

**CLAY COUNTY
PUBLIC SCHOOLS**

2022 - 2023

Employee
Handbook

CLAY COUNTY PUBLIC SCHOOLS

2022 - 2023 Employee Handbook

William Sexton, Superintendent
Clay County Board of Education
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Manchester, KY 40962-1207
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www.clay.kyschools.us

As required by law, the Board of Education does not discriminate on the basis of race, color, national or ethnic origin, age, religion, sex, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions in its programs and activities and provides equal access to its facilities to the Boy Scouts and other designated youth groups.

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Introduction

Welcome

Welcome to Clay County Public Schools.

The purpose of the handbook is to acquaint you with general Board of Education policies that govern and affect your employment and to outline the benefits available to you as an employee of the District.

Because this handbook is a general source of information, it is not intended to be, and should not be interpreted as, a contract. It is **not** an all-encompassing document and may not cover every possible situation or unusual circumstance. If a conflict exists between information in this handbook and Board policy or administrative procedures, the policies and procedures govern. It is the employee's responsibility to refer to the actual policies and/or administrative procedures for further information. Complete copies of those documents are available at the Central Office and in the Principal's office. Any employee is free to review official policies and procedures and is expected to be familiar with those related to his/her job responsibilities. Employees and students who fail to comply with Board policies may be subject to disciplinary action. **01.5**

School council policies, which are also available from the Principal, may also apply in some instances. **02.4241**

In this handbook, **bolded policy codes** indicate related Board of Education policies. If an employee has questions, s/he should contact his/her immediate supervisor in the Central Office.

Located in the back of this *Handbook* is an Acknowledgment Form. Once you review this *Handbook*, please read the Acknowledgment Form, sign and date the Form, and return the Form to the Central Office.

District Mission

Preparing the hearts and minds of every student for a successful and attainable future.

Future Policy Changes

Although every effort will be made to update the handbook on a timely basis, the Clay County Board of Education reserves the right, and has the sole discretion, to change any policies, procedures, benefits, and terms of employment without notice, consultation, or publication, except as may be required by contractual agreements and law. The District reserves the right, and has the sole discretion, to modify or change any portion of this handbook at any time.

Central Office Personnel and School Administrators

Person/Address	Telephone/E-mail	Fax
Superintendent William Sexton	606-598-2168 William.Sexton@clay.kyschools.us	606-598-7829
District Assessment Renee Smith	606-598-2168 Renee.smith@clay.kyschools.us	606-596-1078
Director of Pupil Personnel Jeff Woods	606-598-2168 Jeff.Woods@Clay.kyschools.us	606-598-7829
Director of Special Education Alene Stivers	606-598-2168 Alene.stivers@clay.kyschools.us	606-598-7829
Food Service and Nutrition Melinda Nicholson	606-598-2168 Melinda.Nicholson@clay.kyschools.us	606-598-7829
Professional Development & Curriculum Renee Smith	606-598-2168 Renee.Smith@clay.kyschools.us	606-596-1078
Finance and Business Kristi Curry	606-598-2168 Kristi.Curry@clay.kyschools.us	606-596-1155
Title IX & Safe Schools Coordinator Renee Smith	606-598-2168 Renee.Smith@clay.kyschools.us	606-596-1078
Transportation Paul Hughes	606-598-2168 Paul.Hughes@clay.kyschools.us	606-598-7829
Title I Coordinator Jamie Mills	606-598-2168 Jamie.mills@clay.kyschools.us	606-598-7829
Facilities Jeff Woods	606-598-2168 Jeff.Woods@clay.kyschools.us	606-598-7829
Technology Coordinator & Curriculum Renee Smith	606-598-2168 Renee.smith@clay.kyschools.us	606-596-1078

Section

1

General Terms of Employment

Equal Opportunity Employment

As required by Title IX, the District does not discriminate on the basis of sex regarding admission to the District or in the educational programs or activities operated by the District. Inquiries regarding Title IX Sexual Harassment may be referred to the District Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.

The Clay County Board of Education is an Equal Opportunity Employer. The District does not discriminate on the basis of race, color, religion, sex, genetic information, national or ethnic origin, political affiliation, age, disabling condition, or limitations related to pregnancy, childbirth, or related medical conditions.

Reasonable accommodation for individuals with disabilities or limitations related to pregnancy, childbirth, or related medical conditions will be provided as required by law.

If considerations of sex, age or disability have a bona fide relationship to the unique requirements of a particular job or if there are federal or state legal requirements that apply, then sex, age or disability may be taken into account as a bona fide occupational qualification, provided such consideration is consistent with governing law.

If you have questions concerning District compliance with state and federal equal opportunity employment laws, contact William Sexton at the Board of Education's Central Office. **03.113/03.212**

Harassment/Discrimination/Title IX Sexual Harassment

The Clay County Board of Education intends that employees have a safe and orderly work environment in which to do their jobs. Therefore, the Board does not condone and will not tolerate harassment of or, discrimination against employees, students, or visitors to the school or District, or any act prohibited by Board policy that disrupts the work place or the educational process and/or keeps employees from doing their jobs.

GENERAL TERMS OF EMPLOYMENT

Any employee who believes that he or she, or any other employee student, or visitor to the school or District, is being or has been subjected to harassment or discrimination shall bring the matter to the attention of his/her Principal/immediate supervisor or the District's Title IX/Equity Coordinator as required by Board policy. The District will investigate any such concerns promptly and confidentially.

No employee will be subject to any form of reprisal or retaliation for having made a good-faith complaint under this policy. For complete information concerning the District's position prohibiting harassment/discrimination, assistance in reporting and responding to alleged incidents, and examples of prohibited behaviors, employees should refer to the District's policies and related procedures. **03.162/03.262**

The following individual has been designated to handle inquiries regarding nondiscrimination under Title IX and Section 504 of the Rehabilitation Act of 1973 and Title IX Sexual Harassment/Discrimination: **01.1**

The District's Title IX Coordinator (TIXC) is Renee Smith.

128 Richmond Road Manchester, KY 40962	606-598-2168 ext. 2032	renee.smith@clay.kyschools.us
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Office Address	Telephone #	Email Address
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The District's Section 504 Coordinator is Amy Janutolo.

128 Richmond Road Manchester, KY 40962	606-598-2168 ext. 2035	amy.janutolo@clay.kyschools.us
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Office Address	Telephone #	Email Address
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Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the TIXC, or by any other means that results in the TIXC receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the TIXC. **09.428111**

Title IX Sexual Harassment Grievance Procedures are located on the District Website.

Employees wishing to initiate a complaint concerning discrimination in the delivery of benefits or services in the District's school nutrition program should go to the link below or mail a written complaint to the U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington D.C. 20250-9410, or email, program.intake@usda.gov.

http://www.ascr.usda.gov/complaint_filing_cust.html

07.1

Hiring

Except for non-contracted substitute teachers, all personnel are required to sign a written contract with the District. All regular full-time and part-time classified personnel shall enter into annual written contracts with the District.

A list of all District job openings is available at the Central Office.

For further information on hiring, refer to policies **03.11/03.21**.

Transfer of Tenure

All teachers who have attained continuing-contract status from another Kentucky district serve a one (1)-year probationary period before being considered for continuing-contract status in the District. **03.115**

Job Responsibilities

Every employee is assigned an immediate supervisor. All employees receive a copy of their job description and responsibilities for review. Immediate supervisors may assign other duties as needed. Employees should ask their supervisor if they have questions regarding their assigned duties and/or responsibilities. **03.132/03.232**

All employees are expected to use sound judgment in the performance of their duties and take reasonable and commonly accepted measures to protect the health, safety, and well-being of others, as well as District property. In addition, employees shall cooperate fully with all investigations conducted by the District as authorized by policy or law. **03.133/03.233**

Certified Employees: All teachers in the District shall review records of assigned students to determine whether an IEP or 504 plan is in place.

Criminal Background Check and Testing

Applicants, employees, and student teachers must undergo records checks and testing as required by law.

New hires and student teachers assigned within the District must have both a state and a federal criminal history background check and a letter (CA/N check) from the Cabinet for Health and Family Services documenting the individual does not have an administrative finding of child abuse or neglect in records maintained by the Cabinet.

An employee shall report to the Superintendent if the employee has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if the employee has waived the right to appeal such a substantiated finding or the finding has been upheld upon appeal. **03.11/03.21**

Link to DPP-156 Central Registry Check and more information on the required CA/N check:

<http://manuals.sp.chfs.ky.gov/chapter30/33/Pages/3013RequestfromthePublicforCANChecksandCentralRegistryChecks.aspx>

Confidentiality

In certain circumstances employees will receive confidential information regarding students' or employees' medical, educational or court records. Employees are required to keep student and personnel information in the strictest confidence and are legally prohibited from passing confidential information along to any unauthorized individual. Employees with whom juvenile court information is shared as permitted by law shall be asked to sign a statement indicating they understand the information is to be held in strictest confidence.

Access to be Limited

Employees may only access student record information in which they have a legitimate educational interest. **03.111/03.211/9.14/09.213/09.43**

Information Security Breach

Information security breaches shall be handled in accordance with KRS 61.931, KRS 61.932, and KRS 61.933 including, but not limited to, investigations and notifications.

