the Americans with Disability Act (ADA) which may also trigger requests for paid leave or workers' compensation benefits. The District may follow procedures for requesting medical information under the ADA or paid leave or worker's compensation programs without violating the FMLA. The District may also consider any information received pursuant to such procedures or benefit programs in determining an employee's entitlement to FMLA-protected leave.
2. When employees seek leave due to an FMLA-qualifying reason for which the District has previously provided FMLA protected leave, the employee must specifically reference the qualifying reason for leave or the need for FMLA leave.
3. The District requires employees to comply with all usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. The requirements include providing written notice of the reasons and anticipated start and duration of the leave or requirement that employees contact a specific individual of the District to request leave.
4. If there is a dispute between the District and an employee as to whether leave qualifies as FMLA leave, it shall be resolved through discussions between the District and the employee. The discussions and decisions must be documented in writing.

### **Regulation approved:**