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5020 Equal Employment Opportunity

The Board is an equal opportunity employer. Only the candidates qualifications, training, experiences, personal qualifications, and education shall be considered for the basis of employment.

No staff member or candidate for such a position in this District shall, on the basis of race, color, religion, national origin, or ancestry, age, gender, marital status, disability, height, weight, and/or any other legally protected characteristic, be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subjected to, discrimination in any program or activity for which the Board is responsible.

The Superintendent is responsible for ensuring compliance and continued implementation of this policy. The proper notices shall be issued to staff, candidates, and students of the district.

Approved: June 27, 2016

LEGAL REF: Civil Rights Act of 1964, as amended in 1972, Section 100.4(a & b), Title VI, Title VII; Executive Order 11246, 1986 as amended by Executive Order 11375; Equal Employment Opportunity Act of 1972, Title VII; Education Amendments of 1972, Title IX (P.L. 92.318), Section 106.4; 45 CFR, Parts 81, 86 (Federal Register June 4, 1975, August 11, 1975); Michigan Civil Rights Act, P.A. 453 or 1976, Section 101 through 211; Michigan Compiled Laws, 37.1101-37.1303 (Handicapper Civil Rights Act); Section 110.23 of the Age Discrimination Act of 1975

5050 TITLE IX SEXUAL HARASSMENT

The District prohibits unlawful sex discrimination, including harassment and retaliation, in any of its education programs or activities in accordance with Title IX of the Education Amendments of 1972 and corresponding implementing regulations.

This Policy addresses only allegations of sexual harassment under Title IX. Allegations of all other forms of sex discrimination should be addressed under the District's applicable non-discrimination or anti-harassment policies. Allegations alleging both Title IX sexual harassment and other forms of unlawful discrimination and harassment (e.g., race, age, disability) that cannot be reasonably separated into two distinct complaints should be investigated under this Policy, and the Grievance Process described in this Policy will satisfy any investigation requirements in other anti-harassment or non-discrimination policies. Nothing in this paragraph limits the District's right to determine at any time during the Grievance Process that an allegation not involving Title IX sexual harassment should be addressed under other District Policies.

The Board directs the Superintendent or designee to designate persons to serve as Title IX Coordinator, Investigator, Decision-Maker, and Appeals Officer. If a Formal Complaint is made under this Policy against the Superintendent, the Board President will designate the persons who will serve as the Investigator, Decision-Maker, and Appeals Officer and will work with the Title IX Coordinator to ensure that all other requirements of this Policy are met. If a Formal Complaint is made against the Board President, the Board Vice President will designate who will serve as the Investigator, Decision-Maker, and Appeals Officer.

The Investigator, Decision-Maker, and Appeals Officer cannot be the same person on a specific matter, and the persons designated to serve in those roles may or may not be District employees.

Inquiries about Title IX's application to a particular situation may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

A. Definitions

For purposes of this Policy, the below terms are defined as follows:

1. "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:
 - a. A District employee conditioning the provision of a District aid, benefit, or service on a person's participation in unwelcome sexual conduct;
 - b. Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
 - c. Sexual assault, dating violence, domestic violence, or stalking, as defined by the Violence Against Women Act, 34 USC § 12291 et. seq., and the uniform crime reporting system of the Federal Bureau of Investigation, 20 USC 1092(f)(6)(A)(v).

- i. “Sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - ii. “Dating violence” means violence committed by a person who is or has been in a romantic or intimate relationship with the Complainant. The existence of such a relationship is based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - iii. “Domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, person with whom the Complainant shares a child, person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan; or any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of Michigan.
 - iv. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person’s safety or the safety of others; or (2) suffer substantial emotional distress.
2. “Actual Knowledge” means notice of sexual harassment or allegations of sexual harassment to the District’s Title IX Coordinator or any District employee. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only District employee with actual knowledge is the Respondent.
3. “Appeals Officer” is the person designated by the District to handle appeals of a dismissal or determination of responsibility for matters investigated under this Policy. The Appeals Officer may not be the same person as the Investigator, Title IX Coordinator, or Decision-Maker on a specific matter.
4. “Complainant” is a person who is alleged to be the victim of conduct that could constitute Title IX sexual harassment.
5. “Consent” means a voluntary agreement to engage in sexual activity by a person legally capable of consenting. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent. Sexual conduct or relationships between District employees, volunteers, or contractors and students, regardless of age or consent, are prohibited.
6. “Day,” unless otherwise indicated, means a day that the District’s central office is open for business.
7. “Decision-Maker” is the person designated by the District to review the investigation report and provide a written determination of responsibility that provides the evidentiary basis for the Decision-Maker’s conclusions. The

Decision-Maker may not be the same person as the Investigator, Title IX Coordinator, or Appeals Officer on a specific matter.

8. “Education Program or Activity” means any location, event, or circumstance over which the District exhibits substantial control over both the Respondent and the context in which the harassment occurred.
9. “Formal Complaint” means a written document or electronic submission signed and filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the sexual harassment allegation.
10. “Grievance Process” is the process by which the District handles Formal Complaints.
11. “Investigator” is the person designated by the District to investigate a Title IX Formal Complaint or report. The Investigator cannot be the same person as the Decision-Maker or Appeals Officer on a specific matter. The Title IX Coordinator may serve as the Investigator on a particular investigation, unless the Title IX Coordinator signed the Formal Complaint.
12. “Report” means an account of Title IX sexual harassment made by any person (regardless of whether the reporting party is the alleged victim).
13. “Respondent” is a person who has been reported to be the perpetrator of conduct that could constitute Title IX sexual harassment.
14. “Supportive Measures” are non-disciplinary, non-punitive, individualized services offered and implemented by the Title IX Coordinator as appropriate, as reasonably available, and at no-cost to the Complainant and the Respondent before or after the filing of a Formal Complaint or when no Formal Complaint has been filed. Supportive measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment.
15. “Title IX Coordinator” is the person(s) designated by the District to coordinate the District’s Title IX compliance. The Title IX Coordinator may not be the same person as the Appeals Officer or Decision-Maker on a specific matter. A person not serving as a Title IX Coordinator in a particular investigation is not disqualified from serving in another role in that investigation. The Title IX Coordinator may also serve as the Investigator on a particular investigation, unless the Title IX Coordinator signed the Formal Complaint.

B. Posting Requirement

The Title IX Coordinator’s contact information (name or title, office address, electronic mail address, and telephone number), along with the District’s Title IX nondiscrimination statement must be prominently posted on the District’s website and in any catalogs or handbooks provided to applicants for admission or employment, students, parents/guardians, and unions or professional organizations with a collective bargaining or professional agreement with the District.

The District will provide notice of this Policy to all applicants, students, parents/guardians, employees, and unions or professional organizations with a collective bargaining or professional agreement with the District by prominently posting this Policy on its website and referencing this Policy in its handbooks, which will include the Title IX Coordinator's name or title, office address, electronic mail address, and telephone number.

C. Designation of Title IX Coordinator

The District designates the following person(s) as the Title IX Coordinator(s):

Dr. Belinda Hicks, Director of Special Education

35200 Little Mack
Clinton Township, Michigan 48035
586-791-6300, extension 4017
hicksb@clintondaleschools.net

Mr. Thomas Harrell, Director of Business and Finance

35100 Little Mack
Clinton Township, MI 48035
586-791-6300, extension 3004
harrellt@clintondaleschools.net

D. Reporting Title IX Sexual Harassment:

Any person who witnesses an act of sexual harassment is encouraged to report it to a District employee. No person will be retaliated against based on any report of suspected sexual harassment or retaliation.

