

## Lower Merion School District

### ADMINISTRATIVE REGULATIONS

Administrative Regulation No.:	302
Section:	EMPLOYEES
Title:	STANDARDS OF CONDUCT
Date Adopted:	11/15/21
Date Last Revised:	10/21/24; 11/21/22
Date Reviewed:	2/7/25 (Appendix A only)

### R302 STANDARDS OF CONDUCT

This Administrative Regulation provides guidance and procedures with respect to the following areas:

- Section I: Equitable and Respectful Treatment of Others
  - Discriminatory Harassment by and of Employees and Other Members of School Community
  - Maintaining Appropriate Boundaries with Students
  - Child/Student Abuse – Mandatory Reporting
- Section II: Professionalism and Avoiding Conflicts of Interest
  - Outside Employment and Business Interests
  - Tutoring for a Fee
  - Private Coaching or Training of Students by District Athletic Coaches
  - Gifts
  - Crowdfunding
  - Romantic Relationships in the Workplace
  - Personal Use of Social Media
  - Personal Use of District Property
- Section III: Complaint Procedures
  - General Complaint Procedure
  - Reporting of Waste and Wrongdoing in District Operations (Whistleblower)

All current employees will receive a copy of this Administrative Regulation and the accompanying Board Policy. This Administrative Regulation will also be included in staff and student handbooks. All new employees will be required to sign a statement indicating that they have read and understand this Administrative Regulation and the accompanying Board Policy as part of orientation. The District will periodically inform all employees of this Administrative Regulation and the accompanying Board Policy, including the identification of any referenced Compliance Officers.

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I. Equitable and Respectful Treatment of Others

A. Discriminatory Harassment by and of Employees and Other Members of School Community

1. Discriminatory Harassment Prohibited

In order to maintain a working environment which promotes self-worth and respect for the dignity and worth of others, the Lower Merion School District prohibits all forms of harassment based on membership in designated classifications defined in Section I.A.2 below (referred to as “discriminatory harassment”) and to provide guidelines for a prompt and appropriate response to allegations of discriminatory harassment as well as guidelines for a prompt and appropriate remedy of any instance of discriminatory harassment.

2. Definitions

***Discriminatory harassment*** means verbal, written, graphic or physical conduct relating to an individual's race, color, ethnicity, national origin, language, immigration status, sex assigned at birth, sexual orientation, gender identity, gender expression, pregnancy, childbirth, pregnancy-related medical conditions, disability, creed, or religion when such conduct:

- Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment.
- Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance.
- Otherwise adversely affects an individual's employment opportunities. Discriminatory harassment may include sexual harassment which meets the following definition but not the definition of Title IX sex discrimination: Unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee's job performance or creating an intimidating, hostile or offensive working environment.

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**Title IX sex discrimination** is discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- (1) *Quid pro quo harassment.* An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
- (2) *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - a. The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
  - b. The type, frequency, and duration of the conduct;
  - c. The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - d. The location of the conduct and the context in which the conduct occurred; and
  - e. Other sex-based harassment in the recipient’s education program or activity
- (3) *Specific offenses.*

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- a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- b. Dating violence meaning violence committed by a person:
  - (i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - 1. The length of the relationship;
    - 2. The type of relationship; and
    - 3. The frequency of interaction between the persons involved in the relationship;
- c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
  - (i) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
  - (ii) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - (iii) Shares a child in common with the victim; or
  - (iv) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - (i) Fear for the person’s safety or the safety of others; or
  - (ii) Suffer substantial emotional distress.

3. Reporting Discriminatory Harassment

The District encourages employees and third parties who believe they or others have been subject to discriminatory harassment, including sexual harassment, Title IX sex

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discrimination, other discrimination or retaliation to promptly report such alleged incidents to the Title IX Coordinator, even if some elements of the related incident took place or originated away from school grounds, school activities, or school conveyances. If the Title IX Coordinator is the subject of the report, then the incident shall be reported to the Superintendent. A person who is not an intended victim or target of discrimination but is adversely affected by the harassing conduct is also encouraged to file a report of discrimination in accordance with this Policy.

The burden is on the Title IX Coordinator to determine what conduct constitutes Title IX sex discrimination, not the complainant or other person reporting the alleged discrimination.

The Contact information for the Title IX Coordinator for the District is set forth below:

<b>Title IX Coordinator</b>	Felicity Hanks
<b>Office Address</b>	301 E. Montgomery Ave., Ardmore, PA 19003
<b>Email</b>	<a href="mailto:hanksf@lmsd.org">hanksf@lmsd.org</a>
<b>Telephone Number</b>	610-645-1902

4. Procedures for Resolving Reports of Sex Discrimination

Any reports deemed by the Title IX Coordinator to meet the definition of Title IX sex discrimination shall be investigated and handled in accordance with the specific procedures included in the document attached hereto as **Appendix A – Title IX Grievance Process**.

5. Procedures for Resolving Reports of Discriminatory Harassment

Any employee who believes that the actions or words of a supervisor or other District employee constitute sexual or other discriminatory harassment has a responsibility, first, to make the objection known to that supervisor or employee and in the absence of a satisfactory resolution, to report in writing such conduct to the immediate supervisor, or to the Superintendent, if the complaint involves that supervisor. A written statement or report will be requested following an initial oral report to the supervisor.

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Any District employee who observes or becomes aware of sexual or other discriminatory harassment of or by a District employee by or of a District student(s), contracted individual(s), vendor(s), volunteer(s), or other third party(s) in the schools, on District property and/or in connection with any District/school-sponsored event must immediately report such conduct to the immediate supervisor, or to the Superintendent, if the complaint involves that supervisor.

Any complaints of harassment by individuals who believe they are the subject of discriminatory harassment should be made to the employee's supervisor, any member of the administrative staff, or the Superintendent when the complaint involves the supervisor. While there is no specific timeline for making complaints, individuals who believe they are the subjects of harassment are encouraged to make the complaint as soon as possible in order to facilitate a thorough and timely investigation. The supervisor shall confer with the Human Resources Manager, who shall normally be designated by the Superintendent to investigate such complaints. Such complaints shall be investigated promptly and in an impartial and as confidential a manner as possible. If an employee is not satisfied with the handling of a complaint or the action taken by the investigator, then the employee may bring the complaint to the attention of the Superintendent. In all cases, the employee will be advised of relevant findings and conclusions in a timely fashion.

Any employee who is found, after appropriate investigation, to have engaged in sex discrimination against or the sexual harassment of another employee shall be subject to disciplinary action, depending on the circumstances, up to and including termination, consistent with the Pennsylvania School Code of 1949, as amended and the applicable provisions of the Collective Bargaining Agreement.

**6. Retaliation Prohibited**

Retaliation against an individual who files a good faith complaint in accordance with either the formal or informal procedures, or against an individual who participates in or cooperates with an investigation, is prohibited. Such retaliation will result in the same disciplinary action applicable to one who engages in harassment.

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Reporting harassment will not affect the reporting individual’s status with respect to either an employee’s future employment or work assignments or a student’s future academic opportunity, progress or record.

7. Intentionally False Accusations Prohibited

False accusations of harassment can have serious effect on innocent individuals. Therefore, it is prohibited to intentionally falsely accuse an individual of harassment. Such intentionally false accusations will result in disciplinary action.

8. Confidentiality

In all phases of the complaint resolution process, every reasonable effort shall be made to maintain the confidentiality and protect the privacy of all parties, consistent with the District’s responsibility to investigate and address such complaints.

9. Consequences of Violation of Discriminatory Harassment Policy

A substantiated charge against a student shall subject such student to disciplinary action, up to and including suspension or expulsion. A substantiated charge against a District employee or agent will subject such employee or agent to disciplinary action, up to and including discharge. Supervisors who either condone or fail to act to correct discriminatory harassment brought to their attention also may be subject to disciplinary action. Staff members who become aware of discriminatory harassment involving a student and fail to report the complaint to the building principal will be subject to disciplinary action.