Within seventy-two (72) hours of the discovery or notification of a security breach, the District shall notify the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, the Attorney General, and the Education Commissioner. **01.61**

Salaries and Payroll Distribution

Checks are issued according to a schedule approved annually by the Board. **03.121/03.221**

Certified Personnel: Salaries for certified personnel are based on a single-salary schedule reflecting the school term as approved by the Board in keeping with statutory requirements. Compensation for additional days of employment is prorated on the employee's base pay.

Determination of and changes to certified employees' rank and experience are determined in compliance with Policy **03.121**. No later than forty-five (45) days before the first student attendance day of each year or June 15th, whichever comes first, the Superintendent will notify certified personnel of the best estimate of their salary for the coming year.

Classified Personnel: Classified personnel may be paid on an hourly or salary basis, as determined by the Board. **03.221**

Hours of Duty

Employees are not allowed to leave their job assignment during duty hours without the express permission of their immediate supervisor.

Except as required by special circumstances or assigned additional duties, school-based certified staff shall, at a minimum, work from 7:45 a.m. until 3:15 p.m. each workday. Principals or their designee shall be present from the time the first bus arrives until the last bus run is completed. **03.1332/03.2332**

Supervision Responsibilities

While at school or during school-related or school-sponsored activities, students must be under the supervision of a qualified adult at all times. All District employees are required to assist in providing appropriate supervision and correction of students. **09.221**

Employees are expected to take reasonable and prudent action in situations involving student welfare and safety, including following District policy requirements for intervening and reporting to the Principal or to their immediate supervisor those situations that threaten, harass, or endanger the safety of students, other staff members, or visitors to the school or District. Such instances shall include, but are not limited to, bullying or hazing of students and harassment/discrimination of staff, students or visitors by any party.

The Student Discipline Code shall specify to whom reports of alleged instances of bullying or hazing shall be made. **03.162/03.262/09.422/09.42811**

Bullying

"Bullying" is defined as any unwanted verbal, physical, or social behavior among students that involves a real or perceived power imbalance and is repeated or has the potential to be repeated:

1. That occurs on school premises, on school-sponsored transportation, or at a school-sponsored event; or
2. That disrupts the education process. **09.422**

Section

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Benefits and Leave

Insurance

The Board provides unemployment insurance, workers' compensation and liability insurance for all employees. In addition, the state of Kentucky provides group health and life insurance to employees who are eligible as determined by Kentucky Administrative Regulation. **03.124/03.224**

Salary Deductions

The Clay County Public School District makes all payroll deductions required by law. Employees may choose from the following optional payroll deductions:

- Health/life insurance program;
- Tax Sheltered Annuity program;
- Membership dues in professional/job-related organizations when thirty percent (30%) of eligible members request deductions.
- State approved deferred compensation plan;
- State-designated Flexible Spending Account (FSA) and Health Reimbursement Account (HRA) plans. **03.1211/03.2211**

Deductions for membership dues of an employee organization, association, or union shall only be made upon the express written consent of the employee. This consent may be revoked by the employee at any time by written notice to the employer. **03.1211/03.2211**

Cafeteria Plan

Clay County Public Schools offers employees a cafeteria plan of benefits. **03.1213/03.2212**

Expense Reimbursement

Provided the Superintendent/designee has given prior approval to incur necessary and appropriate expenses school personnel are reimbursed for travel that is required as part of their duties or for school-related activities approved by the Superintendent/designee. Allowable expenses include mileage, gasoline used for Board vehicles, tolls (for out-of-state travel) and parking fees, car rental, fares charged for travel on common carriers (plane, bus, etc.), food (as authorized by policy and/or procedure), and lodging. Itemized receipts must accompany requests for reimbursement.

Employees must submit travel vouchers within one (1) week of travel and will not be reimbursed without proper documentation. Should employees receive reimbursement based on incomplete or improper documentation, they may be required to reimburse the District. **03.125/03.225**

Holidays

All full-time certified employees and classified employees are paid for four (4) annual holidays as indicated in the school calendar. Employees with longer work years shall be eligible for the additional paid holidays each school year in accordance with Board policy. **03.122/03.222**

Annual Leave

Personnel employed with a contract less than a two hundred and thirty-five (235) day contract may use their non-contracted days as unpaid vacation leave. There will be no compensation for unused non-contracted vacation leave. Leave may be used only in whole or half-day increments. Use of non-contracted days must be approved in advance by the Superintendent or the Superintendent's designee. The Superintendent or the Superintendents designee may deny the request for annual leave if deemed that the time for such leave would cause undue hardship or interfere with the daily operations of the District.

Personnel employed with a contract of two hundred and thirty-five (235) days may work in excess of their contract during the school year. A maximum of twenty (20) excess contracted days worked may be accumulated and carried over to the next school year. Personnel shall be entitled to accumulate a maximum of sixty (60) days of annual leave. Compensation for accrued annual leave shall be made at time of retirement, resignation, or termination at a rate not to exceed the daily salary rate calculated from the employee's last annual compensation. **03.122**

Leave Policies

In order to provide the highest level of service, employees are expected to be at work and on time every day. However, when circumstances dictate, the Board provides various types of leave under which absences may be authorized. Employees who must be absent should inform their immediate supervisor as soon as possible.

Listed below is general information regarding several types of leave available to employees. Please note that in many cases a written request, submitted for approval before leave begins, is required.

Employees on extended leave, including those on professional leave serving in charter schools, who plan to return the next school year must notify the Superintendent/designee in writing of their intention to return to work by April 1.

03.123/03.223

Authorization of leave and time taken off from one's job shall be in accordance with a specific leave policy. Absence from work that is not based on appropriate leave for which the employee is qualified may lead to disciplinary consequences, up to and including termination of employment.

Employees shall not experience loss of income or benefits, including sick leave, when they are assaulted while performing assigned duties and the resulting injuries qualify them for workers' compensation benefits. **03.123/03.223**

For complete information regarding leaves of absence, refer to the District's *Policy Manual*.

Personal Leave

Full-time employees are entitled to two (2) days of paid personal leave each school year. Provided they work at least .7-time, part-time employees or employees who work for less than a full year are entitled to a prorata part of the authorized personal leave days. Your supervisor must approve the leave date, but no reasons will be required for the leave. Employees taking personal leave must file a personal affidavit on their return to work stating that the leave was personal in nature. Other limitations are set out in Policy.

03.1231/03.2231

Sick Leave

Full-time certified and classified employees are entitled to ten (10) days of paid sick leave each school year.

Provided they work at least .7-time, part-time employees or employees who work for less than a full year are entitled to a prorata part of the authorized sick leave days. Sick leave days not taken during the school year they were granted accumulate without limit for all employees. Upon return to work an employee claiming sick leave must file a personal affidavit or a certificate of a physician stating that the employee was ill or that the employee was absent for the purpose of attending to a member of the immediate family who was ill. **03.1232/03.2232**

See the "Retirement" section for information about reimbursement for unused sick leave at retirement.

Sick Leave Donation Program

Employees who have accumulated more than fifteen (15) days of sick leave may request to donate sick leave days to another employee authorized to receive the donation. Employees may not disrupt the workplace while asking for donations.

Applications to donate sick leave should be returned to Brittany Anderson.

Any sick leave that is not used will be returned to the employees who donated the sick days.

Any employee may receive donations of sick leave if the employee presents a physician's statement that the employee or immediate family member suffers from a medical condition that has caused or is likely to cause the employee to be absent for at least ten (10) days total or the employee suffers a catastrophic loss to personal or real property that has caused or is likely to cause an absence of at least ten (10) consecutive working days provided the employee has exhausted all accumulated paid leave and complied with the district's sick leave policy. **03.1232/03.2232**

Family and Medical Leave

Employees are eligible for up to twelve (12) workweeks of family and medical leave each school year, if they have been employed by the District for twelve (12) months, have worked at least 1,250 hours during the twelve (12) months preceding the start of the leave, and otherwise qualify for family and medical leave for one of the reasons below:

1. For the birth and care of an employee's newborn child or for placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child or parent who has a serious health condition, as defined by federal law;
3. For an employee's own serious health condition, as defined by federal law, that makes the employee unable to perform her/his job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the covered active duty or call to active duty involving deployment to a foreign country of the employee's spouse, son, daughter, or parent who serves in a reserve component or as an active or retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered service member (spouse, son, daughter, parent or next of kin) who has incurred or aggravated a serious injury or illness in the line of duty while on active duty in the Armed Forces that has rendered or may render the family member medically unfit to perform his/her duties or to care for a covered veteran with a serious injury or illness as defined by federal regulations.

When family and medical military caregiver leave is taken based on a serious illness or injury of a covered service member, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve-month period.

Employees should contact their immediate supervisor as soon as they know they will need to use Family and Medical Leave. **03.1232/03.2232**

Following is a summary of the major provisions of the Family and Medical Leave Act (FMLA) provided by the United States Department of Labor.

FML Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements - Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active-duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".

Benefits and Protections - During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements - Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

*Special hours of service eligibility requirements apply to airline flight crew employees.