A person may also anonymously report an incident of sexual harassment or retaliation. The District will investigate anonymous reports pursuant to its investigation procedures described below.

A person who has been the subject of sexual harassment or retaliation may report that behavior to the Title IX Coordinator or any District employee. Any District employee who receives a report of sexual harassment or has actual knowledge of sexual harassment must convey that information to the Title IX Coordinator by the end of the next day.

A person may make a report at any time, including non-business hours. Reports may be filed in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that result in the Title IX Coordinator receiving the person's verbal or written report.

E. General Response to Sexual Harassment

1. Actual Knowledge without Formal Complaint Being Filed

Upon actual knowledge of Title IX sexual harassment, the Title IX Coordinator must respond promptly in a manner that is not deliberately indifferent. The District will be deemed to be deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.

If the Complainant does not file a Formal Complaint or if another person informs the Title IX Coordinator of an allegation of sexual harassment, the Title IX Coordinator must evaluate the information and determine whether to sign and submit a Formal Complaint. If the Title IX Coordinator determines not to sign and submit a Formal Complaint, the Title IX Coordinator must address the allegations in a manner that is not deliberately indifferent.

2. Formal Complaint Filed

Upon the receipt of a Formal Complaint, the District must follow the Grievance Process in Section F of this Policy. A Formal Complaint may be submitted using the Title IX Sexual Harassment Formal Complaint Form.

3. Equitable Treatment

The District will treat the Complainant and Respondent equitably throughout the Grievance Process. This may include offering supportive measures as described in Subsection E(5) of this Policy.

4. Documentation and Recordkeeping

The Title IX Coordinator will document all sexual harassment reports, as well as any incidents of sexual harassment that the Title IX Coordinator personally observes.

The District will retain this documentation in accordance with applicable record retention requirements in Section P of this Policy.

5. Supportive Measures

The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, with or without the filing of a Formal Complaint. If the District does not provide a Complainant with supportive measures, then the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or taking or describing additional supportive measures.

The District may provide, as appropriate, non-disciplinary, non-punitive individualized services to the Complainant or Respondent before or after the filing of a Formal Complaint or when no Formal Complaint has been filed.

Supportive measures should be designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party.

Supportive measures are offered without charge to all parties and are designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

Supportive measures may include, but are not limited to:

- a. District-provided counseling;
- b. Course-related adjustments, such as deadline extensions;
- c. Modifications to class or work schedules;
- d. Provision of an escort to ensure that the Complainant and Respondent can safely attend classes and school activities; and
- e. No-contact orders.

All supportive measures must be kept confidential, to the extent that maintaining such confidentiality would not impair the District's ability to provide the supportive measures.

6. Respondent Removal

a. Emergency Removal (Student)

The District may only remove a student Respondent from a District program or activity if, following an individualized safety and risk analysis, the District determines that there is an immediate threat to the physical health or safety of any student or other person arising from the sexual harassment allegations. The District must provide the Respondent with notice and an opportunity to immediately challenge the removal decision. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

b. Administrative Leave (Employee)

The District may place an employee Respondent on administrative leave during the pendency of the Grievance Process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

7. Law Enforcement

In appropriate circumstances, the Title IX Coordinator will notify law enforcement or Child Protective Services.

The District will attempt to comply with all law enforcement requests for cooperation with related law enforcement activity. In some circumstances, compliance with law enforcement requests may require the District to briefly suspend or delay its investigation. If an investigation is delayed, the District will follow the procedures described in Subsection F(1) of this Policy to notify the parties, in writing, of the delay.

The District will promptly resume its investigation as soon as it is notified by the law enforcement agency that the law enforcement agency has completed its evidence gathering process. This delay should not exceed 10 days.

If the District's investigation is suspended or delayed, supportive measures will continue during the suspension or delay. If the law enforcement agency does not notify the District within 10 days that the District's investigation may resume, the District will notify the law enforcement agency that the District intends to promptly resume its investigation.

F. Grievance Process

1. Generally

The Grievance Process begins when a Formal Complaint is filed or when the Title IX Coordinator signs a Formal Complaint. The District will endeavor to complete the Grievance Process within 45-60 days, absent extenuating circumstances or delays as described below. The District will treat both the Complainant and the Respondent equitably throughout the Grievance Process.

Neither the Title IX Coordinator, the Decision-Maker, the Investigator, nor any person designated to facilitate an informal resolution process will have a conflict of interest or bias for or against Complainants or Respondents generally or for or against an individual Complainant or Respondent.

The Grievance Process requires an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

Throughout the Grievance Process, there is a presumption that the Respondent is not responsible for the alleged conduct unless, in the determination of responsibility at the conclusion of the Grievance Process, the Decision-Maker finds the Respondent responsible for the alleged conduct.

At any point during the process, the Title IX Coordinator, Investigator, or Decision-Maker may temporarily delay the Grievance Process or permit a limited extension of time frames for good cause. Good cause may include absence of a party, party's advisor, or witness; concurrent law enforcement activity; or the need for accommodations (e.g., language assistance or accommodation of disabilities). If there is a delay or extension, the parties will receive written notice of the delay or extension and the reasons for the action.

Any disciplinary action resulting from the Grievance Process will be issued in accordance with applicable policies, codes of conduct, handbooks, collective bargaining agreements, and individual employee contracts.

After the investigation portion of the Grievance Process has concluded, the Decision-Maker will endeavor to issue determinations of responsibility within 10 days, absent extenuating circumstances.

2. Notice of Allegations

Upon receipt of a Formal Complaint, the District must provide written notice to the parties who are known at the time that includes:

- a. A copy of this Policy, which includes the District's Grievance Process, and any informal resolution process;
- b. The sexual harassment allegations, including sufficient details known at the time and with sufficient time so that parties may prepare a response before the initial interview. Sufficient details include parties involved in the incident, if known, the alleged conduct constituting sexual harassment, and the date and time of the alleged incident;
- c. A statement that the Respondent is presumed not responsible for the alleged conduct;
- d. A statement that a determination of responsibility is made at the Grievance Process's conclusion;
- e. A statement that the parties may have an advisor of their choice, who may be an attorney, although any attorney or advisor who is not a District employee will be at the party's own cost;
- f. A statement that the parties will be provided an opportunity to inspect and review any evidence before the investigation report is finalized; and
- g. If the Complainant or Respondent is a student, and the District's Student Code of Conduct addresses false statements by students during the disciplinary process, a citation to that portion of the Code of Conduct. If the Code of Conduct does not address false statements by students, the notice is not required to include any reference.

If, during the course of an investigation, the Investigator decides to investigate allegations that are not included in this notice, the District will provide notice of the additional allegations to the Complainant and Respondent.

3. Investigation

The District has the burden of proof and the burden to gather evidence sufficient to reach a determination of responsibility.

The District will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege in writing.

The District may not access, consider, disclose, or otherwise use a party's medical records, including mental health records, which are made and maintained by a healthcare provider in connection with the party's treatment unless the District obtains that party's voluntary, written consent to do so for the Grievance Process.

The Investigator must provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory or

exculpatory evidence. The Investigator cannot restrict parties from discussing the allegations under investigation, nor can the Investigator restrict parties from gathering or presenting relevant evidence.