**B. Maintaining Appropriate Boundaries with Students**

All District employees and other adults, as defined below, shall be expected to maintain professional, moral and ethical relationships with District students that are conducive to an effective, safe learning environment. The following guidance provides direction to staff in how to maintain appropriate relationships with students and to avoid certain conduct including romantic/sexual relationships, social interactions, and electronic communications.

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1. Definitions

**District Adults** means all District employees, volunteers, student teachers, and independent contractors and their employees who interact with students or are present on school grounds. The term District Adults as used in this regulation, does not include District students who perform services on a volunteer or compensated basis.

**Legitimate educational reasons** include cocurricular or extracurricular activities and means justified entirely by professional interest, not personal or private interest. Such determinations are made on a case-by-case basis.

**Personal** means of or concerning one’s private life, relationships, and emotions rather than matters connected with one’s public or professional career.

2. Conduct Implicated by this Regulation

- a) **Romantic or Sexual Relationships:** Employees are prohibited from dating, seeking the romantic affections of, entering or attempting to form a romantic or sexual relationship with any student enrolled in the District, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with adults as defined in this regulation.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body.
- Sexual jokes, notes, stories, drawings, gestures, or pictures
- Spreading sexual or romantic rumors.
- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.



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- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
  - Displaying or transmitting sexual objects, pictures, or depictions
- b) **Social Interactions:** In order to maintain professional boundaries, employees shall ensure that their interactions with students are appropriate. The following examples of conduct must be avoided:
- Disclosing personal, sexual, family, employment concerns or other private matters to one or more students unrelated to a legitimate educational reason. Exchanging notes, emails or other communications of a personal nature with a student unrelated to a legitimate educational reason. Giving personal gifts, cards or letters to a student without written approval from the building principal.
  - Initiating, permitting, or requesting inappropriate or unnecessary physical contact with a student (e.g., massage, kissing, tickling) or facilitating situations which result in close physical contact with a student unrelated to a legitimate educational reason. (Reasons could include the need for assistance when injured, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction).
  - Singling out a particular student or students for personal attention or friendship beyond the ordinary employee-student relationship.
  - Taking a student out of class without a legitimate educational reason.
  - Being alone with a student behind closed doors without a legitimate educational reason. Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
  - Sending or accompanying a student on personal errands.
  - Inviting a student to home without express authorization from the employee's supervisor and the student's parents/guardians.
  - Going to a student's home to see the student without express authorization from the employee's supervisor.
  - Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal.

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- Giving a student a ride alone in a vehicle in a nonemergency situation without prior notification to and approval from both the parent/guardian and the building principal.
  - Addressing students or permitting students to address employees with personalized terms of endearment, pet names, or otherwise in an overly familiar manner or permitting the student to do the same to the adult.
  - Telling a student personal secrets or sharing personal secrets with a student.
  - For employees who are not guidance/counseling staff, psychologists, social workers or other employees with designated responsibilities to counsel students, encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, the student should be referred to the appropriate school resource.
  - Furnishing alcohol, drugs or tobacco to a student or being present where any student is consuming these substances.
  - Engaging in harassing or discriminatory conduct prohibited by other District policies or by state or federal law and regulations.
- c) **Electronic Communications:** For purposes of this regulation, **electronic communication** shall mean a communication transmitted by means of an electronic device including, but not limited to, a telephone, cellular telephone, computer, computer network, personal data assistant or pager. Electronic communications include, but are not limited to, emails, instant messages and communications made by means of an Internet website, including social media and other networking websites.

As with other forms of communication, when communicating electronically, employees shall maintain professional boundaries with students. Electronic communication with students shall be for legitimate educational reasons only.

When available, District-provided email or other District-provided communication devices shall be used when communicating electronically with students. The use of District-provided email or other District provided communication devices shall be in accordance with District policies and procedures.

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Employees are prohibited from using personal email, text messaging, instant messaging, and social-networking accounts, websites, and any other applications for communicating with parents/guardians and students that are not specifically authorized. Employees shall not follow or accept requests for current students to be friends or connections on personal social networking sites and shall not create any networking site for communication with students other than those provided by the District for this purpose, without the prior written approval of the building principal. Some examples of allowable communications in this context include where the adult is a family relative of the student.

Improper and/or inappropriate electronic communication between employees and students is prohibited, regardless of whether the employee or the student initiates the communication. Improper and/or inappropriate electronic communication includes but is not limited to any type of message that may be viewed as:

- Derogatory;
- Sexual, lewd, pornographic, or obscene in content;
- Offensive through the use of profanity;
- Threatening or harassing;
- Discriminatory;
- Facilitation of illegal activities;
- Having the purpose to assist personal, commercial or for-profit ends;
- Expression of political viewpoints;
- Unauthorized or illegal distribution, reproduction, or use of copyrighted materials;
- Fraternalization or otherwise crossing the line between professional and personal boundaries; and/or
- Suggestive in nature.

- d) **Group Messaging for Sports and Other Activities:** Regarding the use of text messages, the Board realizes this may be a form of electronic communication that is especially valuable in certain contexts when the possibility of immediate and/or urgent contact with students by employees is desirable. Such contexts include but are not limited to the following:

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- Employee coaches who need the ability to reach student athletes, team members, etc., quickly.
- Employee advisors of extra-curricular programs or activities who need the ability to reach student participants in a short time frame.
- Employees chaperoning District field trips who need the ability to monitor the locations of students.

If an employee plans to communicate electronically with students through the use of text messages, the employee must obtain permission to do so from their building principal using the form appended as **Attachment 1**. Also, if permission is received, the employee must not only provide students' parents/guardians with written notification of the intent to use text messaging but must also obtain written parental/guardian permission to do so.

All electronic communications from coaches and advisors to team or club members shall be sent in a single communication to all participating team or club members, except for communications concerning an individual student's medical or academic privacy matters, in which case the communications will be copied to the building principal. In the case of sports teams under the direction of the Athletic Director, such medical or academic communications shall also be copied to the Athletic Director.

3. Exceptions

An emergency situation or a legitimate educational reason may justify deviation from professional boundaries set out in this regulation. The District Adult shall be prepared to articulate the reason for any deviation from the requirements of this regulation and must demonstrate that s/he has maintained an appropriate relationship with the student.

Under no circumstance will an educational or other reason justify deviation from the "Romantic and Sexual Relationships" section of this regulation.

There will be circumstances where personal relationships develop between a District Adult and a student's family, e.g., when their children become friends. This regulation is

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not intended to interfere with such relationships or to limit activities that are normally consistent with such relationships. District Adults are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity.

It is understood that many District Adults are involved in various other roles in the community through non-District-related civic, religious, athletic, scouting or other organizations and programs whose participants may include District students. Such community involvement is commendable, and this regulation is not intended to interfere with or restrict a District Adult's ability to serve in those roles. However, District Adults are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity with regard to all youth with whom they interact in the course of their community involvement.

**4. Reporting Inappropriate or Suspicious Conduct**

Any person, including a student, who has concerns about or is uncomfortable with a relationship or interaction between a District Adult and a student, shall immediately notify the Superintendent, principal or other administrator.

All District employees, independent contractors and volunteers who have reasonable cause to suspect that a child is the victim of child abuse, shall immediately report the suspected abuse, in accordance with applicable law, regulations and Board policy.

An educator who knows of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under the Educator Discipline Act shall report such misconduct to the Pennsylvania Department of Education on the required form, and shall report such misconduct to the Superintendent and their immediate supervisor, within fifteen (15) days of discovery of such misconduct.

If the Superintendent or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Child Protective Services Law, the Educator Discipline Act or the Safe Schools Act, the Superintendent or designee shall make a report, in accordance with applicable law, regulations and Board policy.