Definition of Serious Health Condition - A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave - An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave - Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities - Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities - Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers - FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement - An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Quarantine Leave

Employees shall receive at least ten (10) days for quarantine due to exposure to a reportable infectious or contagious disease under 902 KAR 2:020 or any other infectious or contagious disease designated as reportable to a local health department or the Department for Public Health by a valid order or administrative regulation of the local health department serving the school District or the Department for Public Health.

Leave granted shall be on a day-by-day basis, as needed, and shall not accumulate or carry over year to year, and shall not be transferrable to any other classification of paid leave established by KRS 161.155, KRS 161.154, or Board policy. **03.12323/03.22323**

Maternity Leave

Employees may use up to thirty (30) days of sick leave immediately following the birth or adoption of a child.

Employees eligible for family and medical leave are entitled to up to twelve (12) workweeks of unpaid leave to care for the employee's child after birth or placement of a child with the employee for adoption or foster care. Leave to care for an employee's healthy newborn baby or minor child who is adopted or accepted for foster care must be taken within twelve (12) months of the birth or placement of the child. The parent of a newborn or an employee who adopts a child may also request an unpaid leave of absence not to exceed the remainder of the school year in which the birth or placement occurred. Thereafter, leave may be extended in increments of no more than one (1) year. **03.1233/03.2233**

The Board may only request medical information necessary to decide whether to grant a leave of absence; shall not request or retain unnecessary medical information; and shall not disclose any medical information received, except as permitted by state and federal law. **03.1233**

The Board may only request medical information necessary to decide whether to grant a leave of absence; shall not request or retain unnecessary medical information; and shall not disclose any medical information received, except as permitted by state and federal law. **03.1234**

Extended Disability Leave

Unpaid disability leave for the remainder of the school year is available to employees who need it. Thereafter, leave may be extended by the Board in increments of no more than one (1) year.

The Superintendent may require an employee to secure a medical practitioner's verification of a medical condition that will justify the need for disability leave. **03.1234/03.2234**

Educational Leave

Certified Employees: The Board may grant unpaid leave for a period no longer than two (2) consecutive years for educational or professional purposes. Leave may be granted for full-time attendance at universities or other training or professional activities. Leave will not be granted for part-time educational activities.

The Board shall grant a two (2) year unpaid leave to employees under continuing service contracts who have been offered employment with a charter school.

A teacher with continuing status shall notify the District of the teacher's intent to work in a converted charter school.

A teacher working in a converted charter school shall notify the District of the teacher's intent to return to employment the next school year by April 15 of each year of the granted leave.

Written application for educational/professional leave must be made at least sixty (60) days before the leave is to begin. **03.1235**

Classified Employees: Upon recommendation by the Superintendent, the Board may grant short-term paid leaves to classified employees for training necessary to enhance skills required for their jobs or in anticipation of a different position within the school system. **03.2235**

Jury Leave

Any employee who serves on a jury in local, state or federal court will be granted paid leave (minus any jury pay, excluding expense reimbursement) for the period of her/his jury service. Employees who will be absent from work to serve on a jury must notify their immediate supervisor in advance. **03.1237/03.2237**

Military/Disaster Services Leave

Military leave is granted under the provisions and conditions specified in law.

As soon as they are notified of an upcoming military-related absence, employees are responsible for notifying their immediate supervisor.

The Board may grant disaster services leave to requesting eligible employees. **03.1238/03.2238**

Section

3

Personnel Management

Transfer

Employees who wish to request a voluntary transfer should contact their immediate supervisor for assistance.

Employees charged with a felony offense may be transferred to a second position with no change in pay until such time as they are found not guilty, the charges are dismissed, their employment is terminated, or the Superintendent determines that further personnel action is not required. **03.1311/03.2311**

Employee Discipline

Termination and nonrenewal of contracts are the responsibility of the Superintendent. **03.17/03.2711**

Certified employees who resign or terminate their contracts must do so in compliance with KRS 161.780.

Retirement

Employees who decide to retire should give the Superintendent/designee notice as far in advance as possible, but no later than two (2) weeks before retirement. Retirement benefits are solely a matter of contract between the employee and her/his retirement system (the Teacher's Retirement System or the County Employee's Retirement System).

The Board compensates employees only upon initial retirement for each unused sick day at the rate of thirty percent (30%) percent of the daily salary, based on the employee's last annual salary. **03.175/03.273**

Evaluations

All employees are given an opportunity to review their evaluations and an opportunity to attach a written statement to the evaluation. Any employee who believes that s/he was not fairly evaluated may appeal his/her evaluation in accordance with Policy. **03.18/03.28**

Training/In-Service

The Board provides a high quality, personalized, and evidence-based program for professional development and staff trainings.

Certified Personnel: Unless an employee is granted leave, failure to complete and document required professional development during the academic year will result in a reduction in salary and may be reflected in the employee's evaluation. **03.19**

Classified Personnel: The Superintendent shall develop and implement a program for continuing training for selected classified personnel. **03.29**

District Training

Procedure **03.19 AP.23** may be used to track completion of local and state employee training requirements that apply across the District and maintain a record for the information of the Superintendent and Board.

Personnel Records

One (1) master personnel file is maintained in the Central Office for each employee. The Principal/supervisor may maintain a personnel folder for each person under his/her supervision. **03.15/03.25**

Retention of Recordings

Employees shall comply with the statutory requirement that school officials are to retain any digital, video, or audio recording as required by law. **01.61**

Section

4

Employee Conduct

Absenteeism/Tardiness/Substitutes

Employees are expected to notify their immediate supervisor when they must be tardy or absent. Staff in positions requiring substitutes must contact their immediate supervisor as early as possible to request a substitute for the day.

Staff Meetings

Unless they are on leave or have been excused by the Principal/designee, staff members shall attend meetings called by the Principal or other authorized administrator. **03.1335**

Political Activities

Employees shall not promote, organize, or engage in political activities while performing their duties or during the work day. Promoting or engaging in political activities shall include, but not be limited to, the following:

- Encouraging students to adopt or support a particular political position, party, or candidate; or
- Using school property or materials to advance the support of a particular political position, party, or candidate. **03.1324/03.2324**

In addition, KRS 161.164 prohibits employees from taking part in the management of any political campaign for school board.

Disrupting the Educational Process

Any employee who participates in or encourages activities that disrupt the educational process may be subject to disciplinary action, including termination.

Behavior that disrupts the educational process includes, but is not limited to:

- conduct that threatens the health, safety or welfare of others;

- conduct that may damage public or private property (including the property of students or staff);
- illegal activity;
- conduct that interferes with a student's access to educational opportunities or programs, including ability to attend, participate in, and benefit from instructional and extracurricular activities; or
- conduct that disrupts delivery of instructional services or interferes with the orderly administration of the school and school-related activities or District operations. **03.1325/03.2325**

Previewing Student Materials

Except for current events programs and programs provided by Kentucky Educational Television, teachers shall review all materials presented for student use or viewing before use. This includes movies and other videos in any format. **08.234**

Controversial Issues

Teachers who suspect that materials or a given issue may be inappropriate or controversial shall confer with the Principal prior to the classroom use of the materials or discussion of the issue. **08.1353**

Drug-Free/Alcohol-Free Schools

The Board of Education has revised the Drug-Free/Alcohol Free Schools policy for both certified and classified employees. The revised policy may be found in its entirety in the appendix of this handbook. **03.13251/03.23251.**

Use of illegal drugs or alcohol by employees interferes with the educational and work process. Employees on duty, or on or in the Board of Education's property, or in attendance at system-approved or school related functions will not manufacture, distribute, dispense, purchase, possess, attempt to possess or obtain, sell, transfer, or use illegal drugs, prohibited substances or drug paraphernalia, nor will they be under the influence of such drugs.

Employees shall not engage in the illegal use of drugs at any time, and such use will not be tolerated. Further, employees on duty, or on or in Clay County Board of Education property, or in attendance at system-approved or school-related functions will not manufacture, distribute, dispense, possess, sell, transfer or use illegal drugs, prohibited substances or drug paraphernalia, nor will they be under the influence of such drugs.

Prohibited substances include:

- a. All prescription drugs obtained without authorization, and

- b. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs and prohibited volatile substances as defined in KRS 217.900 that are used or intended for use for an abusive and/or intoxicating purpose.

To assure compliance, the Board has implemented a program to screen for illegal/prohibited use of alcohol and drugs. This program shall address pre-employment testing for safety-sensitive positions, and promotion/transfer testing, and reasonable suspicion testing applicable to all employees.

Any employee who violates the terms of the District's drug-free/alcohol-free policies may be suspended, nonrenewed or terminated. Violations may result in notification of appropriate legal officials.

Any employee convicted of a workplace violation of drug abuse statutes must notify the Superintendent/designee of the conviction within five (5) working days.

Teachers are subject to random or periodic drug testing following reprimand or discipline for misconduct involving illegal use of controlled substances.

Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse for CDL/CLP Operators

Reporting of the following information on individual drivers to the federal Clearinghouse is required: verified positive, adulterated, or substituted test results; confirmed alcohol tests at .04 or higher; refusal to submit to required tests; the reporting of actual knowledge (as defined by federal regulation) of Department of Transportation (DOT) regulatory violations, including violations based on prohibited on duty, pre-duty, or post-accident alcohol use and controlled substance use; and regulatory return to duty and follow-up testing information as applicable.