Parties may be accompanied by an advisor of their choice, including an attorney, in any meeting or Grievance Process proceeding. If a party chooses an advisor who is not a District employee, it will be at that party's own cost. The Superintendent or designee may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties (e.g., abusive, disruptive behavior or language will not be tolerated; advisor will not interrupt the investigator to ask questions of witnesses).

The Investigator must provide the date, time, location, participants, and purpose of all hearings (if any), investigative interviews, and meetings, to a party whose participation is invited or expected. Written notice must be provided a sufficient time in advance so that a party may prepare to participate.

As described in Section N of this Policy, retaliation against a person for making a complaint or participating in an investigation is prohibited.

The Investigator must ensure that the Complainant and Respondent have an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party has the opportunity to meaningfully respond to the evidence before the investigation's conclusion. This evidence includes (1) evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and (2) inculpatory or exculpatory evidence obtained from any source.

Before the investigation's completion, the Investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response to the Investigator. The party's response must be considered by the Investigator before completing the final investigation report.

4. Investigation Report

The Investigator must create an investigation report that fairly summarizes relevant evidence and submit the investigation report to the Decision-Maker.

At least 10 calendar days before a determination of responsibility is issued, the Investigator must send the investigation report to each party for review and written response. Written responses to the investigation report must be submitted directly to the Decision-Maker.

5. Determination of Responsibility

The Decision-Maker cannot be the same person as the Title IX Coordinator, Investigator, or Appeals Officer.

Before the Decision-Maker reaches a determination of responsibility, and after the Investigator has sent the investigation report to the parties, the Decision-Maker must:

- a. Afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness; and
- b. Provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the Respondent committed the alleged misconduct, or the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If the Decision-Maker decides to exclude questions from either party as not relevant, the Decision-Maker must explain the decision to the party proposing the questions.

The Decision-Maker must issue a written determination of responsibility based on a preponderance of the evidence standard (i.e., more likely than not) simultaneously to both parties. The written determination of responsibility must include:

- c. Identification of the sexual harassment allegations;
- d. Description of the procedural steps taken from the receipt of the Formal Complaint through the determination of responsibility, including any:
 - i. Notification to the parties;
 - ii. Party and witness interviews;
 - iii. Site visits;
 - iv. Methods used to collect evidence; and
 - v. Hearings held.
- e. Factual findings that support the determination;
- f. Conclusions about the application of any relevant code of conduct, policy, law, or rule to the facts;
- g. A statement of, and rationale for, the result as to each allegation, including:
 - i. A determination of responsibility;
 - ii. Any disciplinary action taken against the Respondent (consistent with applicable policies, codes of conduct, handbooks, collective bargaining agreements, or individual employee contracts); and
 - iii. Whether remedies designed to restore and preserve equal access to the District's education program or activity will be provided to the Complainant.
- h. Appeal rights

See Section G of this Policy for appeal rights and procedures.

The determination of responsibility is final upon the date the parties receive the Appeals Officer's written decision or on the date on which an appeal is no longer timely.

G. Appeals

Notice of the determination of responsibility or dismissal decision must include notice of the parties' appeal rights.

Both parties may appeal a determination of responsibility or the decision to dismiss a Formal Complaint in whole or in part for the following reasons only:

1. A procedural irregularity that affected the outcome.
2. New evidence that was not reasonably available at the time the determination of responsibility or dismissal decision was made that could affect the outcome.
3. The Title IX coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against the Complainant or Respondent, generally or individually, that affected the outcome.

An appeal must be filed with the Decision-Maker or Title IX Coordinator within 5 days of the date of the determination of responsibility or dismissal decision.

Upon receipt of an appeal, the Appeals Officer will provide both parties written notice of the appeal and an equal opportunity to submit a written statement in support of, or challenging, the determination or dismissal decision.

The Appeals Officer must provide a written decision describing the result of the appeal and the rationale for the result to both parties simultaneously. Appeals based on procedural irregularity, conflict of interest, or bias must be decided within 10 days. Appeals based on new evidence must be decided within 30 days.

The Appeals Officer cannot be the same person who acts as the Title IX Coordinator, Investigator, or Decision-Maker on the same matter. The Appeals Officer also cannot have a conflict of interest or bias against Complainants and Respondents generally or individually.

H. Informal Resolution

During the Grievance Process, *after* a Formal Complaint has been filed but *before* a determination of responsibility has been made, the District may offer to facilitate an informal resolution process. A Formal Complaint must be filed to initiate the informal resolution process.

Informal resolution does not require a full investigation and may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice.

Informal resolution is not available for a Formal Complaint alleging that an employee sexually harassed a student.

A party is not required to participate in an informal resolution process.

When offering informal resolution, the Title IX Coordinator or Investigator must (1) provide both parties written notice of their rights in an informal resolution and (2) obtain written, voluntary consent from both parties to enter into the informal resolution process. The written notice must contain the:

1. Allegations;
2. Informal resolution requirements, including the circumstances under which the informal resolution precludes the parties from resuming a Formal Complaint arising from the same allegations;
3. Right to withdraw from informal resolution and resume the Grievance Process at any time prior to agreeing to a resolution; and
4. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

I. Dismissal

1. Mandatory Dismissals

The Title IX Coordinator *must* dismiss a Formal Complaint if:

- a. The Formal Complaint's allegations, even if proven, would not constitute sexual harassment as defined in this Policy;
- b. The Formal Complaint's allegations did not occur in the District's programs or activities; or
- c. The Formal Complaint's allegations did not occur in the United States.

2. Discretionary Dismissals

The Title IX Coordinator or Investigator *may* dismiss a Formal Complaint if:

- a. The Complainant notifies the Title IX Coordinator in writing that the Complainant wishes to withdraw the Formal Complaint in whole or in part;
- b. The Respondent's enrollment or employment ends; or
- c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination (e.g., several years have passed between alleged misconduct and Formal Complaint filing, Complainant refuses or ceases to cooperate with Grievance Process).

The Title IX Coordinator or Investigator will promptly and simultaneously notify both parties when a Formal Complaint is dismissed. The notice must include the reasons for mandatory or discretionary dismissal and the right to appeal. Appeal rights are discussed above in Section G of this Policy.

Dismissal of a Formal Complaint under this Policy does not excuse or preclude the District from investigating alleged violations of other policy, rule, or law, or from issuing appropriate discipline based on the results of the investigation.

J. Consolidation of Complaints

The Title IX Coordinator or Investigator may consolidate Formal Complaints where the allegations arise out of the same facts or circumstances. Where a Grievance Process involves more than one Complainant or more than one Respondent, references in this Policy to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

K. Remedies

The District will take appropriate and effective measures to promptly remedy the effects of sexual harassment. The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appropriate remedies will be based on the circumstances and may include, but are not limited to:

1. Providing an escort to ensure that the Complainant and Respondent can safely attend classes and school activities;
2. Offering the parties school-based counseling services, as necessary;
3. Providing the parties with academic support services, such as tutoring, as necessary;
4. Rearranging course or work schedules, to the extent practicable, to minimize contact between the Complainant and Respondent;
5. Moving the Complainant’s or the Respondent’s locker or work space;
6. Issuing a “no contact” directive between the Complainant and Respondent;
7. Providing counseling memoranda with directives or recommendations;
8. Imposing discipline consistent with applicable policies, codes of conduct, handbooks, collective bargaining agreements, or individual employee contracts.

These remedies may also be available to any other student or person who is or was affected by sexual harassment.