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It is a violation of this regulation to retaliate against any person for reporting any action pursuant to this regulation or for participating as a witness in any related investigation or hearing.

5. Investigation

Allegations of inappropriate conduct shall be promptly investigated in accordance with the procedures utilized for complaints of prohibited harassment of students as referenced below. It is understood that some reports made pursuant to this Administrative Regulation will be based on rumors or misunderstandings; the mere fact that the reported District Adult is cleared of any wrongdoing shall not result in disciplinary action against the reporter or any witnesses. If as the result of an investigation any individual, including the reported District Adult, the reporter, or a witness is found to have intentionally provided false information in making the report or during the investigation or hearings related to the report, or if any individual intentionally obstructs the investigation or hearings, this may be addressed as a violation of this regulation and other applicable laws, regulations and District policies. Obstruction includes but is not limited to violation of "no contact" orders given to the reported District Adult, attempting to alter or influence witness testimony, and destruction of or hiding evidence.

6. Disciplinary Action

A District employee who violates this regulation may be subject to disciplinary action, up to and including termination, in accordance with all applicable District disciplinary policies and procedures.

The District shall provide training with respect to the provisions of this regulation to current and new District employees, volunteers and student teachers subject to this regulation.

**C. Child Abuse**

1. Mandated Reporters

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District employees shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is a victim of child abuse as defined in Section I.C.4, below.

a) Duty to Report

Mandated reporters shall make a report of suspected child abuse if they have reasonable cause to suspect that a child is the victim of child abuse under any of the following circumstances:

- 1) The mandated reporter comes into contact with the child in the course of employment, occupation and the practice of a profession or through a regularly scheduled program, activity or service.
- 2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
- 3) A person makes a specific disclosure to a mandated reporter that an identifiable child is the victim of child abuse.
- 4) An individual fourteen (14) years of age or older makes a specific disclosure to a mandated reporter that they have committed child abuse.

A child is not required to come before the mandated reporter in order for those individuals to make a report of suspected child abuse.

A report of suspected child abuse does not require the identification of the person responsible for the child abuse.

Any person who, in good faith, makes a report of suspected child abuse, regardless of whether the report is required, cooperates with an investigation, testifies in a proceeding, or engages in other action authorized by law shall have immunity from civil and criminal liability related to those actions.

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Any person required to report child abuse who willfully fails to do so may be subject to disciplinary action and criminal prosecution.

Any person who intentionally or knowingly makes a false report of child abuse or intentionally or knowingly induces a child to make a false claim of child abuse may be subject to disciplinary action and criminal prosecution.

Any person who engages in intimidation, retaliation, or obstruction in the making of a child abuse report or the conducting of an investigation into suspected child abuse may be subject to disciplinary action and criminal prosecution.

The District shall not discriminate or retaliate against any person for making, in good faith, a report of suspected child abuse.

**b) Reporting Procedures**

Mandated reporters who suspect child abuse shall immediately make a written report of suspected child abuse using electronic technologies or an oral report via the statewide toll-free telephone number. A person making an initial oral report of suspected child abuse must also submit a written electronic report within forty-eight (48) hours after the oral report. Upon receipt of an electronic report, the electronic reporting system will automatically respond with a confirmation, providing the District with a written record of the report.

A mandated reporter who makes a report of suspected child abuse shall immediately, after making the initial report, notify the school principal and if the initial report was made electronically, also provide the principal with a copy of the report confirmation. The school principal shall then immediately notify the Superintendent or designee that a child abuse report has been made and if the initial report was made electronically, also provide a copy of the report confirmation. The Superintendent or designee shall also contact local law enforcement officials in all cases where a report has been made to ChildLine.



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When a report of suspected child abuse is made by a mandated reporter as required by law, the District is not required to make more than one (1) report. An individual otherwise required to make a report who is aware that an initial report has already been made by a mandated reporter is not required to make an additional report.

When necessary to preserve potential evidence of suspected child abuse where there is serious and reportedly non-accidental physical injury a school nurse may, after the initial report is made, take or cause to be taken photographs of the child who is the subject of the report as authorized by the building administrator and in the presence of another adult. Any such photographs shall be set to the county agency at the time the written report is sent or within forty-eight (48) hours after a report is made by electronic technologies or as soon thereafter as possible.

Please see the **Appendix B** for a guide to reporting child abuse.

c) Investigation

The school principal or designee shall facilitate the cooperation with the Department of Human Services of the Commonwealth or the county agency investigating a report of suspected child abuse, including permitting authorized personnel to interview the child while in attendance at school.

Upon notification that an investigation involves suspected child abuse by a school employee, the principal or designee shall immediately implement a plan of supervision or alternative arrangement for the school employee under investigation. The plan of supervision or alternative arrangement shall be submitted to the county agency for approval.

d) Confidentiality

All information collected in the process of reporting suspected child abuse shall remain a confidential educational record, and shall only be disclosed in accordance with applicable law.

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2. Other Employee Responsibilities

LMSD employees shall obtain and submit new criminal history background checks and certifications upon hire and at intervals of every sixty (60) months.

3. Training

LMSD employees are required to complete a minimum of three (3) hours of training every five (5) years including, but not be limited to, the following topics:

- a) Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.
- b) Provisions of the educator discipline act, including mandatory reporting requirements.
- c) District policy related to reporting of suspected abuse and sexual misconduct.
- d) Maintenance of professional and appropriate relationships with students.

4. Definitions

**Bodily Injury:** Impairment of physical condition or substantial pain.

**Child:** An individual under eighteen (18) years of age.

**Child abuse:** Intentionally, knowingly or recklessly doing any of the following:

- a) Causing bodily injury to a child through any recent act or failure to act.
- b) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- c) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- d) Causing sexual abuse or exploitation of a child through any act or failure to act.

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- e) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- f) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- g) Causing serious physical neglect of a child.
- h) Engaging in any of the following recent acts:
  - (a) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
  - (b) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
  - (c) Forcefully shaking a child under one (1) year of age.
  - (d) Forcefully slapping or otherwise striking a child under one (1) year of age.
  - (e) Interfering with the breathing of a child.
  - (f) Causing a child to be present at a location while a violation of 18 Pa. C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
  - (g) Leaving a child unsupervised with an individual, other than the child's parent/guardian, who the actor knows or reasonably should have known: is required to register as a Tier II or Tier III sexual offender under 42 Pa. C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under eighteen (18) years of age when the crime was committed; has been determined to be a sexually violent predator under 42 Pa. C.S. § 9799.24 (relating to assessments) or any of its predecessors; or has been determined to be a sexually violent delinquent child as defined in 42 Pa. C.S. § 9799.12 (relating to definitions).
- i) Causing the death of the child through any act or failure to act.
- j) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

The following are exclusions from child abuse:

- a) Environmental factors: No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors such as inadequate housing, furnishings, income, clothing and medical care, that are

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- beyond the control of the parent/guardian, or person responsible for the child’s welfare with whom the child resides.
- b) Practice of religious beliefs: If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child’s parents/guardian or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused.
  - c) Use of force for supervision, control and safety purposes: The use of reasonable force on or against a child by the child’s own parent/guardian, or person responsible for the child’s welfare shall not be considered child abuse if any of the following conditions apply:
    - i. the use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.
    - ii. the use of reasonable force is necessary:
      - (a) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to personal or damage to property
      - (b) to prevent the child from self-inflicted physical harm;
      - (c) for self-defense or the defense of another individual; or
      - (d) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.
  - d) Rights of Parents/Guardians: Nothing in this definition shall be construed to restrict the generally recognized existing rights of parents/guardians to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.
  - e) Participation in events that involve physical contact with child: An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirement.

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- f) Child-on-child contact: Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.