The District shall not allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query on the driver demonstrate a disqualification as provided by regulation and such driver may be subject to personnel action up to and including termination. 06.221

Weapons

Except where expressly and specifically permitted by Kentucky Revised Statute, carrying, bringing, using or possessing any weapon or dangerous instrument in any school building, on school grounds, in any school vehicle, or at any school-sponsored activity is prohibited. Except for School Resource Officers (SROs) as provided in KRS 158.4414, and authorized law enforcement officials, including peace officers and police as provided in KRS 527.070 and KRS 527.020, the Board prohibits carrying concealed weapons on school property. Staff members who violate this policy are subject to disciplinary action, including termination.

Employees who know or believe that this policy has been violated must promptly make a report to the local police department, sheriff, or Kentucky State Police. **05.48**

Dress and Appearance

All certified and classified staff are expected to model appropriate workplace dress at all times, especially when students are attending. Items unacceptable for all certified staff, instructional assistants, and secretaries may include but are not limited to:

- Yoga pants
- Sweat pants (exceptions can be made for Physical Education and JROTC instructors)
- Shorts (exceptions can be made for Physical Education and JROTC instructors).
- Leggings if worn, must be worn with mid-thigh tops.
- Visible body piercings that may be a distraction or safety concern. Small studs will be allowed.
- Hats and caps should not be worn inside the buildings, but may be worn outside.
- Any pants with holes above the knees.

Principal may relax the dress code for special occasions.

Employee Identification Card

1. Your Identification card shall be worn at all times when working, on duty, or representing Clay County Public Schools. The ID card should be worn above waste level.
2. The ID card issued to you is the property of the Clay County Public Schools.
3. If your ID card is lost, please contact Amy Jackson (Human Resource Officer, ext. 2003) for a replacement within 24 hours. Replacement cost for a card is \$10.00.
4. At the end of employment, the employee must turn in the ID card to their supervisor who will destroy the card.

Tobacco Product

Federal law and Board policy prohibit the use of any tobacco product in any building owned or operated by the Board. Adult employees may smoke in outside areas designated and supervised by the Superintendent or Principal. This includes the use of products/devices resembling tobacco products, including but not limited to electronic cigarettes. **03.1327/03.2327**

While on the bus, drivers shall not use tobacco products and shall not permit students to use them. **06.221**

Use of School Property

Employees are responsible for school equipment, supplies, books, furniture, and apparatus under their care and use. Employees shall immediately report to their immediate supervisor any property that is damaged, lost, stolen, or vandalized.

No employee shall perform personal services for themselves or for others for pay or profit during work time and/or using District property or facilities.

Employees may not use any District facility, vehicle, electronic communication system, equipment, or materials to perform outside work. These items (including security codes and electronic records such as e-mail) are District property and shall be used solely for job-related purposes.

District-owned telecommunication devices shall be used primarily for authorized District business purposes. However, occasional personal use of such equipment is permitted.

Employees may not use a code, access a file, or retrieve any stored communication unless they have been given authorization to do so. Employees cannot expect confidentiality or privacy of the information in their e-mail accounts. Authorized District personnel may monitor the use of electronic equipment from time to time.

Only authorized personnel shall operate Board-owned vehicles, which may only be used for official District business. No Board-owned vehicles shall be kept overnight by any person, subject to exceptions granted by the Superintendent that may be warranted for school purposes. **03.1321/03.2321**

Use of Personal Cell Phones/Telecommunication Devices

Due to privacy concerns, and except for emergency situations, personally owned recording devices are not to be used to create video or audio recordings or to take pictures while on duty or working with students except with prior permission from the Principal/designee or immediate supervisor. Such devices include, but are not limited to, personal cell phones and tablets.

For exceptions, see Board Policies **03.13214/03.23214**.

Health, Safety and Security

It is the intent of the Board to provide a safe and healthful working environment for all employees. Employees should report any security hazard or conditions they believe to be unsafe to their immediate supervisor.

In addition, employees are required to notify their supervisor immediately after sustaining a work-related injury or accident. A report should be made within 24-48 hours of the occurrence and prior to leaving the work premises UNLESS the injury is a medical emergency, in which case the report can be filed following receipt of emergency medical care.

The District shall follow established timelines in policy when making oral reports to the Kentucky Labor Cabinet to report employee fatalities, amputations, hospitalizations, including hospitalization resulting from a heart attack or the loss of an eye.

File a Report	After Hours Hotline
(502)-564-3070	(800) 321-6742

For information on the District’s plans for Hazard Communication, Bloodborne Pathogen Control, Lockout/Tagout, Personal Protective Equipment (PPE), and Asbestos Management contact your immediate supervisor or see the District’s *Policy Manual* and related procedures.

Employees should use their school/worksite two-way communication system to notify the Principal, supervisor or other administrator of an existing emergency.
03.14/03.24/05.4

Assaults and Threats of Violence

Employees should immediately report any threats they receive (oral, written or electronic) to their immediate supervisor.

Under provisions of state law (KRS 158.150) and regulation (702 KAR 5:080), school personnel may remove threatening or violent students from a classroom or from the District’s transportation system pending further disciplinary action. However, before the need arises, employees should familiarize themselves with policy and procedures that are required. **09.425**

Child Abuse

Any school personnel who know or has reasonable cause to believe that a child under eighteen (18) is dependent, abused or neglected, or a victim of human trafficking, or is a victim of female genital mutilation, shall immediately make a report to a local law enforcement agency, the Cabinet for Health and Family Services or its designated representative, the Commonwealth's Attorney or the County Attorney. **09.227**

Use of Physical Restraint and Seclusion

Use of physical restraint and seclusion shall be in accordance with Board policy and procedure. **09.2212**

Civility

Employees should be polite and helpful while interacting with parents, visitors and members of the public. Individuals who come onto District property or contact employees on school business are expected to behave accordingly. Employees who fail to observe appropriate standards of behavior are subject to disciplinary measures, including dismissal.

In cases involving physical attack of an employee or immediate threat of harm, employees should take immediate action to protect themselves and others. In the absence of an immediate threat, employees should attempt to calmly and politely inform the individual of the provisions of Policy **10.21** or provide him/her with a copy. If the individual continues to be discourteous, the employee may respond as needed, including, but not limited to: hanging up on the caller; ending a meeting; asking the individual to leave the school; calling the site administrator/designee for assistance; and/or calling the police.

As soon as possible after any such incident, employees should submit a written incident report to their immediate supervisor.

Grievances/Communications

The Superintendent/designee has developed specific procedures to assist employees in making a complaint. For full information refer to Policy **03.16/03.26** and related procedures. Grievances are individual in nature and must be brought by the individual employee. The Board shall not hear grievances or complaints concerning simple disagreement or dissatisfaction with a personnel action.

Gifts

Any gift presented to a school employee for the school's use must have the prior approval of the Superintendent/designee. After approval and acceptance, gifts become the property of the Board of Education. **03.1322/03.2322**

Outside Employment or Activities

Employees may not perform any duties related to an outside job during their regular working hours. **03.1331/03.2331**

Required Reports

Although you may be directed to make additional reports, the following reports are required by law and/or Board policy:

- Within seventy-two (72) hours of the discovery or notification of a security breach, the District shall notify the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, the Attorney General, and the Education Commissioner. **01.61**
- An employee shall report to the Superintendent if the employee has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if the employee has waived the right to appeal such a substantiated finding or the finding has been upheld upon appeal. **03.11/03.21**
- Report to the immediate supervisor damaged, lost, stolen, or vandalized school property or if District property has been used for unauthorized purposes. **03.1321/03.2321**
- Notify the Principal as soon as possible when you use seclusion or physical restraint with a student, but no later than the end of the school day on which it occurs, and document in writing the incident by the end of the next school day. **09.2212**
- If you know or believe that the District's alcohol-free/drug-free policies have been violated, promptly make a report to the local police department, sheriff, or Kentucky State Police. This is required if you know or have reasonable cause to believe that conduct has occurred which constitutes the use, possession, or sale of controlled substances on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event. **03.13251/03.23251/09.423**
- Upon the request of a victim, school personnel shall report an act of domestic violence and abuse or dating violence and abuse to a law enforcement officer. School personnel shall discuss the report with the victim prior to contacting a law enforcement officer.