After a determination of responsibility, the Title IX Coordinator should consider whether broader remedies are required, which may include, but are not limited to:

9. Assemblies reminding students and staff of their obligations under this Policy and applicable handbooks;
10. Additional staff training;
11. A climate survey; or
12. Letters to students, staff, and parents/guardians reminding them of their obligations under this Policy and applicable handbooks.

If the Complainant or Respondent is a student with a disability, the District will convene an IEP or Section 504 Team meeting to determine if additional or different programs, services, accommodations, or supports are required to ensure that the

Complainant or Respondent continues to receive a free appropriate public education. Any disciplinary action taken against a Respondent who is a student with a disability must be made in accordance with the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.

L. False Statements

Any person who knowingly makes a materially false statement in bad faith in a Title IX investigation will be subject to discipline, up to and including discharge or permanent expulsion. A dismissal or determination that the Respondent did not violate this Policy is not sufficient, on its own, to conclude that a person made a materially false statement in bad faith.

M. Confidentiality

The District will keep confidential the identity of a person who reports sexual harassment or files a Formal Complaint, including parties and witnesses, except as permitted or required by law or to carry out any provision of this Policy, applicable regulations, or laws.

N. Retaliation

Retaliation (e.g., intimidation, threats, coercion) for the purpose of interfering with a person's rights under Title IX is prohibited. This prohibition applies to retaliation against any person who makes a report, files a Formal Complaint, or participates in, or refuses to participate in a Title IX proceeding. Complaints alleging retaliation may be pursued in accordance with the District's anti-discrimination and anti-harassment policies.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this Section.

When processing a report or Formal Complaint of sexual harassment, pursuing discipline for other conduct arising out of the same facts or circumstances constitutes retaliation if done for the purpose of interfering with that person's rights under Title IX.

Any person who engages in retaliation will be disciplined in accordance with the applicable policies, codes of conduct, handbooks, collective bargaining agreements, and individual employee contracts.

O. Training

All District employees and Board members must be trained on how to identify and report sexual harassment.

Any person designated as a Title IX Coordinator, Investigator, Decision-Maker, Appeals Officer, or any person who facilitates an informal resolution process must be trained on the following:

1. The definition of sexual harassment;
2. The scope of the District's education programs or activities;

3. How to conduct an investigation and the District's grievance process, including, as applicable, hearings, appeals, and informal resolution processes; and
4. How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Investigators must receive training on how to prepare an investigation report as outlined in Subsection F(4) above, including, but not limited to, issues of relevance.

Decision-Makers and Appeals Officers must receive training on issues of evidence and questioning, including when questions about a Complainant's prior sexual history or disposition are not relevant.

Any materials used to train District employees who act as Title IX Coordinators, Investigators, Decision-Makers, or who facilitate an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints. These training materials will also be posted on the District's website.

P. Record Keeping

Records related to reports of alleged Title IX sexual harassment will be maintained by the District for a minimum of seven years. This retention requirement applies to investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken, such as supportive measures.

The District will also retain any materials used to train Title IX Coordinators, Investigators, Decision-Makers, Appeals Officers, and any person designated to facilitate an informal resolution process.

Q. Office for Civil Rights

Any person who believes that he or she was the victim of sexual harassment may file a complaint with the Office for Civil Rights (OCR) at any time:

U.S. Department of Education Office for Civil Rights
1350 Euclid Avenue, Suite 325
Cleveland, Ohio 44115
Phone: (216) 522-4970
E-mail: OCR.Cleveland@ed.gov

An OCR complaint may be filed before, during, or after filing a Formal Complaint with the District. A person may forego filing a Formal Complaint with the District and instead file a complaint directly with OCR. The District recommends that a person who has been subjected to sexual harassment also file a Formal Complaint with the District to ensure that the District is able to take steps to prevent any further harassment and to discipline the alleged perpetrator, if necessary. OCR does not serve as an appellate body for District decisions under this Policy. An investigation by OCR will occur separately from any District investigation.

Legal authority: Education Amendments Act of 1972, 20 USC §§1681 - 1688; 34 CFR
Part 106

Date adopted: February 22, 2021

Date revised: February 22, 2021

5175 Criminal History and Unprofessional Conduct Background Checks

Criminal History and Checks

Upon an offer of initial employment by the Board, all persons in either certified or support positions shall have undergone an employment physical, criminal history check, and unprofessional conduct background check. A staff person may be hired prior to the results of an employment physical, criminal history/background check following the guidelines in current law.

Only those persons who have been offered a position or contract by the Board and/or Superintendent must undergo a criminal history/background check, not all applicants.

Any vendor that is utilized by the Board to provide staff, either certified or support, shall comply with the background checks as required by the Board and current law. These background checks may satisfy the requirements of this section if the employee is ultimately hired directly by the District if the results are provided.

Approved: June 27, 2016

LEGAL REF: MCL 380.1230; 380.1260; 380.1539a(6)

5190 Staff Development Opportunities

Whenever possible, District staff shall be provided appropriate staff development opportunities.

Approved: June 27, 2016

LEGAL REF: MCL 380.1254; 380.1525; 380.1526; 388.1695

5220 Staff-Student Relations

All District employees are expected to maintain relationships with members of the student body which are conducive to an effective educational environment.

Approved: June 27, 2016
LEGAL REF: MCL 380.1312

5230 Conflict of Interest

1. District employees are prohibited from engaging in activities which may be construed as a conflict of interest and detract from the effective performance of their duties.
2. However, if a District employee discloses an activity or business relationship to the Board and the Board determines by majority vote that said activity or relationship will not detract from the effective performance of the employee's duties or take place during the employees work day the Board may allow the employee to participate in such activity and/or business relationship.
3. No employee shall attempt, during the school day or on school property, to sell or endeavor to influence any student to buy any product, article, instrument, service or other such item, which would directly or indirectly benefit said school employee.
4. Any District employee shall report alleged violations of the conflict of interest policy to the Superintendent. The Superintendent shall make an initial investigation to determine whether said policy has been violated.

Approved: June 27, 2016

5235 NETWORK AND INTERNET ACCESS POLICY

The purpose of this policy is to permit network (electronic mail and electronic bulletin board) and internet access, hereinafter referred to as Network, for educational purposes to the staff member. This access will (1) assist in the collaboration and exchange of information, (2) facilitate personal growth in the use of technology, and (3) enhance information gathering and communication skills.

- A. The use of the network is a privilege, offered by the District for staff members and carries not expectation of privacy. Said privilege may be revoked by the Director of Technology without notice. Reasons for revoking privileges include, but are not limited to, the unauthorized altering of system software, intentionally placing unauthorized information, or unauthorized files, computer viruses or harmful programs on or through the computer system in either public or private files or messages. The District reserves the right to remove files, limit or deny access, and refer the staff member for other disciplinary actions.
- B. The District reserves the rights to any material stored in files and may remove any material, which the district, at its sole discretion, may believe to be unlawful, obscene, pornographic, abusive, or otherwise objectionable. A staff member will not use his/her District-approved computer account/access to obtain, view, download, or otherwise gain access to materials that the district might reasonably deem objectionable.
- C. All information services and features contained on District or network resources are intended for the use of its registered users for school related purposes only and any other resources for personal, commercial, political or any other unauthorized purpose in any form is expressly forbidden.
- D. The District and/or network resources are intended for the exclusive use by their registered users. The staff member is responsible for the use of his/her account/password and/or access privilege. Use of account by someone other than the registered account holder is forbidden and may be grounds for loss of access privileges and/or other disciplinary action.
- E. Any misuse of the account may result in suspension of the account privileges and/or other disciplinary action determined by the District consistent with the terms of any applicable collective bargaining agreement. Misuse shall include, but is not limited to:
 - (1) seeking information on, obtaining copies of, or modifying files, other data, or passwords belonging to other users without authorization
 - (2) intentionally misrepresenting oneself without authorization
 - (3) intentionally disrupting the operation of the network through abuse of the hardware or software