The following child-on-child acts constitute crimes against a child which are subject to reporting requirements of this regulation:

- i. rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
  - ii. involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
  - iii. sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
  - iv. aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
  - v. indecent assault, as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);
  - vi. indecent exposure, as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- g) Defensive force: Reasonable force for self-defense or the defense of another individual, consistent with the provisions of with 18 Pa.C.S. §§ 505 (relating to use of force for self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

**Direct contact with children:** The possibility of care, supervision, guidance or control of children or routine interaction with children.

**Direct volunteer contact:** The care, supervision, guidance or control of children and routine interaction with children.

**Independent contractor:** An individual who provides a program, activity or service to the District who is otherwise responsible for the care, supervision, guidance or control of children. The term does not include an individual who has no direct contact with children.

**Parent/Guardian:** A biological parent, adoptive parent or legal guardian.

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**Perpetrator:** A person who has committed child abuse and is a parent/guardian of the child, a spouse or former spouse of the child's parent/guardian, a paramour or former paramour of the child's parent/guardian, an individual fourteen (14) years of age or older who resides in the same home as the child, an individual eighteen (18) years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child, or an individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

Only the following may be considered a perpetrator for failing to act: (1) a parent/guardian of the child; (2) a spouse or former spouse of the child's parent; (3) a paramour or former paramour of the child's parent; (4) a person eighteen (18) years of age or older who is responsible for the child's welfare; or (5) a person eighteen (18) years of age or older who resides in the same home as the child.

**Person responsible for the child's welfare:** A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.

**Program, activity or service:** A public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following:

- A youth camp or program.
- A recreational camp or program.
- A sports or athletic program.
- A community or social outreach program.
- An enrichment or educational program.
- A troop, club or similar organization.

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**Recent act or failure to act:** Any act or failure to act committed within two (2) years of the date of the report to the Department of Human Services of the Commonwealth or county agency.

**Routine interaction:** Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

**School employee:** An individual who is employed by the District or who provides a program, activity or service sponsored by the District.

**Serious mental injury:** A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

- a) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or
- b) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

**Serious physical neglect:** Either of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- a) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- b) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

**Sexual abuse or exploitation:** Any of the following:

- a) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
  - i. Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

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- ii. Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
- iii. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- iv. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

Paragraph 1 does not include consensual activities between a child who is fourteen (14) years of age or older and another person who is fourteen (14) years of age or older and whose age is within four (4) years of the child's age.

- b) Any of the following offenses committed against a child: rape; statutory sexual assault; involuntary deviate sexual intercourse; sexual assault; institutional sexual assault; aggravated indecent assault; indecent assault; indecent exposure; incest; prostitution and related offenses; sexual abuse of children; unlawful contact with a minor; or sexual exploitation.

**Sexual misconduct:** Any act, including, but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, directed toward or with a child or student that is designed to establish a romantic or sexual relationship with the child or student. Such acts include, but are not limited to: sexual or romantic invitation; dating or soliciting dates; engaging in sexualized or romantic dialog; making sexually suggestive comments; self-disclosure or physical exposure of a sexual, romantic, or erotic nature; any sexual, indecent, romantic, or erotic contact with the child or student.

**Student:** An individual enrolled in the District school under eighteen (18) years of age.<sup>1</sup>

**Volunteer:** An individual eighteen (18) years or older in an unpaid position with a program, activity or service who, within the scope of their volunteer activity, is individually responsible for the welfare of one or more children or has direct volunteer contact.

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<sup>1</sup> Nothing in this Regulation or accompanying Policy is intended to inhibit the reporting of abuse directed toward students eighteen (18) years of age and older to the appropriate authority.



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5. Exclusions

- a) Use of force for supervision, control and safety purposes: No child shall be deemed physically or mentally abused due to the use of reasonable force on or against a child by the child's parent/guardian, or person responsible for the child's welfare if any of the following conditions apply:
  - (1) the use of reasonable force constitutes incidental, minor, or reasonable physical contact with the child.
  - (2) the use of reasonable force is necessary:
    - (a) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury or damage to property;
    - (b) to prevent the child from self-inflicted physical harm;
    - (c) for self-defense or the defense of another individual; or
    - (d) to obtain possession of weapons, other dangerous objects, controlled substances or paraphernalia that are on the child or within the child's control.
  
- b) Participation in events that involve physical contact with child: An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity, or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirement.
  
- c) Child-on-child contact: Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator. No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child during a dispute, fight or scuffle entered into by mutual consent. Exceptions: The following child-on-child acts constitute crimes against a child which are subject to reporting requirements of this regulation:
  - (1) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);
  - (2) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

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- (3) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
  - (4) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
  - (5) indecent assault, as defined in 18 Pa.C.S. § 3126 (relating to indecent assault);
  - (6) indecent exposure, as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- d) Defensive force: Reasonable force for self-defense or the defense of another individual, consistent with the provisions of with 18 Pa.C.S. §§ 505 (relating to use of force for self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

**II. Professionalism and Avoiding Conflicts of Interest**

**A. Outside Employment and Business Interests**

The District permits its employees to maintain outside employment and business interests (defined below and collectively referred to as “Outside Business Interests”), but only to the extent that:

- The Outside Business Interest does not create an actual or potential conflict of interest;
- The Outside Business Interest does not affect the ability of employees to perform their obligations to the District;
- The employee does not use either their position with the District or District resources, including their District email, to further their own outside business interests;
- The Outside Business Interest does not negatively affect the reputation of the District; and
- Employees who engage in Outside Business Interests do so on their own time and not as a representative of the District and do not otherwise imply the District endorses their services or product.

**1.**

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Definitions

**Business Interests** means any interests or activities undertaken by a District employee for financial or other remuneration outside their role at the District including but not limited to private consulting, or owning, operating or being employed by a private business. Ownership of a private business does not include a financial interest in a legal entity engaged in business for profit which comprises no more than five percent (5%) of the equity of the business or no more than five percent (5%) of the assets of the business. In other words, if a District employee owns five percent (5%) or less of a business, then that business interest is not covered by this policy.

**Non-district sponsored activity** is an Outside Business Interest which involves District students as participants either as customers, employees, attendees or otherwise. This definition does not include students who are related to or share a household with the District employee. It also does not include student customers/employees/attendees with whom contact is incidental and completely unsolicited by the District employee. An example of a non-district sponsored activity is travel involving District students outside the District by an organized group led by a guide which is neither:

- a) Funded in whole or in part by the District, either directly or indirectly through a student organization approved by the Board; nor
- b) Supervised by a District employee or contractor acting within the scope of their employment or contractual relationship with the District.

**Outside Employment** means performing services for a fee for an entity other than the Lower Merion School District or a related entity, as that term is defined below, whether as an employee or independent contractor.

**Related entity** as used in the definition of **Outside Employment** means one of the following organizations:

- the Lower Merion Township Scholarship Fund,
- the Education Foundation of Lower Merion, and
- the Lower Merion/Harriton Alumni Association.

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**Solicit** includes, but is not limited to, in-person conversation as well as the distribution and posting of information in a location reasonably calculated to come to the attention of students or their parents.

**2. Non-District Sponsored Activities**

The District recognizes that from time to time students may have the opportunity to participate in Non-District Sponsored Activities.

The District does not prohibit students from participating in Non-District Sponsored Activities or District staff members from sponsoring and/or planning such Non-District Sponsored Activities to the extent that there is no interference with the regular school program and/or other student/staff responsibilities. The District does, however, regulate the circumstances under which and the procedures that must be followed when students are solicited to participate in Non-District Sponsored Activities on school grounds and/or by District staff members in connection with Outside Business Interests.

Questions regarding this Administrative Regulation should be directed to the building principal or an employee's immediate supervisor.