EMPLOYEE CONDUCT

- School personnel shall report to a law enforcement officer when s/he has a belief that the death of a victim with whom s/he has had a professional interaction is related to domestic violence and abuse or dating violence and abuse. **03.13253/03.23253/09.425**
- Report potential safety or security hazards to the Principal and notify your supervisor immediately after sustaining a work-related injury or accident. **03.14/03.24/05.4**
- Report to the Principal/immediate supervisor or the District's Title IX Coordinator if you, another employee, a student, or a visitor to the school or District is being or has been subjected to harassment or discrimination. **03.162/03.262/09.42811**
- Employees who believe or have been made aware that they or any other employee, student, or visitor has been subject to Title IX Sexual Harassment shall report it to the TIXC. Failure to make such a report shall be grounds for discipline up to and including termination. If the knowledge of the reporting party gives rise to reasonable cause to believe that the reported conduct constitutes child abuse Policy 09.227 or a reportable criminal offense Policy 09.221, notification of state officials shall be made as required by law. **03.1621/03.2621/09.428111**
- If you suspect that financial fraud, impropriety or irregularity has occurred, immediately report those suspicions to Principal or the Superintendent. If the Superintendent is the alleged party, employees should address the complaint to the Board chairperson. **04.41**
- Report to the Principal any student who is missing during or after a fire/tornado/bomb threat drill or evacuation. **05.41 AP.1/05.42 AP.1/05.43 AP.1**
- When notified of a bomb threat, scan the area noting any items that appear to be out of place, and report same to Principal/designee. **05.43 AP.1**
- If you know or believe that the District's weapon policy has been violated, promptly make a report to the local police department, sheriff, or Kentucky State Police. This is required when you know or have reasonable cause to believe that conduct has occurred which constitutes the carrying, possession, or use of a deadly weapon on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event. **05.48**
- District bus drivers taking medication either by prescription or without prescription shall report to their immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities. **06.221**
- District employees who know or have reasonable cause to believe that a student has been the victim of a violation of any felony offense specified in KRS Chapter 508 (assault and related offenses) committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall

immediately cause an oral or written report to be made to the Principal of the school attended by the victim.

The Principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in such an incident.

Within forty-eight (48) hours of the original report of the incident, the Principal also shall file with the Board and the local law enforcement agency or the Department of Kentucky State Police or the County Attorney a written report containing the statutorily required information. **09.2211**

- If you know or have reasonable cause to believe that a child under eighteen (18) is dependent, abused or neglected, or a victim of human trafficking, or is a victim of female genital mutilation, you shall **immediately** make a report to a local law enforcement agency or Kentucky State Police, the Cabinet for Health and Family Services or its designated representative, the Commonwealth's Attorney or the County Attorney. (See **Child Abuse** section.) **09.227**
- Report to the Principal any threats you receive (oral, written or electronic). **09.425**
- District employees shall report to the Principal or to their immediate supervisor those situations that threaten, harass, or endanger the safety of students, other staff members, or visitors to the school or District. Such instances shall include, but are not limited to, bullying or hazing of students and harassment/discrimination of staff, students or visitors by any party. In serious instances of peer-to-peer bullying/hazing/harassment, employees must report to the alleged victim's Principal, as directed by Board Policy **09.42811**.

In certain cases, employees must do the following:

1. Report bullying and hazing to appropriate law enforcement authorities as required by policy **09.2211**; and
2. Investigate and complete documentation as required by policy 09.42811 covering federally protected areas. **09.422**

Code of Ethics for Certified School Personnel

SOURCE: 16 KAR 1:020

Section 1. Certified personnel in the Commonwealth:

- (1) Shall strive toward excellence, recognize the importance of the pursuit of truth, nurture democratic citizenship, and safeguard the freedom to learn and to teach;
- (2) Shall believe in the worth and dignity of each human being and in educational opportunities for all;
- (3) Shall strive to uphold the responsibilities of the education profession, including the following obligations to students, to parents, and to the education profession:
 - (a) To students:
 1. Shall provide students with professional education services in a nondiscriminatory manner and in consonance with accepted best practice known to the educator;
 2. Shall respect the constitutional rights of all students;
 3. Shall take reasonable measures to protect the health, safety, and emotional well-being of students;
 4. Shall not use professional relationships or authority with students for personal advantage;
 5. Shall keep in confidence information about students which has been obtained in the course of professional service, unless disclosure serves professional purposes or is required by law;
 6. Shall not knowingly make false or malicious statements about students or colleagues;
 7. Shall refrain from subjecting students to embarrassment or disparagement; and
 8. Shall not engage in any sexually related behavior with a student with or without consent, but shall maintain a professional approach with students. Sexually related behavior shall include such behaviors as sexual jokes; sexual remarks; sexual kidding or teasing; sexual innuendo; pressure for dates or sexual favors; inappropriate physical touching, kissing, or grabbing; rape; threats of physical harm; and sexual assault.
 - (b) To parents:
 1. Shall make reasonable effort to communicate to parents information which should be revealed in the interest of the student;
 2. Shall endeavor to understand community cultures and diverse home environments of students;
 3. Shall not knowingly distort or misrepresent facts concerning educational issues;
 4. Shall distinguish between personal views and the views of the employing educational agency;
 5. Shall not interfere in the exercise of political and citizenship rights and responsibilities of others;

6. Shall not use institutional privileges for private gain, for the promotion of political candidates, or for partisan political activities; and

7. Shall not accept gratuities, gifts, or favors that might impair or appear to impair professional judgment, and shall not offer any of these to obtain special advantage.

(c) To the education profession:

1. Shall exemplify behaviors which maintain the dignity and integrity of the profession;

2. Shall accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities;

3. Shall keep in confidence information acquired about colleagues in the course of employment, unless disclosure serves professional purposes or is required by law;

4. Shall not use coercive means or give special treatment in order to influence professional decisions;

5. Shall apply for, accept, offer, or assign a position or responsibility only on the basis of professional preparation and legal qualifications; and

6. Shall not knowingly falsify or misrepresent records of facts relating to the educator's own qualifications or those of other professionals.

Section 2. Violation of this administrative regulation may result in cause to initiate proceedings for revocation or suspension of Kentucky certification as provided in KRS 161.120 and 704 KAR 20:585.

Other District Information

1. Certified pay schedule
2. Classified pay schedule
3. Clay County Cafeteria Plan
4. School Calendar
5. COBRA notification.

Appendix I

- PERSONNEL -

Drug-Free/Alcohol-Free Schools

PURPOSE

The Clay County Board of Education is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the students we serve as well as the general public. The Clay County Board of Education regards its personnel as individuals as well as employees. Therefore, the Board believes that alcoholism and drug addiction are illnesses and should be treated as such. The Board further believes that employees who develop alcoholism or other drug addictions can be helped to recover. It is in the best interest of the employee and the Board that when alcoholism or drug addiction is present, it should be diagnosed and treated at the earliest possible date. Confidential treatment of the diagnosis and recovery process for alcoholism or drug addiction is essential.

The Clay County Board of Education recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills. The Clay County Board of Education and its employees share a commitment to create and maintain a drug-free workplace.

The Clay County Board of Education is responsible for the instruction and well-being of the students entrusted to its care. A consistent message needs to be communicated by the Board that the use of illegal drugs, the use of prohibited substances, the abuse of alcohol, and the misuse of prescription drugs are unacceptable.

Provisions of the Federal Anti-Drug Act, 41 U.S.C.A. §702, require federal grant recipients to establish a drug-free workplace. Employees must be provided with a statement notifying them of the prohibitions pertaining to controlled substances, consequences of violations, and compliance with the drug-free policy as a condition of employment. Employers must inform employees of drug-free requirements through an awareness program.

POLICY GOALS AND OBJECTIVES

1. To establish, promote, and maintain a safe, healthy working and learning environment for employees and students.
2. To aid the affected employee in locating a rehabilitation program for employees with a self-admitted or detected substance abuse problem.
3. To promote the reputation of the Clay County Public School System and its employees as responsible citizens of public trust and employment.
4. To eliminate substance abuse problems in the workplace.
5. To aid in the reduction of absenteeism, tardiness and apathetic job performance.
6. To provide a clear standard of job performance for Clay County Public employees.
7. To provide a consistent model of substance-free behavior for students.

EMPLOYEE CONDUCT

Substance abuse is the misuse or illicit use of alcohol, drugs, prohibited substances, or controlled substances, including marijuana, heroin, or cocaine.

Use of illegal drugs, prohibited substances, or alcohol by employees interferes with the educational and work process. Employees on duty, or on or in the Board of Education's property, or in attendance at system-approved or school related functions will not manufacture, distribute, dispense, purchase, possess, attempt to possess or obtain, use, sell or transfer illegal drugs, prohibited substances, or drug paraphernalia, nor will they be under the influence of such drugs.

Employees shall not engage in the illegal use of drugs or prohibited substances at any time, and such use will not be tolerated. Further, employees on duty, or on or in Clay County Board of Education property, or in attendance at system-approved or school-related functions will not manufacture, distribute, dispense, purchase possess, attempt to possess or obtain use, sell or transfer, illegal drugs, prohibited substances, or drug paraphernalia, nor will they be under the influence of such drugs.

An employee convicted of any criminal drug law shall notify the Superintendent of such conviction no later than five (5) days after such conviction. Within thirty (30) days after receiving notice of a conviction, Clay County Public Schools will take appropriate disciplinary action and/or refer the employee to an appropriate substance abuse rehabilitation program.

Failure of the employee to report the conviction within the time prescribed will lead to disciplinary action up to and including discharge. Convictions of a criminal drug law can result in disciplinary action up to and including discharge. In determining whether and to what extent an employee will be disciplined or discharged for the conviction of a criminal drug law, the Board will consider the following factors: the degree to which the nature of the criminal offense reduces the Clay County Board of Education's ability to maintain a safe working environment; the degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students; the degree to which the conviction unreasonably undermines the public confidence in the Clay County Board of Education's operations; the nature of the criminal offense; the nature of the mitigating facts or circumstances; whether the employee promptly reports the conviction; and any other facts relevant to the employee, including but not limited to years of service and record of performance with the Clay County Board of Education.