- (4) using the network for hate mail, harassment or using profanity *or* vulgar statements
 - (5) intentionally interfering with others' use of the network
 - (6) excessively using noncurriculum-related communication
 - (7) illegally installing copyrighted software
 - (8) illegally down loading, copying, or using licensed or copyrighted software
 - (9) using an account other than that of the account holder without authorization
- F. The use of the district and/or network resources are for the purposes of:
- (1) Support of the academic program
 - (2) Telecommunications
 - (3) General information
- G. The District and/or network does not warrant that the functions of the system will meet any specific requirements the user may have, or that it will be error free or uninterrupted; nor shall it be liable for any direct or indirect, incidental, or consequential damages (including lost of date, information, or time) sustained or incurred in connection with the use, operation, or inability to use the system.
- H. The staff member will delete old mail messages from the personal mail directory to avoid excessive use of the electronic mail disc space.
- I. The District and/or network will periodically make determinations on whether specific uses of the network are consistent with the acceptable-use practice. The District and/or network reserve the right to log Internet use and monitor electronic mail space utilization by users.
- J. The staff member may not transfer file, shareware, or software from information services and electronic bulletin boards without the permission of the employee's immediate supervisor. The staff member will be liable to pay the cost or fee of any file, shareware, or software transferred, when intentional or without permission.
- K. The District reserves the right to log computer use and to monitor file server space utilization. The District reserves the right to remove a user account from the network to prevent activity, which is inconsistent with this policy.
- L. The board owns all materials stored on its computer or developed by its employees in the course of their employment by the District.
- M. Any employee using the District technology resources is responsible for the prompt reporting of any irregularity.

Approved: June 27, 2016

5245 Political Activities

District employees engaging in political activities shall make it clear that their statements and actions are theirs as individuals and shall, in no manner, represent the views of the District.

District employees shall not engage in the promotion of political themes, thoughts, ideas or goals independent to school sponsored projects on school premises or during school hours.

District employees seeking an extended leave of absence for campaigning, office holding, or other time consuming responsibilities connected with such political activity, shall apply for such leave in accordance with the master agreement.

Approved: June 27, 2016
LEGAL REF: MCL 15.403

5300 Personnel Records

An appropriate personnel file shall be maintained by the District for each employee. Personnel files kept by the District concerning employees shall be considered confidential, kept in a secured location, and be under the custodianship of the appropriate District Administrator. Personnel files of employees who have left the District shall be similarly kept, but in an inactive file.

Approved: June 27, 2016

LEGAL REF: MCL 423.501-512; 15.231 *et seq.*

5330 Travel Expenses (Cf. 1168, 3600)

The Board may provide reimbursement for expenses incurred in travel related to the performance and duties of the District's employees when approved in advance by a designated supervisor and Superintendent. All overnight travel shall be subject to advance approval by the Board, and requests to the Board should be submitted 30 days in advance.

Approved: June 27, 2016

5340 Staff Health and Safety (Cf. 5370)

The Board shall attempt to ensure staff health, safety, and protection during working hours.

The District shall comply with the provisions of the Federal and Michigan Occupational Safety and Health Act, as it applies to an individuals occupation within the District. The Superintendent shall ensure proper procedures and processes are in place to ensure safety of all employees, students, contractors, and visitors.

Approved: June 27, 2016

LEGAL REF: MCL Secs. 6 and 8, Occupational Safety and Health Act (Sec. 1910.1030)

5345 Staff Smoking and Tobacco Products

The Board prohibits the use of tobacco on District premises, in District vehicles, and in all school buildings owned and/or operated by the District. District employees shall not smoke or use tobacco products when they are with students or when supervising student activities.

Approved: June 27, 2016
LEGAL REF: MCL 750.473

5350 Drug-Free Workplace

The use, distribution, dispensation and/or manufacturing of controlled substances, as defined by state and federal law, by District employees on District grounds, in District buildings and/or in connection with any District activity, is prohibited.

Any District employee who violates the above policy may be subject to disciplinary action, up to and including termination of employment. If an employee is not terminated, the employee may be required to satisfactorily participate in a drug assistance or rehabilitation program approved by the Board.

Any District employee that is charged with a drug-related offense or any felony is required to notify the Superintendent within (5) five days of the arrest/charge. Any employee failing to comply is subject to disciplinary action up to, and including, termination.

Approved: June 27, 2016

LEGAL REF: U.S. House Resolution 5210, Anti-Substance Abuse Act, 1988

5352 Verification Statements

Employees who are absent from work for three consecutive work days or more shall be required to submit a doctor's statement verifying the illness and the anticipated length of absence.

An employee who had a communicable disease, a mental condition, or a physical injury, limitation, or condition, regardless if the employee missed work, may be requested to submit a doctor's statement verifying that the employee's return to work will not pose further physical or medical risk to the employee or to other employees or students in the District. At the discretion of the District, a second medical opinion by the Board's designated physician, at its expense, may be required before the employee is allowed to return to work. At the discretion of the District, an employee may be asked to obtain a doctors note verifying that they are able to perform their job duties.

Approved: June 27, 2016

5355 Medical Examinations

All prospective new employees shall be required to pass a physical examination given by the Board's designated physician and paid for by the District. The examination shall be for the purpose of certifying that the prospective employee is physically capable of performing the job and is free of any communicable diseases which might affect persons with whom he/she may have contact with in his/her employment.

Tuberculosis Test

As required by the Michigan Department of Public Health, every three years all school personnel employed in day care and Latch Key programs shall have a Mantoux Tuberculin skin test or x-ray as evidence of freedom from communicable tuberculosis, as a condition of employment and said evidence shall be submitted to the personnel office on or before the first staff day of the current school year.

Approved: June 27, 2016

5356 Communicable Diseases - Employees

Whenever an employee has been diagnosed by a physician as having a communicable disease, such employee should report the diagnosis and nature of the disease to the Superintendent. An employee afflicted with a communicable disease dangerous to the public health may be required to withdraw from active employment for the duration of the illness in order to give maximum health protection to other District employees and to students. All District employees shall maintain the confidentiality of afflicted persons insofar as the health and safety of other persons in the District are not compromised and in compliance with state and federal laws.

The employee shall be allowed to return to his/her duties upon termination or remission of the communicable illness, as authorized by a physician, or upon authorization of a District physician. .

The Board reserves the right to require a written statement from the employee's physician indicating that the employee is free from all symptoms of a communicable disease.

Communicable disease as defined in this policy shall refer to any infectious or contagious disease as determined by the State Department of Health and Environment or the United States Centers for Disease Control.

Approved: June 27, 2016

LEGAL REF: MCL 333.5131; 353.5111; Family Educational Rights and Privacy Act of
1974

5357 Family and Medical Leave

The District shall comply with the 1993 Family and Medical Leave Act, as amended, and the State of Michigan Public Act 338 of 2018 Paid Medical Leave Act (PMLA), as amended. For the purposes of the PMLA, the District shall establish a benefit year beginning July 1st, and will provide eligible hourly employees with a minimum of forty (40) hours of paid medical leave, inclusive of time provided within the Collective Bargaining Agreement after a ninety (90) day waiting period in accordance with the law. This policy is not intended to provide additional time over and above what is already in the CBA or within an individual's employment contract approved by the Board, so as long as the time complies with the PMLA. Employees may not carry over more than forty (40) hours of PMLA at the end of each benefit year.