**3. Disclosure Requirement**

**Using Attachment 2**, District employees must disclose to their direct supervisor specified information including, but not limited to, the nature of all Outside Employment and Business Interests (collectively, **Outside Business Interests**) as defined above if the Outside Business Interest:

- a) Creates an actual or potential conflict of interest;
- b) Affects the ability of the employee to perform their obligations to the District;
- c) Entails the employee using either their position with the District or District resources, including their District email, to further these interests;
- d) Negatively affects the reputation of the District;
- e) Impinges on the employee's LMSD work responsibilities;

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- f) Implies the District endorses their services or product; or
- g) Involves students as customers, employees, attendees, etc.

If an employee is in doubt regarding any of the above requirements for disclosure, the employee should consult the building principal or an employee's immediate supervisor.

District employees shall disclose the names of all District students who are employed by or are a volunteer of the District employee in connection with any Outside Business Interest or participants of any nature in a non-district sponsored activity. This does not include students who are related to or share a household with the District employee. It also does not include student customers/employees/attendees with whom contact is incidental and completely unsolicited.

#### 4. Additional Rules for Non-District Sponsored Activities

To avoid any conflict with the interests of the District when a District employee sponsors or chaperones a non-district sponsored activity, all District employees are required to adhere to the below provisions. Waiver of the following provisions must be in writing from the Superintendent or designee:

- a) Staff may not solicit students or their parent(s)/guardian(s) to sign up for or otherwise participate in a non-district sponsored activity during work time.
- b) Staff may not use confidential information learned about students during the ordinary course of their employment with the District for the purpose of soliciting student participation in a non-district sponsored activity.
- c) Staff may not use the District's internet, District network resources, or other District property for soliciting student participation in a non-district sponsored activity or planning the Non-District Sponsored Activity.
- d) There shall be no posting or distribution of information regarding a non-district sponsored activity on District property or during work time.
- e) No meetings may take place on District property during the school day or work hours regarding a Non-District Sponsored Activity. Meetings during non-school/work hours shall be governed by applicable Board Policy and Administrative Regulations regarding use of District facilities.

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- f) Compliance with Board Policy and Administrative Regulations regarding adult/student boundaries is always required in connection with a Non-District Sponsored Activity.
- g) All materials developed to solicit student participation in non-district sponsored activities must clearly indicate that the activity is not sponsored or endorsed by the District.
- h) District staff members who sponsor a non-district sponsored activity must notify, in writing, any students who are considering participating in such non-district sponsored activity and their parents/guardians that the activity is not sponsored by the District and that the District assumes no responsibility with respect to the activity. A copy of the letter to each student shall be provided to the employee's direct supervisor. An example of such a letter is attached hereto as **Attachment 3**.
- i) All staff members who participate in a non-district sponsored activity will remain responsible for all work-related responsibilities.

5. Complaint Procedure

Any person, including students, parents/guardians, administrators, coaches, sponsors, volunteers, District employees, representatives, agents, and contractors, who becomes aware of conduct by a District employee that violates the accompanying Policy, or this Administrative Regulation are encouraged to promptly report such incidents to any District administrator. Any District Administrator, who becomes aware or is made aware of conduct by a District employee that violates the accompanying Policy and this Administrative Regulation, are encouraged to promptly report such incidents to the employee's direct supervisor.

Complaints shall be handled in the same manner as other employee disciplinary investigations. Consequences for violations of this Administrative Regulation or the accompanying Policy may lead to discipline up to and including termination.

**B. Tutoring for a Fee**

1. Tutoring Own Students Prohibited

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All District students are entitled to reasonable assistance from their teachers, as defined in section III.B.5., below, without additional cost. Moreover, allowing any teacher to charge a fee to their own students for tutoring could create an appearance that the student will have an unfair academic advantage. Therefore, teachers and their near relatives shall refrain from tutoring their current students for a fee either individually or in groups. Furthermore, teachers may not initiate private business or “tutoring for a fee” relationships with their current students, or those students’ parents/guardians, regardless of when the tutoring may occur, whether on behalf of themselves or their near relatives. For example, a teacher cannot solicit prospective business from a current student even if the tutoring may occur when the student is no longer in his or her class, such as during the summertime.

#### 2. Other Restrictions on Tutoring

No tutoring or private lessons for which a teacher or other employee receives a fee will be carried on in the school building absent extraordinary circumstances authorized by the Superintendent.

A teacher or other employee may not use District resources such as their assigned computer or classroom materials, including assessments, in connection with a private tutoring business.

No solicitation for tutoring for a fee services for a teacher or their near relatives may occur on District property or through any District means of communication at any time.

Except in cases of assigned homebound instruction, employees who tutor, or whose near relatives tutor, their current students for a fee individually or in groups will be subject to discipline up to and including discharge.

#### 3. Examples of Permissible Tutoring

- An elementary music teacher could provide private music instruction to students assigned to another elementary school in the District.
- An elementary math teacher could provide group instruction to students not assigned to that teacher but not a group containing any student assigned to the teacher.

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However, even in cases where tutoring for a fee is permitted; it is still prohibited from occurring on school property.

4. Disclosure Requirement

Teachers must disclose to their principal the names of all District students for whom they or their near relatives provide tutoring prior to providing the tutoring.

Using Attachment 4, teachers must disclose to their principal the names of all District students for whom they or their near relatives provide tutoring prior to providing the tutoring.

5. Definitions

**Teacher** includes classroom teachers, teachers of special subjects such as music and art, counselors, psychologists, performance activity advisors, aides and related services providers, including but not limited to, such as speech therapists, occupational therapists and physical therapists.

**Tutoring** means providing additional, special, or remedial instruction to a student in the employee’s assigned area(s) of certification.

**Current student** means a student on the employees’ class list or case load or who is otherwise specifically assigned to the employee regardless of the time of year.

**Near relative** means an employee’s spouse, their children and others with whom they make their home.

**Performance activity advisors** means individuals employed in District extra duty for extra pay classifications pertaining to activities in which District students publicly compete or perform.

C. **Private Coaching or Training of Student(s) by District Athletic Coaches**

District-employed athletic coaches are permitted to privately coach or train present or future members of the team to which the District assigns them subject to any restrictions set forth in the following:

- this Administrative Regulation;



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- the District’s conflict of interest policy referenced below;
- any applicable Pennsylvania Interscholastic Athletic Association (“PIAA”) limitations; and
- any applicable state and federal conflict of interest laws.

1. Definitions

**District Coach** means an individual (1) employed by and paid, in whole or in part, by the District in the capacity of athletic coach whether or not the sport is recognized by the PIAA or (2) designated as a volunteer coach by the Athletic Director whether or not the individual is otherwise employed by the District.

**Private Coaching** means the District Coach administering, directing, or coaching, for a fee, a camp or clinic, league, team, or tournament that is attended by students who are potentially eligible to play for the District school team for which the District Coach is employed to coach in the upcoming athletic season.

**Private Training** means the District Coach providing individual and group instruction for a fee paid to the trainer in the techniques and skills relevant to a particular sport outside of the coaching done on behalf of the District.

2. Expectations and Limitations

District Coaches shall refrain from engaging in Private Coaching or Private Training with any players eligible to play for the team coached by the District Coach for a fee either individually or in groups during the season in which they are coaching the District team. Further, District Coaches are not permitted to engage in Private Training of District students, incoming 9th grade through 12th grade, for a fee in the sport(s) they coach in the District.

District Coaches shall not direct, coerce or otherwise exert undue influence over a student to participate, or not participate, as a member of a team or as an individual competitor in a non-school league, camp, clinic, or to take private or group instruction or lessons, particularly where the coach conducts or otherwise has a financial interest in the Private Coaching/Private Training. In that regard, team roster selections and playing time decisions for rostered players must be based solely on performance with the District team. Whether or

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not a student receives Private Coaching or Private Training from a coach shall have no effect on playing time or making the District school team for which the coach is employed.