REPORTING

Employees of the District shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if they know or have reasonable cause to believe that conduct has occurred which constitutes the use, possession, or sale of controlled substances on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school sponsored or sanctioned event.

ALCOHOL AND DRUGS

Alcohol, many prohibited substances, prescription drugs, and over-the-counter drugs are readily available. These drugs, when abused over time or used in combination with one another, can result in chemical dependency or poly-drug addiction. Employees are expected to conduct themselves in a manner consistent with the following provisions:

Employees on duty shall not be under any degree of intoxication or odor from alcohol. Employees on duty will not manufacture, sell, or use alcoholic beverages or possess open alcoholic beverage containers. Employees on Clay County Board of Education property shall not be under any degree of intoxication from alcohol. Employees on Clay County Board of Education property will not manufacture, sell, or use alcoholic beverages or possess open alcoholic beverage containers. Employees in attendance at District-approved or school-related functions shall not be under any degree of intoxication from alcohol.

Employees on duty will not use or take prescription drugs above the level recommended by the prescribing physician and will not use prescribed drugs or prohibited substances for purposes other than those for which they are intended.

An employee convicted of any criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs shall notify the Superintendent no later than five (5) days after such conviction. Within thirty (30) days after receiving notice of a conviction, the Superintendent will take appropriate disciplinary action and/or refer the employee to an appropriate substance abuse rehabilitation program.

Failure of the employee to report the conviction within the time prescribed will lead to disciplinary action up to and including discharge. Convictions of a criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs can result in disciplinary action up to and including discharge.

In determining whether and to what extent an employee will be disciplined or discharged for the conviction of a criminal drug law involving the use of alcohol, prescription drugs, or over-the-counter drugs, the Board will consider the following factors: the degree to which the nature of the criminal offense reduces the Clay County Board of Education's ability to maintain a safe working environment; the degree to which the nature of the criminal offense unreasonably endangers the safety of other employees and/or students; the degree to which the conviction unreasonably undermines the public confidence in the Clay County Board of Education's operations; the nature of the criminal offense; the nature of the employee's job with the Clay County Board of Education; the existence of any explanatory or mitigating facts or circumstances, whether the employee promptly reports the conviction; and any other facts relevant to the employee, including but not limited to years of service and record of performance with the Clay County Board of Education.

PRE-EMPLOYMENT AND CURRENT EMPLOYEE TESTING

All applicants being considered for employment positions and all currently employed persons identified as being safety-sensitive will be required to submit to a urinalysis test for the purpose of detecting illegal use of drugs, as part of the currently required pre-employment physical. "Safety-sensitive" shall refer to positions where a single mistake by such employee can create an immediate threat of serious harm to students and fellow employees. Safety-sensitive positions requiring pre-employment drug testing shall include, but not be limited to: Principal, assistant principal, teacher, traveling teacher, teacher aide, substitute teacher, school secretary, and others as indicated on the job description for the position.

An employee who has a positive drug test the first time shall be placed on continuous drug testing, for a period not to exceed twelve (12) months, as a discipline measure if the employee agrees. If the employee does not agree to continuous drug testing, the Board will send, at the Board's expense, the split sample to a different lab. If the test from the split sample is positive, the employee will be terminated. During the testing time for the split sample, the employee will be suspended with pay.

If the employee agrees to the continuous drug testing and a second positive test occurs, the split sample will be sent at the Board's expense to a different lab. During the testing time for the split sample, the employee will be suspended with pay. If the split sample also tests positive, the employee will be terminated. Otherwise, the employee will return to duty.

RANDOM SCREENING

The Board has established a random drug-testing program for employees in a safety sensitive position. Classified and Certified employees will be separated into two random pools and at least three (3) percent of classified and three (3) percent of certified employees will be testing each month.

PHYSICAL EXAMINATIONS/SCREENING BASED UPON REASONABLE SUSPICION

Whenever the Clay County Board of Education, through its Superintendent of Clay County Public Schools or the Assistant Superintendent (hereafter "Assistant"), and/or immediate Supervisor, reasonably suspects that an employee's work performance or on-the-job behavior may have been affected in any way by illegal drugs, abuse of prescription drugs, or alcohol or that an employee has otherwise violated the Clay County Board of Education Drug-Free Workplace Substance Abuse Policy, the employee may be required to submit to a field sobriety test. When the supervisor observes or is notified of behaviors or events that lead the supervisor to believe that the employee is in violation of the Drug Free Workplace Substance Abuse Policy, the supervisor should notify the Superintendent, Assistant, or School Resource Officer.

If an employee is required to submit to a field sobriety test based upon reasonable suspicion but refuses to submit to such test, he/she will be charged with insubordination and necessary procedures will be taken to terminate the employee in accordance with Board Policy and the applicable laws of the Commonwealth of Kentucky.

An employee who fails a field sobriety test will be in violation of this Policy and in violation of state law. Violation of this Policy will constitute grounds for termination in accordance with Board Policy and state law.

The Superintendent, Assistant, or School Resource Officer are the only individuals in the Clay County Public School System authorized to make the determination that reasonable suspicion or cause exists to order a field sobriety test and are the only individuals in the Clay County Public School System who may order an employee to submit to a field sobriety test.

Two types of cases for which reasonable suspicion procedures may be invoked are:

1. Chronic Case

Deteriorating job performance or changes in personal traits or characteristics where the use of alcohol or drugs may be reasonably suspected as the cause. These cases may develop over a fairly long period of time.

2. Acute Case

Appearing in a specific incident or observation to then be under the influence of alcohol and/or drugs or investigation of an accident where the use of alcohol or drugs is reasonably suspected to be a contributing cause. Regardless of any previous history, immediate action is necessary.

Circumstances under which substance screening may be considered, in either the chronic or acute cases, include but are not limited to the following:

1. Observed use, purchase, possession, attempts to possess, or sale of illegal drugs and/or use, possession, sale, or abuse of alcohol and/or the illegal use or sale of prescription drugs.
2. Apparent physical state of impairment of motor functions.
3. Marked changes in personal behavior not attributable to other factors.

4. Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury.
5. Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes.

The circumstance under which substance screening may be considered, as outlined above, are strictly limited in time and place to employee conduct on duty or during work hours, or on or in Clay County Board of Education property, or at school-related functions of the Clay County Public Schools.

FIELD SOBRIETY TEST

A field sobriety test will be conducted by a Sworn Law Enforcement Officer. The field sobriety test will be composed of a series of three (3) tests (including but not limited to One Leg Stand, Walk and Turn, and Horizontal Gaze Nystagmus), which have been approved by the Kentucky Department of Criminal Justice Training (KDCJT). The prescribed guidelines provided by the KDCJT will be followed and documented by the Sworn Law Enforcement Officer. The Field Sobriety Test will be conducted out of the presences of all person(s) except the person(s) directing the test.

A positive field sobriety test will be considered positive when an individual fails a prescribed portion of each of the three (3) separate tests.

The employee may secure a blood test to challenge the field sobriety test. Any such test must be made within a three (3) hour time period of the field sobriety test. Any and all costs for securing blood work will be the employee's responsibility.

REHABILITATION

The Clay County Board of Education recognizes that chemical dependency is an illness that may be successfully treated.

It is the policy of the Clay County Board of Education, where possible, in addition to appropriate personnel action, for an employee with a self-admitted or detected drug or alcohol problem to be referred for rehabilitation.

Employees seeking medical attention for chemical dependency will be entitled to benefits to the extent covered under the Clay County Public Schools group medical insurance plans, if they have chosen to be covered by said plans.

For employees enrolled in a formal treatment/rehabilitation program, Clay County Board of Education may grant sick leave/personal leave until the same are exhausted and then may grant leave without pay not to exceed one (1) year.

The cost of the drug rehabilitation or treatment provider shall be borne by the employee and/or the employee's insurance provider.

The Clay County Board of Education strongly encourages employees using illegal drugs or alcohol to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs under this Policy or prior to any other violation of this Policy, including a criminal conviction of that individual on a drug related offense. Employees are not subject to disciplinary action for voluntary referral to rehabilitation, even where rehabilitation is for the use of illegal drugs or alcohol.

DISCIPLINARY ACTION

Employees in violation of the provisions of this Policy will be subject to disciplinary action up to and including termination.

POST-DISCIPLINE DRUG TESTING

Following determination by an administrative or judicial proceeding that s/he engaged in misconduct involving the illegal use of controlled substances, a teacher who has been reprimanded or disciplined for misconduct involving illegal use of controlled substances shall submit to random or periodic drug testing in accordance with applicable Kentucky Administrative Regulation for a period not to exceed twelve (12) months from the date of such reprimand or disciplinary action.

CONFIDENTIALITY

All Personnel records and information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no entries concerning such will be placed in an employee's personnel file. Information pertaining to the implementation of this policy on an individual basis, will be handled in such a fashion to ensure confidentiality and privacy and such information will be disclosed only to the extent necessary to address any work-related safety risks occasioned by either drug and/or alcohol use.

CHANGES TO POLICY AND PROCEDURES

This policy and these procedures may be amended from time to time to facilitate changes in the Clay County Board of Education's Drug Free Workplace Substance Abuse Policy as necessary.