The employee's request for FMLA/PMLA shall be processed by the designated Human Resources personnel to ensure compliance, with notice being provided to the board as part of the regular board agenda, but the individuals names and request shall not be read into the record for compliance with HIPPA.

Reference: Paid Medical Leave Act, 2018 Public Act 338, as Amended
1993 Family Medical Leave Act (Pub.L. 103-3), As Amended

Approved: August 24, 2020

5358 Alcohol and Drug Testing of CDL Drivers

The Superintendent shall be responsible for maintaining an alcohol and drug testing program for those employees with that carry CDL as a requirement of employment. The Board may enter into partnership agreements with other Districts to comply with federal law.

Approved: June 27, 2016

LEGAL REF: Omnibus Transportation Employee Testing Act, 1991

5410 Professional Staff Contracts (Cf. 2400)

The employment of teachers shall be secured through written contracts according to their status as a probationary or tenured teacher.

The Superintendent is authorized to sign offers of employment for a teacher on behalf of the Board. All offers of employment shall comply with the current Collective Bargaining Agreement. The Board shall have the final authority to issue and authorize the hiring of any teacher or professional staff member.

Approved: June 27, 2016
LEGAL REF: MCL 380.471; 380.1224; 380.1231

5685 Arrangement for Substitutes

Substitute teachers shall be obtained to provide for a level of instruction commensurate with the regular teacher's performance.

Approved: June 27, 2016

LEGAL REF: MCL 380.1236; 421.42; 421.50; AG Opinion #6360

5725 Qualifications and Duties

A job description for each classification of employees shall be developed by the Superintendent, in cooperation with the District's administrators.

Approved: June 27, 2016

5730 Recruitment (Cf. 5020)

The Superintendent will recruit personnel to fill existing or proposed vacancies and recommend that the Board hire the best qualified person available.

In recruiting or filling vacancies there shall be compliance with the provisions of the current negotiated master contract.

Approved: June 27, 2016

5750 Part-Time and Substitute Staff

The Superintendent is authorized to employ part-time and/or substitute non-certified personnel under the provisions of the current negotiated master contract(s).

The Superintendent shall be responsible to establish procedures for arranging substitutes for non-certified staff's absences.

Salary for support staff substitutes shall be according to rates established annually by the Board upon recommendation of the Superintendent, unless provided in the current negotiated master contract(s).

Approved: June 27, 2016

5760 Assignment and Transfer

The Superintendent and authorized administrative personnel are authorized to assign, reassign or transfer all employees in compliance to the provision of the current negotiated master contract(s).

Approved: June 27, 2016

5761 Teacher Placement

The Board considers the appropriate placement of effective teachers as an essential ingredient in promoting student academic growth, in attaining successful educational outcomes for students and in providing quality educational services.

For purposes of this policy, the term "teacher" shall refer to those employees of the District whose employment is regulated by the Teachers' Tenure Act, MCL 38.71 et seq. The term "placement" shall include decisions involving the assignment and transfer of teachers as well as decisions involving the filling of vacant teaching positions with on-staff teachers. Those placement decisions are delegated to the Superintendent.

Placement does not include staffing decisions made in the context of recall of a teacher from layoff, which decision is governed by District Policy #5762. Placement also excludes decisions to initially hire or to dismiss or nonrenewal a teacher, which determinations are reserved to the Board of Education and are not delegated under this Policy.

Teacher placement decisions shall be guided by the following standards:

1. These decisions will be premised on staffing the established curriculum with the most effective teachers who are certified and qualified to instruct the courses within the established curriculum, grades and departments.
2. All teachers must be properly certified (or otherwise approved or authorized) for all aspects of their assignment. The certification (or authorization/approval status, as applicable) of a teacher shall be determined by provisions of the Revised School Code, the Teacher Certification Code, the Michigan Department of Education's Rules for Special Education Programs and Services, and other applicable statutes and regulatory authority.
3. Teacher placement decisions shall also be made on the basis of a teacher's qualifications, which shall be determined by the following standards:
 - a. Compliance with applicable state or federal regulatory standards, including, but not limited to, those standards established as a condition to receipt of foundation, grant, or categorical funding.
 - b. Compliance with applicable accreditation requirements.
 - c. Assessment of the extent of a teacher's professional training and academic preparation are relevant to an instructional assignment and are predictive of the teacher's effectiveness in that assignment.
 - d. Assessment of the extent to which a teacher's prior teaching experience is relevant to an instructional assignment and is predictive of the teacher's effectiveness in that assignment.

4. In addition to certification and qualifications, teacher placement decisions shall be made on the basis of teacher effectiveness, as determined through the teacher effectiveness criteria established in Section 1248 of the Revised School Code and as articulated in District Policy 5762 Reduction and Recall of Teachers.

Legal Reference: MCL 380.11a (K-12), MCL 380.601a (ISD), MCL 380.1233, MCL 423.215, MCL 388.1763, MCL 38.71 et seq.

Approved: June 27, 2016

5762 – Reduction and Recall of Teachers

In making program and staffing decisions, the Board shall determine the size of the teaching staff in response to curricular, fiscal, and other operating conditions and retains the exclusive right to do so. To the extent that such determinations involve the requirements of Section 1248 of the Revised School Code, MCL 380.1248, this policy shall guide the implementation of that statute.

To the extent that such determinations involve the adoption and implementation of a reform plan under MCL 380.1280c (Priority Schools), and corresponding regulations and guidance, this Policy and the District's reform plan shall control.

A. General Provisions

This Policy applies to “teachers”, which term refers to those District employees whose employment is regulated by the Teachers’ Tenure Act, MCL 38.71 et seq.

The Superintendent shall be responsible, acting within budgetary approval and consistent with any applicable school redesign plan approved by the Michigan Department of Education, for establishing the number and type of teaching assignments to implement the approved curriculum. If the Superintendent determines that insufficient funds are budgeted for the existing complement of faculty or that a reduction in teaching staff is necessary due to programmatic or curricular considerations (including but not limited to implementation of a school redesign plan), he/she shall recommend to the Board the number of teaching positions to be reduced.

Similarly, if after a reduction of teachers, the Superintendent determines that the District's curriculum and programs cannot be delivered through the existing faculty and that sufficient funds are budgeted to increase the number of teachers, he/she shall recommend to the Board the number of teachers to be added and the affected grades or departments. If a school is operating under a redesign plan which authorizes a reduction in existing staff, recall of teachers is contingent upon compliance with the redesign plan.

Decisions involving the reduction and recall of teachers shall be guided by the following:

1. These decisions will be initially premised on retaining highly effective and effective teachers who are certified (or otherwise approved or authorized) and qualified to instruct the courses within the established curriculum, grades, and departments.
 - a. A teacher shall maintain current and valid certification, approval or authorization, as applicable, and shall be responsible for filing a copy of his/her teaching certificate, approval or authorization, with the

Superintendent's office in conformance with requirements of Section 1532 of the Revised School Code. If a teacher petitions for nullification of his/her teaching certificate or any endorsement, he/she shall promptly provide written notice of that petition to the Superintendent's office. A teacher shall supply current documentation to the District of all of the teacher's qualifications.