District Coaches shall receive no preferential treatment whatsoever for District facilities use for their Privately Coached teams, camps, clinics, leagues, or tournaments.

District Coaches who Privately Train students or coach non-District teams will do so on their own time and not on the premises of the District except through the District’s facilities use policies and regulations. Arrangements regarding costs and scheduling of the sessions will be done by the District Coach when not engaged in their District employment.

Care must be taken by District Coaches not to directly or indirectly pressure District students to prioritize sport or activity participation over religious observances whether or not the District Coach is coaching the student on a District team or a club team. Students and families should feel encouraged to direct their concerns to the building principal or other building administrator without fear of reprisals or other adverse consequences.

3. Disclosure Requirement

District Coaches must disclose to their supervising Athletic Director information regarding the Private Coaching/Private Training arrangement including, but not limited to, the names of all District students for whom they provide Private Training or Private Coaching prior to providing Private Training or Private Coaching for the District student. District Coaches shall disclose the names of all District students who are employed by or are a volunteer of the District coach in connection with any Private Coaching or Private Training.

**Using Attachment 5, Disclosure Form for Use by District Coaches**, District Coaches must disclose to their supervising Athletic Director specified information including, but not limited to, the names of all District students for whom they provide private training or private coaching prior to providing such private training or private coaching for the District student(s). Also, District Coaches shall disclose the names of all District students who are employed by or are a volunteer of the District Coach in connection with any private coaching or private training.

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4. Examples of Permitted/Prohibited Private Training/Coaching

See Attachment 6, Quick Reference Guide for District Coaches, for implementation guide and examples.

5. Violations

Violations of this policy may result in disciplinary action up to and including discharge. Disciplinary actions shall be consistent with Board Policies, Administrative Regulations, applicable collective bargaining agreements, and state and federal laws.

6. Complaint Procedure

Students who have been subjected to conduct by a District Coach that violates the accompanying policy and/or this regulation are encouraged to promptly report such incidents to their principal, assistant principal, athletic director and/or school guidance counselor.

Students, parents/guardians, administrators, coaches, sponsors, volunteers, District employees, representatives, agents, and contractors shall be alert to violations of the accompanying policy and this regulation and shall promptly report such conduct to their immediate supervisor or the appropriate building principal.

Complaints shall be handled in the same manner as other employee disciplinary investigations. Consequences for violations of this regulation and accompanying policy may lead to removal as a District Coach and, depending on the nature of the violation, could affect the District Coach's employment by the District in another capacity other than coach.

**D. Gifts**

District employees may not accept gifts from students, families, vendors, suppliers, employees, potential employees, potential vendors or suppliers, and any other individual or organization; however:

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1. The Superintendent or their designee may approve acts of generosity to individual employees in unusual situations, but shall report such instances to the Board in a timely manner.
2. A staff member may accept from a parent, student or other individual an unsolicited item of little intrinsic value, not to exceed \$10. Examples of items of little intrinsic value could include, but are not necessarily limited to greeting cards, refreshments or baked goods, homemade crafts, pictures or certificates which are primarily intended for presentation or display purposes, etc.

Questions regarding this Regulation should be directed to the building principal or an employee’s immediate supervisor.

**E. Crowdfunding**

1. Definitions

**Crowdfunding** – the practice of funding a project or venture by raising monetary contributions from a large number of people, typically via the Internet.

**Campaign** – a fundraising effort launched on an approved platform that is designed to raise funds to meet an advertised goal or need.

2. Crowdfunding Prohibited Unless Explicitly Approved

District employees, including coaches and activity sponsors, may not engage in crowdfunding campaigns related to their roles or duties as a District employee or otherwise benefiting the District, including District programs, initiatives, mission, students or staff without prior written authorization from a designated administrator.

This Administrative Regulation does not govern employee participation in purely private crowdfunding campaigns or initiatives that in no way involve the District, including its programs, initiatives, mission, students or staff.

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Approved crowdfunding campaigns must operate in compliance with all laws and all other Board Policies and Administrative Regulations.

#### 3. Approval Process

District employees who wish to engage in crowdfunding efforts benefitting the District, directly or indirectly, including its programs, initiatives, mission, students or staff shall submit a written request and proposal to the Assistant Superintendent. Crowdfunding efforts with the goal or effect of personal or other gain beyond the District-related benefits associated with the campaign's purpose will not be approved.

The written request and proposal shall include the following:

- a) Description of the specific goal of the crowdfunding campaign and how it will support or enhance the mission of the District, its programs or stakeholders.
- b) The internet website that will be used to host the crowdfunding campaign.
- c) The names of all individuals who will be initiating, promoting, overseeing, or administering the crowdfunding campaign.
- d) The amount of money that the crowdfunding campaign seeks to raise.
- e) The expected duration of the crowdfunding campaign.
- f) Whether and the extent to which the proposal involves the use of the District or school logo, mascot, or other information identifying the District.

Upon receipt of a written request and proposal, the Assistant Superintendent will review the proposal and either approve, deny, or conditionally approve the proposed crowdfunding campaign. The Assistant Superintendent shall consider, among other factors deemed appropriate under the circumstances, whether the crowdfunding campaign is consistent with the District's mission and whether it would support or enhance existing or proposed District programs or activities when evaluating a particular proposal for approval.

The Assistant Superintendent shall respond in writing to the individual(s) who submitted the crowdfunding request/proposal advising whether the request has been approved, denied, or approved subject to certain conditions within ten (10) days of receipt of such

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request/proposal. If the request is being denied or limited in any way, the Assistant Superintendent shall include in the written response the basis for such denial or limitation.

Crowdfunding campaigns may only operate to the extent approved, and subject to any conditions imposed, in accordance with the above procedure.

2. Limitations/Restrictions

Approved crowdfunding campaigns must operate in compliance with all applicable laws, Board Policies and Administrative Regulations. It is the responsibility of those requesting permission to participate in the crowdfunding activity to understand and comply with all legal and regulatory requirements applicable to crowdfunding activities. The District assumes no responsibility with respect to such compliance.

Approved crowdfunding campaigns may not have the effect of violating Title IX or any other state or federal law.

District employees who are determined to be operating a crowdfunding campaign in violation of the law, Board Policy, any applicable Administrative Regulation, or otherwise in excess of the authority for which the campaign was approved to operate, will be required to immediately suspend the campaign and may be subject to discipline.

District funds may not be utilized to support approved crowdfunding efforts, including costs related to service fees, advertising, or promotional expenses without Board approval.

District employees may not use contracted working time or District property, including their District-issued computer or email address, to plan, initiate, promote, advertise, oversee, or administer an approved crowdfunding campaign without prior written approval from the Assistant Superintendent.

The employee may not receive any additional compensation from the crowdfunding without Assistant Superintendent approval. Crowdfunding expenses cannot be deducted or otherwise reimbursed to the employee from the funds raised without prior approval from the Assistant Superintendent.

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Logos, mascots or other identifying information of the District or the individual schools may not be used without prior written approval from the Assistant Superintendent.

Individuals who are not employees of the District or representatives from an approved school organization are prohibited from engaging in crowdfunding on behalf of the District without prior written consent of the Superintendent or designee.

3. Disclaimer/Waiver

All approved crowdfunding campaigns must contain the following disclaimer/waiver in the description of the campaign:

“Lower Merion School District (“the District”) does not endorse or assume liability for the contents of this crowdfunding campaign. The campaign may link to other websites on the Internet and include reference to information, documents, software, materials, or services provided by other parties over which the District has no control. The District is not responsible for the accuracy, copyright compliance, legality, decency, or any other aspect of such content, nor is it responsible for errors or omissions in any references to other parties, their products, or their services. Third-party links or references from this campaign are provided merely as a convenience and do not imply endorsement or warranty of any kind. The District reserves the right, in its sole discretion, to distribute any funds received via this campaign as it sees fit, and maintains no obligation to refund any portion of fees paid for any product or service.”