DEFINITIONS AS USED IN THIS POLICY

1. "Illegal use of drugs" means the use or purchase of drugs, the possession of distribution of which is unlawful under the Controlled Substance Act (21 U.S.C.A. §812). Such term does not include the use of a drug taken under the supervision by a licensed health care professional or other uses authorized by the Controlled Substances Act.
2. "Drug" or "illegal drug" means a controlled substance as defined in Schedules through V of §202 of the Controlled Substances Act.
3. "Conviction" means a finding of guilt, including a plea of no-contest, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
4. "Criminal Drug Law" means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, possessions, or use of any controlled substance.

5. *Controlled substance* shall mean any substance or immediate precursor listed in Chapter 218A of the Kentucky Revised Statutes or any other substance which may be added by the Kentucky Cabinet for Health and Human Services under regulations pursuant to KRS 218A.020.
6. *Prohibited drugs* include, but are not limited to, any substance that an individual may not sell, possess, use, distribute or purchase under Federal or Kentucky law.

Prohibited substances include:

- a. All prescription drugs obtained without authorization, and
- b. All prohibited substances however taken or used, including but not limited to, inhaling, ingesting, and/or injecting. These include, but are not limited to, prescribed and over-the-counter drugs, prohibited volatile substances as defined in KRS 217.900 or synthetic compounds/substances that are used or intended for use for an abusive and/or intoxicating purpose.

03.13251/03.23251

NOTE: *All documents referenced in this policy are available for inspection in the Office of the Superintendent, Clay County Board of Education.*

REFERENCES:

KRS 160.290; KRS 160.380; KRS 161.120; KRS 161.175; KRS 161.790; KRS 217.900;
KRS 218A.1430; 16 KAR 1:030; 701 KAR 5:130; 34 CFR Part 85
PL 101-226 (Improving America's Schools Act of 1994 (Title IV): Safe and Drug-Free
Schools and Communities)

RELATED POLICIES:

03.1325, 08.1345, 09.2241

School Calendar

Clay County

2022-2023 School Calendar

July '22						
Su	M	Tu	W	Th	F	S
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3	4	5	6	7	8	9
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31						

August '22						
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September '22						
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October '22						
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November '22						
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December '22						
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January '23						
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February '23						
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April '23						
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May '23						
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June '23						
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- School Closed/ Holidays
- PD Days (no school for students)
- Fall/Spring Break
- Planning Days (no school for students)
- Schools Closed
- First/Last Day for students

Appendix II

PURPOSE

The Clay County Board of Education is committed to a safe working environment, to making adequate provisions for the safety and health of its employees at their place of employment, and to the safety and health of the students we serve as well as the general public.

The Clay County Board of Education is responsible for the instruction and well-being of the students entrusted to its care.

POLICY GOALS AND OBJECTIVES

1. To establish, promote, and maintain a safe, healthy working and learning environment for employees and students.
2. To promote the reputation of the Clay County Public School System and its employees as responsible citizens of public trust and employment.

EMPLOYEE CONDUCT

In addition to the reporting requirements contained in the Appendix I concerning Drug-Free/Alcohol-Free Schools, an employee charged with a criminal offense shall notify the Superintendent of such charge no later than 5 days after receiving such charge. Within 30 days after receiving notice of a charge, Clay County Public Schools will determine what action, if any, should be taken during the pendency of the charge based on Clay County Public School's policies and procedures, employee handbook, applicable statutes and regulations, Education Professional Standards Board rules and regulations, Employee Code of Conduct, etc.

Failure of the employee to report the charge within the time prescribed will lead to disciplinary action up to and including discharge.

The resolution of the charge shall be reported to the Superintendent within 5 days of the conclusion of legal proceedings. Pursuant to KRS 161.151, if the charge is dismissed or the employee is found not guilty, all records relating to the charge shall be removed from the employee's personnel file.

DEFINITIONS

"Charged with a criminal offense" means being charged with a crime or violation of the law whether by arrest, indictment, warrant, summons, citation, or any other charging document. It does NOT include traffic citations for speeding or other minor traffic violations that do not have jail times as a possible penalty.

REFERENCES:

KRS 160.380, KRS 161.011, KRS 161.120, KRS 161.151, KRS 161.790

Appendix III

- PERSONNEL -

Equal Employment Opportunity

NONDISCRIMINATION

As required by Title IX, the District does not discriminate on the basis of sex regarding admission to the District or in the educational programs or activities operated by the District. Inquiries regarding Title IX Sexual Harassment may be referred to the District Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.¹

The Superintendent shall adhere to a policy of equal employment opportunity in all personnel matters. No person shall be subjected to discrimination in regard to employment, retention, promotion, demotion, transfer or dismissal because of race, color, religion, sex, genetic information, national or ethnic origin, political affiliation, age, disabling condition, or limitations related to pregnancy, childbirth, or related medical conditions.²

INDIVIDUALS WITH DISABILITIES

No qualified person with a disability, as defined by law, shall, on the basis of the disability, be subject to discrimination in employment.³

District employment practices shall be in accordance with the Board-approved procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

No human immunodeficiency virus (HIV) related test shall be required as a condition of hiring, promotion, or continued employment, unless the absence of HIV infection is a bona fide occupational qualification for the job in question as defined in KRS 207.135.

REASONABLE ACCOMMODATION

Employees who have a long-term or permanent disability may request the District supervisor to provide reasonable accommodations necessary for them to perform the essential duties of the position. Medical information obtained as part of an employee request shall be confidential.⁴

If assistive technology is deemed necessary for an employee, every effort will be made to obtain that technology in a timely fashion.

The District shall engage in a timely, good faith and interactive process to determine reasonable accommodations for an employee's limitations related to pregnancy, childbirth, or related medical conditions. Reasonable accommodation shall be provided as required by law.

ADVISING EMPLOYEES

The Superintendent shall inform all school employees of the provisions of this policy.¹

REFERENCES:

¹34 C.F.R. § 106.8

²KRS 161.164; KRS Chapter 344; 42 U.S.C. 2000e, Civil Rights Act of 1964, Title VII

³29 U.S.C.A. 794

⁴29 U.S.C. section 1630.14

KRS 207.135

34 C.F.R. 104.3 - 104.14

42 C.F.R. 2000e-2; 42 C.F.R. 2000(k)

Americans with Disabilities Act

Kentucky Education Technology System (KETS)

Section 504 of the Rehabilitation Act of 1973

Title IX of the Education Amendments of 1972

Genetic Information Nondiscrimination Act of 2008

RELATED POLICIES:

03.133; 03.233; 03.1621; 03.2621; 05.11

03.113/03.212

- PERSONNEL -

Title IX Sexual Harassment

INTRODUCTION AND SCOPE

A United States Department of Education regulation published on May 19, 2020 defines sexual harassment for purposes of Title IX (sometimes referred to in policy and procedure as “Title IX Sexual Harassment”). In addition to numerous other matters, the regulation sets forth grievance procedure requirements that apply (including the initiation of a “formal complaint”) before there is a determination that an employee is responsible for Title IX Sexual Harassment. The applicable definition of sexual harassment describes serious sexual misconduct. If the alleged actions that are the subject of a formal complaint do not descend to the level of conduct described in the definition of Title IX Sexual Harassment; do not take place in a “program or activity” of the school District within the meaning of Title IX; or do not take place in the United States, the formal complaint must be dismissed.

Such a dismissal does not mean that the alleged offending party cannot be the subject of investigation or discipline on grounds other than “Title IX Sexual Harassment” as addressed in Board policy or law, including conduct allegedly constituting sexual harassment or other sexual misconduct that does fall within the definition of “Title IX Sexual Harassment.”¹

PROHIBITION

Title IX Sexual Harassment in educational programs or activities of the District is prohibited.

GRIEVANCE PROCEDURE

The District shall provide a Title IX Sexual Harassment grievance procedure that treats complainants and respondents equitably as required by Federal Regulation.²

DEFINITIONS

“Title IX Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment);
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity;
- 3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). For purposes of this definition, “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is an act directed against another person, without the consent of the second person, including instances where the second person is incapable of giving consent.³

The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be based on the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

Consent

“Consent” means a voluntary expression of willingness, permission, or agreement to engage in sexual activity throughout a sexual encounter. Consent cannot be granted by an individual: who is less than the statutory age of consent under Kentucky criminal law, has a mental or physical condition or incapacity that prevents the giving of consent; or from whom ostensible “consent” is extracted through threat, coercion, or forcible compulsion.

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. This applies to such individual even if no formal complaint is filed. Only a complainant who is participating or attempting to participate in the District’s educational programs or activities may file a formal complaint.

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. This applies to such individual even if no formal complaint is filed. Only a person in his or her individual capacity is subject to a Title IX investigation.

Title IX Coordinator (TIXC)

The TIXC is the individual or individuals designated and authorized to coordinate District Title IX programs. The TIXC is expected to engage in activities intended to provide a fair and neutral process for all parties, including implementation of supportive measures and remedies where appropriate. The District may use co-coordinators and/or deputy coordinators.

Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the TIXC alleging sexual harassment against a respondent and requesting that the District investigate

the allegation of sexual harassment. A formal complaint may be filed with the TIXC in person, by mail, or by electronic mail, by using the contact information provided by the District. The complaint document may be physical or electronic, shall contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint. Where the TIXC signs a formal complaint, the TIXC is not "the complainant" or otherwise considered a party, but is to comply with applicable procedures.