All teachers must be properly certified, approved or authorized for all aspects of their assignment. The certification, authorization, approval status of a teacher shall be determined by the Revised School Code, the Teacher Certification Code, the Michigan Department of Education's Rules for Special Education Programs and Services, and other applicable statutes and regulatory authority.

- b. Reduction and recall decisions shall be made on the basis of the certification and qualifications of a teacher, as reflected in the District's records, at the time that such decisions are made.
 - c. It is the laid-off teacher's responsibility to maintain current contact information (address, phone and e-mail address) in the Superintendent's office. Failure to maintain current contact information may negatively impact the teacher's layoff or recall rights under this Policy.
 - d. The Superintendent shall provide written notice of layoff or recall to affected teachers, by regular mail and certified mail, or hand delivery when possible. Email may be used if the teacher indicates in writing that he/she may be sent correspondence by email.
 - e. All teacher reductions and recalls are subject to formal action and approval by the Board of Education.
2. A teacher's length of service with this District or the teacher's attainment of tenure under the Teachers' Tenure Act shall not be the primary or determining factors in layoff and recall decisions, except if the decision involves two or more teachers and all have the same effectiveness ratings, as described in ¶ B(4) of this Policy.
- a. This Policy shall not require retention or recall of a probationary or tenured teacher whose most recent performance evaluation contains an overall rating of "ineffective" or "minimally effective" in preference to any probationary or tenured teacher rated either "effective" or "highly effective", as reflected in that teacher's most recent performance evaluation(s).
 - b. A probationary teacher who is rated as effective or highly effective on his or her most recent annual year-end performance evaluation is not subject to being displaced under this policy by a tenured teacher solely because the other teacher has attained tenure under the Teachers' Tenure Act, MCL 38.71 et seq.

B. Reduction in Staff Process:

1. All layoff decisions shall be guided by the following requirements:
 - a. All teachers must also be qualified for all aspects of their assignment, as determined by the Board, considering:
 - i. Compliance with applicable state or federal regulatory standards, including, but not limited to, those standards established as a condition to receipt of foundation, grant, or categorical funding;
 - ii. Compliance with applicable accreditation requirements;
 - iii. A teacher's professional training and academic preparation relevant to an instructional assignment and are predictive of the teacher's effectiveness in that assignment;
 - iv. Formal or specialized training in subject area or grade level;
 - v. College course content and continuing education courses in instructional subject area.
 - vi. A teacher's prior teaching experience is relevant to an instructional assignment and is predictive of the teacher's effectiveness in that assignment. This may include, but is not limited to, the following factors:
 - a. The building and grade level;
 - b. Instructional subjects;
 - c. Recency of relevant and comparable teaching assignments; and
 - d. Previous effectiveness ratings
 - vii. Possession or satisfaction of any qualification requirement(s) contained in a job posting, job description, or administrative regulation pertaining to the position in question which was promulgated in advance of the reduction or recall.
2. When a teaching position has been identified for reduction and there exists a concurrently vacant teaching assignment for which the incumbent teacher in the position to be reduced is both certified and qualified, and if that teacher has received an overall rating of at least "effective" on his /her most recent year-end performance evaluation, that teacher may be assigned to the vacant position unless the Superintendent determines that the educational interests of the District would not be furthered by that assignment.
3. If one or more teaching positions are to be reduced, the Superintendent shall first identify the academic level(s), school building(s), or department(s)

impacted by the reduction. Among those teachers who are certified, approved, or authorized and qualified to instruct the remaining curriculum within the impacted academic levels or departments, selection of a teacher for layoff shall be based upon the teacher's effectiveness score as determined under ¶ B(4), below. Teachers with the highest effectiveness scores will be retained and the teachers with the lowest effectiveness scores will be laid off.

4. A teacher's effectiveness rating for layoff and recall decisions shall be determined according to the following standards:
 - a. Individual performance shall be the majority factor in determining a teacher's effectiveness rating (70% assigned value must be a majority factor) *. The teacher's individual performance shall be based on the performance evaluation system as required by Section 1249 of the Revised School Code.

**Note: The assignment of the values are minimum values. If the District assigns a higher percentage rating to individual performance, the remaining percentage factors in this policy will require commensurate adjustment.*

- i. In arriving at the value of a teacher's effectiveness rating on the criterion of individual performance, the predominant factor shall be based on evidence of student growth. The percentage weight assigned to student growth within the performance evaluation shall comply with Section 1249 of the Revised School Code.
- ii. The remainder of the teacher's effectiveness rating on the criterion of individual performance shall be based on the evaluation results of demonstrated pedagogical skills, including, but not limited to:
 1. The teacher's knowledge of the subject matter pertinent to the area of his /her assignment;
 2. The teacher's ability to impart that knowledge to students as demonstrated through planning, delivery of rigorous content, checking for and building higher level understanding of the subject matter instructed, and differentiating instruction;
 3. The teacher's ability to manage the classroom as well as the teacher's manner and efficacy of disciplining pupils;
 4. The teacher's ability to maximize effective use of instructional time through consistent and proficient preparation;
 5. The quality of the teacher's relationships with students, parents/guardians and other teachers;
 6. The teacher's ability to perform essential job functions;

7. The teacher's attendance record, exclusive of any absences taken under the Family and Medical Leave Act or as a reasonable accommodation pursuant to applicable state or federal law; and
8. The teacher's disciplinary record, if any.

- b. An additional factor 20%* in determining teacher effectiveness shall be the extent to which the teacher has made clear, significant, and relevant accomplishments and contributions and has demonstrated a record of exceptional performance. Those contributions and accomplishments must exceed the normal expectations for an individual in the teacher's professional peer group.

*See Note in Section B(4)(a).

- i. These accomplishments and contributions shall exclude any activities or functions for which the teacher receives additional remuneration, including, but not limited to, extra pay for extra duty assignments.
- ii. The Superintendent shall develop and publish a list of activities that will be regarded by the District as indicators of teacher effectiveness because those activities reflect accomplishments and contributions exceeding normal expectations for a teacher's professional peer group.
- iii. The Superintendent shall designate values for the identified accomplishments and contributions, as defined above, that will be used in the calculation of the teacher's effectiveness score.
- iv. The Superintendent shall develop and maintain a system for the recording and verification of those activities of teachers that qualify as accomplishments and contributions to be used in the calculation of a teacher's effectiveness score.
- v. The teacher's effectiveness score on this factor shall be computed on an annual basis and shall not be accumulative from one school year to any succeeding school year.
 - c. The final factor in determining teacher effectiveness 10%* is the teacher's relevant special training to the instructional assignment and the teacher has integrated that training into instruction in a meaningful way.

*See Note in Section B(4)(a).

- i. Qualifying training excludes any training or professional development under Sections 1526, 1526a or 1527 of the Revised School Code or otherwise designated on a regularly scheduled teacher work day during teacher work hours. Qualifying training or professional development must satisfy all of the following standards:
 - A. The training or professional development takes place outside of the teacher work day during the school year or outside the teacher work year.