**F. Romantic Relationships in the Workplace**

The Lower Merion School District strongly believes that a work environment where employees maintain clear boundaries between employee personal and business interactions is necessary for effective business operations. Although this Policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish boundaries as to how relationships are conducted during working hours and within the working environment.

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Individuals in supervisory or managerial roles and those with authority over others' terms and conditions of employment are subject to more stringent requirements under this Policy due to their status as role models, their access to sensitive information, and their ability to affect the employment of individuals in subordinate positions.

This Policy does not preclude or interfere with the rights of employees protected by law or any applicable collective bargaining agreement.

Guidelines

1. During working time and in working areas, employees are expected to conduct themselves in an appropriate workplace manner that does not interfere with others or with overall productivity.
2. During non-working time, such as lunches, breaks, and before and after work periods, employees engaging in personal exchanges in nonwork areas should observe an appropriate workplace manner to avoid offending other workers or putting others in an uncomfortable position.
3. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate in the workplace by a reasonable person while anywhere on company premises, whether during working hours or not.
4. Employees who allow personal relationships with co-workers to adversely affect the work environment will be subject to the District's disciplinary policy, including counseling for minor problems. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.
5. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however,



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is romantic or sexual relationships between supervisors and subordinates.

6. Any supervisor, manager, executive or other company official in a sensitive or influential position with the Lower Merion School District must disclose the existence of a romantic or sexual relationship with another co-worker. Disclosure may be made to the individual's immediate supervisor or the Human Resources Manager. The District will review the circumstances to determine whether any conflict of interest exists.
7. When a conflict of interest or potential risk is identified due to a District employee's official's relationship with a co-worker, the District will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure the parties no longer work together on matters where one is able to influence the other or take action for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions and financial transactions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases, other measures may be necessary, such as transfer of one or both parties to other positions or departments. If one or both parties refuse to accept a reasonable solution, such refusal will be deemed a voluntary resignation.
8. Failure to cooperate with the District to resolve a conflict or problem caused by a romantic or sexual relationship between co-workers or among managers, supervisors or others in positions of authority in a mutually agreeable fashion may be deemed insubordination and result in disciplinary action up to and including termination.
9. The provisions of this Policy apply regardless of the sexual orientation of the parties involved.

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10. Where doubts exist as to the specific meaning of the terms used above, employees should make judgments based on the overall spirit and intent of this Policy.

11. Any concerns about the administration of this Policy should be addressed to the Human Resources Manager.

**G. Personal Use of Social Media**

These guidelines apply to the use of social media and electronic communications by Lower Merion School District employees if such communications are not related to matters of public concern, or, if related to matters of public concern, could be deemed disruptive to the operation of the District or the educational environment. The District does not intend to infringe upon personal interaction or commentary online.

1. Representation

On non-District hosted social media sites intended for educational use, employees should identify their views as their own and not that of the Lower Merion School District by stating, "The opinions and positions expressed are my own and don't reflect those of the Lower Merion School District, which is not responsible for the content of this site."

2. Responsibility

Employees shall not post, or permit to be posted, any confidential information, including information specifically protected by FERPA or HIPAA, or photos, audio/video recordings of students, other staff, parents or other constituents of the Lower Merion School District community without appropriate consent. Employees shall in addition follow all Board policies related to the protection of such information. Suspicion of any violations of this prohibition shall immediately be reported to the building principal in writing.

Employees shall not engage in improper electronic communications including, but not limited to:

- a. Sending communications with students or parents/guardians that are inappropriate and/or

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- lacking educational purpose, or through unauthorized means of communication;
- b. Providing another staff member's personal contact information to students without consent;
- c. Publicly displaying or posting online materials that would be disruptive to the educational process or would undermine the professional nature of the staff-student relationship;
- d. Purposefully posting or sending, or attempting to post or send, any material that is obscene or defamatory or that may be reasonably perceived as annoying, harassing or intimidating to another person;
- e. Posting, sending or attempting to send a communication in any manner so as to disguise or misrepresent the identity of the actual sender;
- f. Representing personal opinions as those of the District;
- g. Uploading, downloading or otherwise transmitting unauthorized commercial software, files, games, music or video, or any copyrighted materials in violation of Fair Use guidelines and Intellectual Property laws or otherwise engaging in any conduct that is in violation of any applicable federal, state or local law;
- h. Revealing or publicizing confidential or proprietary information. Such information includes, but is not limited to, information protected by FERPA, HIPAA, and the IDEA, and well as protected and/or confidential financial information, databases and the information contained therein, computer network access codes, login credentials and information about business relationships;
- i. Sharing District passwords with or allowing passwords to be used by anyone else.

**3. Respect**

Employees shall read and comply with the social media sites' Terms of Service.

Postings should be truthful, respectful, and in a voice that reflects positively on the individuals and the Lower Merion School District and is in compliance with Board Policy.

**4. Consequences**

The consequence for inappropriate social media use will result in disciplinary action in accordance with established disciplinary procedures for users, and if the inappropriate use violates federal or state laws, it will be formally reported to the proper authorities.

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**H. Employee Use of District Property**

Employees are generally prohibited from using any School District property for their Personal use.

“Personal use” means a use for any reason other than one that is related to the employee’s responsibilities in his or her employment with the school district.

“District Property” includes supplies, vehicles, equipment, computers, peripherals, networks, telephones, and other personal property as well as fixtures.

Limited Exceptions:

Employees are prohibited from using District Property for Personal Use, except to the extent that incidental personal use of the District’s technological resources is permitted under the terms of the District’s Acceptable Use Policy. Any such incidental personal use must comply with the terms of all applicable policies (including the District’s Acceptable Use Policy as well as all applicable laws and regulations.

District employees are permitted to use the District’s gym space and equipment at times other than regular school hours provided the space is available and use does not conflict with any District-sponsored activities. District employees must comply with any rules established for use of such District facilities, including properly securing the area when their use is completed.

Employees who use District gym space and equipment in this capacity do so at their own risk; the District is not liable for any injuries that may occur during use, and the employee will be liable for any damage that occurs during their use of District gym space and equipment. Improper use of District gym space and equipment by an employee, including improper use during school hours or during District-sponsored activities, or failure to properly secure the area after use, may result in discipline in accordance with applicable bargaining agreements and/or contracts.

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The Superintendent or Principal of a building with gym space and equipment may revoke permission to use District property in this way at any time, for any reason.

Incidental, personal use does NOT include the use of gym space, gym equipment, or any other District property for outside business. This allowance for incidental use extends only to individual District employees; they may not extend this allowance to others. Violation of this Policy may result in the employee suffering adverse tax consequences of imputed income, as well as discipline in accordance with applicable bargaining agreements and/or contracts.

**III. Complaint Procedures**

**A. General Complaint Procedure**

Complaints should be discussed in private, informal conferences between the parties involved and without others. At least one such private meeting shall take place between the parties before the complaint procedure is invoked.

1. Level #1. Immediate Supervisor

Within seven calendar days after the occurrence of the act or omission giving rise to the complaint, the complainant must present the complaint in writing to the immediate supervisor or administrator. The statement shall be a clear and concise expression of the complaint, the policy for which there is an alleged violation, the circumstances on which the complaint is based, the person(s) involved, the decision reached at the private conferences and the remedy sought.

Within five working days, the immediate supervisor shall communicate a decision to the employee in writing. If the supervisor does not respond within the time limit, the complainant may appeal to the next level.

2. Level #2. Next Higher Level of Authority

If the complainant is not satisfied with the decision at Level #1, an appeal may be made in writing to the HR Manager within five working days after receiving it.

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The written statement shall include a copy of the original complaint, the decision rendered, the name of the complainant’s representative, if any, and a clear, concise statement of the reasons for the approval of the decision.