- B. The training or professional development has direct relevance to the teacher's assignment or to another area within the teachers' endorsements, authorization, approval and has received the prior approval of the Superintendent (or designee).
 - ii. The Superintendent shall develop and maintain a system for the recording and verification of qualifying professional development and training to be used in the calculation of a teacher's effectiveness rating.
 - iii. The Superintendent shall designate the values associated with qualifying professional development and training that will be used in the calculation of a teacher's effectiveness rating.
- C. Recall Process
- 1. A teacher is eligible for recall under this policy for 3 years.
 - 2. The Superintendent shall first identify the grades, school buildings, or departments where a vacancy exists. The Superintendent may reassign on staff teachers to such position(s) in accordance with District Policy #5761 - Teacher Placement.
 - 3. If, after the reassignment of existing teaching staff, the Superintendent determines to recall a laid off teacher, the following shall apply:
 - a. Recall of teacher(s) to vacancies may be accomplished by recalling the teacher with highly effective or effective rating who is certified and qualified for the vacancy.
 - b. If the Superintendent determines, in his or her discretion, that no teacher on layoff meets the certification and qualification requirements for the position or as otherwise stated herein, the Superintendent may post the vacancy and consider all applicants.
 - 4. If a teacher is selected for recall to a vacant position, the following apply:
 - a. The Superintendent shall provide written notice of recall to teachers and shall establish the time within which the teacher must accept recall in order to preserve the teacher's employment rights.
 - b. A teacher who is recalled and fails to accept recall by the time designated in the recall notice and report for work by the deadline specified in the recall notice, shall be regarded as having forfeited all rights to recall and continued employment unless the Superintendent, in his/her discretion, has extended those time limitations, in writing.

Approved: June 27, 2016

Legal Reference: MCL 38.71, et seq; MCL 380.11a (K-12); MCL 380.601a (ISD); MCL 380.1248; MCL 380.1249; MCL 380.1280c; MCL 380.1532; MCL 423.215

5763 – Teacher Discipline

The Board believes that maintaining appropriate procedures and standards for addressing teacher misconduct and other inappropriate behavior is a critical ingredient in furthering an effective educational environment and in providing quality educational services necessary for the attainment of successful educational outcomes for students. This policy is intended to provide standards and procedures by which administrative personnel shall make determinations as to whether teacher discipline is warranted and, if so, in arriving at an appropriate disciplinary response.

Although discipline is corrective, other significant purposes of discipline are to promote accountability of teachers to maintain proper conduct, to provide notice to teachers of behavioral expectations, and to inform teachers of the consequences of any future disciplinary infractions, offenses or other misconduct.

For purposes of this policy, the term "teacher" shall refer to those employees of the school district whose employment is regulated by the Teachers' Tenure Act, MCL 38.71 *et seq.*

Discharge, demotion, or other discipline of teachers under this policy shall be made only for a reason(s) that is not arbitrary or capricious. This standard signifies that a disciplinary decision must be supported by results of a disciplinary investigation and that any resulting disciplinary action must have a rational relationship to the teacher's conduct which forms the basis for a disciplinary decision.

Before imposing any disciplinary measure under this policy, the administrator shall investigate whether a teacher has engaged in an offense, infraction, or other misconduct which could result in a disciplinary consequence. An administrator shall investigate the alleged violation before imposing a disciplinary measure upon the teacher. The investigation should include discussions with any witnesses to the event(s) upon which possible teacher discipline is premised, including witnesses or other sources suggested by the teacher being investigated. The teacher who is the subject of the disciplinary allegation shall be provided with an opportunity to respond to those allegations as part of the investigation process.

The following procedures shall be used for disciplinary actions taken against teachers, up to and including a recommendation for discharge:

1. Oral or written notice will be given by the administration to the teacher of the incident, complaint, or charge that forms the basis for the investigation and potential disciplinary action.
2. If the complaint alleges child abuse or neglect, the matter shall be reported to Child Protective Services consistent with Board Policy and Administrative Procedure.

3. The teacher will be given written notice of the time, date, and location of a meeting to provide the teacher with an opportunity to respond to the disciplinary incident, complaint, or charge. This opportunity to respond shall include the right of the teacher to dispute the factual basis of the incident, complaint, or charge, as well as the nature of any contemplated disciplinary action in the event that the disciplinary incident, complaint, or charge is factually substantiated.
4. A teacher represented by an exclusive bargaining agent under the Public Employment Relations Act shall, upon request, be entitled to union representation at any investigative meeting which the teacher reasonably believes could ultimately result in disciplinary action. Alternatively, a teacher shall, upon his/her request, be entitled to have another member of their bargaining unit accompany him/her to any investigative meeting which the teacher under investigation is required to attend when that teacher reasonably believes that the investigation may ultimately result in his/her discipline. The obtaining of a representative shall not unreasonably delay an investigative meeting.
5. The Superintendent (or designee) is authorized to place a teacher on administrative leave, with pay, pending the completion of a disciplinary investigation of the alleged or suspected offense, infraction, or misconduct. This authority can be exercised in those circumstances when, in the judgment of the Superintendent (or designee), the nature of the charges, the behavior or record of the teacher, or other circumstances make it inadvisable for the teacher to remain at work while the investigation is ongoing. Placement on administrative leave under this provision is not regarded as, in itself, a disciplinary measure or penalty.
6. If criminal charges are filed against a teacher before or during the pendency of a disciplinary investigation, a probationary teacher may be placed on unpaid leave during the pendency of the investigation after notice and an opportunity to be heard. Under these circumstances, a tenured teacher's salary shall not be discontinued other than through observance of the pertinent standards and procedures specified in the Teachers' Tenure Act. The District need not delay the institution of tenure charges or other disciplinary action against a teacher during the pendency of any criminal charges against the teacher.
7. If an investigation of teacher conduct supports a determination that the teacher has engaged in an offense, infraction, misconduct, or other behavior warranting disciplinary action, the administrative decision as to the level of discipline shall be guided by the following standards:
 - a. The seriousness of the offense, infraction, or misconduct;
 - b. The teacher's prior disciplinary and employment record;
 - c. How teachers engaging in similar or like offenses, infractions, or misconduct have been disciplined in past comparable circumstances

involving similarly situated teachers; and

- d. The existence of aggravating or mitigating factors.
8. Disciplinary measures include but are not limited to: oral warning (memorialized in writing), written warning, written reprimand, paid or unpaid suspension, and discharge. Nothing in this policy or the identification of these levels of discipline requires that the above disciplinary measures be applied progressively or sequentially. The Board reserves the right to apply the disciplinary sanction it determines to be appropriate to a specific set of circumstances.
 9. When disciplinary action is taken against a teacher it shall be confirmed in writing. The document confirming the discipline will be provided to the teacher and placed in the teacher's personnel file.
 10. The Superintendent (or designee) is delegated the authority under this policy to impose all teacher discipline with the exception of:
 - a. The discharge of either a probationary or tenured teacher;
 - b. The non-renewal of a probationary teacher; and
 - c. The demotion of a tenured teacher, as defined in the Teachers' Tenure Act.
 - d. The discharge or demotion of an administrator
 - e. The non-renewal of an administrator.

Each of the above disciplinary actions may only be imposed by the Board upon written recommendation of the Superintendent and upon adherence to any applicable procedures set forth in the Teachers' Tenure Act.

Approved: June 27, 2016

Legal Reference: MCL 380.11a (K-12), MCL 380.601a (ISD), MCL 423.215, MCL 38.71, *et seq.*

5780 Staff Probation

All non-certified staff shall be considered to be on probation during the first 90 work days of employment or otherwise determined by the applicable state law and the Board for new employees. Existing non-certified staff that are promoted into a non-lateral position shall be considered to be on probation during the first 90 calendar days. The Superintendent shall provide for adequate supervision and evaluation of the employee prior to the end of said period. If a person other than the Superintendent performs the evaluation, he/she shall make a recommendation to the Superintendent as to the continued employment of the probationary staff member.

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