The HR Manager shall communicate a decision to the complainant within five working days. If a decision has not been rendered by the HR Manager within five working days, the complainant may appeal to the Superintendent of schools.

3. Level #3. Superintendent of Schools

If not satisfied with the decision of the HR Manager, the complainant may appeal the decision in writing to the Superintendent of schools within five working days after receiving it.

The Superintendent shall communicate a decision to the complainant within five working days after receiving it. The decision of the Superintendent shall be final on the administrative level.

4. Miscellaneous Provisions

All documents, communications and records dealing with the processing of a complaint shall be filed in a separate file and shall not be kept in the personnel file of any of the personnel involved with the complaint.

If the same complaint or substantially the same complaint is made by more than one employee against one respondent, only one employee on his own behalf and the other complainants may process the complaint through the procedure. However, the names of the complaining parties shall appear on all documents related to the settlement of the complaint.

The time limits specified in this policy may be extended by mutual agreement of both parties. Any decision not appealed within the limits from one level to the next level in the

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complaint procedure shall be considered settled on the basis of the last decision and not subject to further appeal.

**B. Reporting of Waste and Wrongdoing in District Operations (Whistleblower)**

1. Reporting Procedure

An employee who has knowledge of or a concern about waste or other wrongdoing, as defined in Section III.B.2, below, or illegal or dishonest activities reasonably believed to be violations of federal, state or local laws, billing for services not performed or goods not delivered, and/or other fraudulent activity, should contact his or her immediate supervisor. If the behavior of the immediate supervisor is of concern to an employee, the employee is to contact the Superintendent. If the behavior of the Superintendent is of concern to any employee, the employee is to contact the President of the Board. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to further disciplinary action including but not limited to discharge from employment.

2. Definitions

**Good faith report** — a report of wrongdoing or waste which is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true

**Waste** — conduct or omissions which result in substantial abuse, misuse, destruction or loss of funds or resources.

**Whistleblower** — a person who witnesses or has evidence of wrongdoing or waste while employed and who makes a good faith report of the wrongdoing or waste, verbally or in writing, to one of the person's superiors, to an agent of the employer or to an appropriate authority, as defined by law.

**Wrongdoing** — a violation which is not of a merely technical or minimal nature of a federal or state statute or regulation, of a political subdivision ordinance or regulation, or of a code of conduct or ethics designed to protect the interest of the public or the employer, including but not limited to the following:

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- Theft.
- Financial reporting which is fraudulent, intentionally misleading, or grossly negligent in any manner.
- Improper or undocumented financial transactions.
- Forgery or alteration of documents.
- Unauthorized alteration or manipulation of computer files.
- Improper destruction of records.
- Improper use of District assets, including but not limited to its funds, supplies, intellectual property and other assets.
- Improper access or use of confidential information.
- Authorizing or receiving compensation for goods not received or services not performed.
- Violations of the District's conflict-of-interest Policy.
- Any other improper occurrence regarding cash, financial procedures, or reporting.
- Any abuse of or discrimination against a District employee, client, vendor or person connected with the District.
- Intentional or grossly negligent failure to manage or supervise staff in the performance of their duties.
- Any crime defined by the Pennsylvania Drug Device and Cosmetic Act and/or the Pennsylvania Crime Code, or any federal criminal statute.

3. Compliance Officer

For purposes of this Administrative Regulation and the accompanying Board Policy, the Superintendent designates the Assistant to the Superintendent for District Administration as the Compliance Officer.

4. Protection of Employees

***Persons Not To Be Discharged:*** No employee may be discharged, threatened, or otherwise discriminated or retaliated against regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report,



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verbally or in writing, to the employer or to an appropriate authority an instance of wrongdoing or waste.

***Discrimination Prohibited:*** No employee may be discharged, threatened or otherwise discriminated or retaliated against regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee is required by an appropriate authority to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action.

5. Good Faith Reporting

Anyone reporting waste or abuse must act in good faith and have reasonable grounds for believing that there is truth to their report. The act of making allegations that prove to be unsubstantiated, and that prove to have been made maliciously, recklessly, or with foreknowledge that the allegations were false, will be viewed as a serious disciplinary offense and may result in discipline, up to and including termination of employment. Such conduct may also give rise to other actions, including civil lawsuits.

6. Investigation Procedures

The Compliance Officer shall receive written complaints from employees who allege that this Administrative Regulation or the accompanying Board Policy has been violated. The Compliance Officer shall investigate these complaints and, within fifteen (15) business days of receipt of the complaint, issue a summary of the investigation, a determination of whether the complaint has been substantiated as factual, whether a violation of this Administrative Regulation or the accompanying Board Policy was found, and a recommended disposition of the complaint. A copy of the findings shall be provided to the complainant to the extent permitted by law. The time period may be extended due to extenuating circumstances such as the unavailability of persons with knowledge of the underlying issue or concern.

If the investigation results in finding that the complaint is factual and constitutes a violation of this Administrative Regulation or the accompanying Board Policy, the District shall take prompt, corrective action to prevent reoccurrence of such action and to correct its effect on the complainant and others, if applicable.

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Disciplinary action shall be consistent with Board Policy, Administrative Regulations, applicable collective bargaining agreements, and state and federal laws.

7. Appeals

- If the complainant is not satisfied with a finding of no violation of this Administrative Regulation or the accompanying Board Policy, or with the corrective action recommended in the investigative report, he or she may submit a written appeal to the Superintendent within thirty (30) business days or receipt of the written investigation report.
- The Superintendent will review the investigation and the investigative report, and may also conduct a reasonable investigation.
- The Superintendent shall issue a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to complainant to the extent permitted by law.

**Legal References related to discriminatory harassment (Section I.A.):**

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)  
Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681-1688  
EEOC Policy Guidelines on Sexual Harassment, 29 C.F.R. §1604.11  
Pennsylvania Human Relations Act, 43 Pa. Cons. Stat. Ann. § 951-960 (Purdon 1964 & Supp. 1991)  
Human Relations Commission Guidelines on Sexual Harassment, 11 Pa. Bulletin No. 5 (Jan. 31, 1981)

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**Legal References related to maintaining boundaries (Section I.B.):**

School Code — 24 P.S. Sec. 510, 1302.1-A, 1303-A  
State Board of Education Regulations — 22 PA Code Sec. 10.2, 10.21, 10.22 Educator Discipline Act — 24 P.S. Sec. 2070.1a et seq.  
Pennsylvania's Code of Professional Practice and Conduct for Educators — 22 PA Code Sec. 235.1 et seq.  
Child Protective Services Law — 23 Pa. C.S.A. Sec. 6301 et seq.

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**Legal References related to child abuse (Section I.C.):**

School Code – 24 P.S. Sec. 111, 1301-A et seq.

State Board of Education Regulations – 22 PA Code Sec. 10.1 et seq.

Child Abuse Recognition and Reporting Training – 24 P.S. Sec. 1205.6

Child Exploitation Awareness Education - 24 P.S. Sec. 1527

Educator Discipline Act – 24 P.S. Sec. 2070.1A et seq

Endangering Welfare of Children – 18 Pa. C.S.A. Sec. 4304

False Reports of Child Abuse – 18 Pa. C.S.A. Sec. 4906.1

Intimidation, Retaliation or Obstruction in Child Abuse Cases – 18 Pa. C.S.A. Sec. 4958

Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq.

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**Legal References related to personal use of social media (Section II. G.):**

Children’s Online Privacy Protection Act – 15 U.S.C. Sec. 6501 et seq.

Family Educational Rights and Privacy Act – 20 U.S.C. Sec. 1232g, 34 CFR Part 99

Individuals With Disabilities Education Act – 20 U.S.C. Sec. 1400 et seq.

Health Insurance Portability and Accountability Act of 1996 – 45 CFR, Part 164

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