Supportive Measures

"Supportive measures" mean nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, unilateral restrictions on contact that are not unreasonably burdensome on a respondent, changes in work or housing locations, authorized leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures shall be confidential, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The TIXC is responsible for coordinating the effective implementation of supportive measures.

Education Program or Activity

"Education program or activity" means District operations and includes locations, events, or circumstances over which the District exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

Preponderance of the Evidence

"Preponderance of evidence" means evidence that is of greater weight or more convincing than an asserted fact or facts occurred than evidence in opposition to such facts. It is evidence which as a whole show that an assertion to be proven is more likely than not.

REGULATION AND POLICY DOES NOT AFFECT PARENT RIGHTS

Absent a court order or other legal requirement to the contrary, a parent or guardian is authorized to act on behalf of a minor student regarding decision-making and the exercise of rights under the Title IX Sexual Harassment policy and procedure, including the opportunity to accompany a minor student to meetings and interviews.

SEGREGATION OF FUNCTIONS / CONFLICT OF INTEREST

The TIXC, investigator, decisionmaker(s), and any informal resolution facilitator shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. These individuals are to serve impartially without prejudgment of the facts at issue. The investigative, initial decision-making, appellate decision-making, and resolution functions must be performed by different trained individuals, who may be District employees or contractors.

CONFIDENTIALITY

With respect to its administration of Title IX Sexual Harassment policies and corresponding procedures, the District must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted under FERPA⁵, required by law, or to carry out Title IX purposes, including the conduct of any investigation, hearing or Title IX judicial proceedings.

Investigative evidence directly related to the allegations of a formal complaint gathered by the District is subject to inspection and review by the parties but is not to be disseminated to the public. The United States Department of Education rule commentary provides that under the applicable FERPA definition of “education records” a parent of a complainant or respondent (or eligible student) has a right to inspect and review any witness statement that is directly related to the student, even if that statement contains information that is also directly related to another student, if the information cannot be segregated or redacted without destroying its meaning.⁴

EMPLOYEES SHALL REPORT

Employees who believe or have been made aware that they or any other employee, student, or visitor has been subject to Title IX Sexual Harassment shall report it to the TIXC. Failure to make such a report shall be grounds for discipline up to and including termination. If the knowledge of the reporting party gives rise to reasonable cause to believe that the reported conduct constitutes child abuse Policy 09.227 or a reportable criminal offense Policy 09.2211, notification of state officials shall be made as required by law.⁶

FALSE REPORTS PROHIBITED

Employees or students who intentionally make false reports related to the District’s administration of this policy and the corresponding procedures, are subject to disciplinary sanctions under applicable District policy, law, or the Code of Acceptable Behavior and Discipline.

RELATED EVIDENCE RULES SUMMARY

The following rules apply to the District investigation and grievance process under the Title IX Sexual Harassment regulation:

- a) The District shall not require, allow, rely upon, or otherwise use questions or evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.
- b) The District cannot access, consider, disclose, or otherwise use a party's records made or maintained in connection with provision of treatment to the party by medical or mental health professionals or paraprofessionals unless the District obtains written consent from the party.
- c) Questions and evidence about the complainant's sexual predisposition or prior behavior are not relevant unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct or, such questions or evidence are offered to prove consent.

RETALIATION PROHIBITED

No District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any Title IX investigation, proceeding, or hearing.

REFERENCES:

²34 C.F.R. § 106.45

³KRS 510.020

⁴85 Fed. Reg. 30433 (May 19, 2020)

Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107) Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)

Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106

Clery Act (20 U.S.C. §1092(f)(6)(A)(v))

Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v))

34 U.S.C. § 12291(a)(10)

34 U.S.C. §12291(a)(3)

34 U.S.C. §12291(a)(8)

RELATED POLICIES:

¹03.162; 03.262; 09.42811

⁵09.14

⁶09.227; 09.2211

03.2621; 09.428111

03.1621/03.2621

Equal Educational Opportunities

DISCRIMINATION PROHIBITED

As required by Title IX, the District does not discriminate on the basis of sex regarding admission to the District or in the educational programs or activities operated by the District. Inquiries regarding Title IX Sexual Harassment may be referred to the District Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.¹

No pupil shall be discriminated against because of age, color, disability², race, national origin, religion, sex, or veteran status.

STUDENTS WITH DISABILITIES

The District shall provide a free, appropriate public education to each qualified student with a disability, as defined by law, within its jurisdiction.

The District shall operate its programs in accordance with the procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

Parents of students who have a temporary or permanent disability may request the District supervisor to provide appropriate accommodations necessary for them to participate in instructional and extracurricular activities, as required by law. Students who are at least eighteen (18) years of age may submit their own requests.

STUDENT RELIGIOUS ACTIVITIES OR POLITICAL EXPRESSION

The District shall observe the rights of students to voluntarily engage in religious activities. Students may express religious or political viewpoints while at school to the same extent and under the same circumstances as other permitted activities or expression. Consistent with the Constitutions of the United States and the Commonwealth of Kentucky and law, students shall be permitted to engage in these activities and express these viewpoints, provided they do not:

1. Infringe on the rights of the school to:
 - a. Maintain order and discipline;
 - b. Prevent disruption of the educational process; and
 - c. Determine education curriculum;
2. Harass other persons or coerce other persons to participate in the activity; or
3. Otherwise infringe on the rights of other persons.

Student complaints concerning possible violations of their religious rights shall be addressed in keeping with legal requirements. Their complaints shall be directed to the Principal, who shall investigate and take appropriate action within thirty (30) days of receipt of the written notification.

REFERENCES:

¹34 C.F.R. § 106.8

²Bd. of Educ., etc. v. Rowley 102 S.Ct. 3034 (1982)

District special education policy and procedures manual; District 504 procedures

KRS 157.200; KRS 157.224; KRS 157.230; KRS 157.350

KRS 158.183; KRS 160.295; Age Discrimination Act of 1975

Section 504 of Rehabilitation Act of 1973, Americans with Disabilities Act

Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972

Vietnam Era Veterans Readjustment Assistance Act of 1974

Kentucky Education Technology System (KETS); 28 C.F.R. Section 35.101 et seq.

RELATED POLICIES:

03.113; 03.1621; 03.212; 03.2621; 05.11; 08.131; 09.3211; 09.428111

09.13

- STUDENTS -

Title IX Sexual Harassment

INTRODUCTION AND SCOPE

A United States Department of Education regulation published on May 19, 2020 defines sexual harassment for purposes of Title IX (sometimes referred to in policy and procedure as “Title IX Sexual Harassment”). In addition to numerous other matters, the regulation sets forth grievance procedure requirements that apply (including the initiation of a “formal complaint”) before there is a determination that a student is responsible for Title IX Sexual Harassment. The applicable definition of sexual harassment describes serious sexual misconduct. If the alleged actions that are the subject of a formal complaint do not descend to the level of conduct described in the definition of Title IX Sexual Harassment; do not take place in a “program or activity” of the school District within the meaning of Title IX; or do not take place in the United States, the formal complaint must be dismissed.

Such a dismissal does not mean that the alleged offending party cannot be the subject of investigation or discipline on grounds other than “Title IX Sexual Harassment” as addressed in Board policy or law, including conduct allegedly constituting sexual harassment or other sexual misconduct that does fall within the definition of “Title IX Sexual Harassment.”¹

PROHIBITION

Title IX Sexual Harassment in educational programs or activities of the District is prohibited.

GRIEVANCE PROCEDURE

The District shall provide a Title IX Sexual Harassment grievance procedure that treats complainants and respondents equitably as required by Federal Regulation.²

DEFINITIONS

TITLE IX SEXUAL HARASSMENT

“Title IX Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment);
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity;
- 3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). For purposes of this definition, “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is an act directed

against another person, without the consent of the second person, including instances where the second person is incapable of giving consent.³

The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be based on the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

Consent

“Consent” means a voluntary expression of willingness, permission, or agreement to engage in sexual activity throughout a sexual encounter. Consent cannot be granted by an individual: who is less than the statutory age of consent under Kentucky criminal law, has a mental or physical condition or incapacity that prevents the giving of consent; or from whom ostensible “consent” is extracted through threat, coercion, or forcible compulsion.

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. This applies to such individual even if no formal complaint is filed. Only a complainant who is participating or attempting to participate in the District’s educational programs or activities may file a formal complaint.

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. This applies to such individual even if no formal complaint is filed. Only a person in his or her individual capacity is subject to a Title IX investigation.

Title IX Coordinator (TIXC)

The TIXC is the individual or individuals designated and authorized to coordinate District Title IX programs. The TIXC is expected to engage in activities intended to provide a fair and neutral process for all parties, including implementation of supportive measures and remedies where appropriate. The District may use co-coordinators and/or deputy coordinators.

Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the TIXC alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. A formal complaint may be filed with the TIXC in person, by mail, or by electronic mail, by using the contact information provided by the District. The complaint document may be physical or electronic, shall contain the complainant’s physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint. Where the TIXC signs a formal complaint, the TIXC is not “the complainant” or otherwise considered a party, but is to comply with applicable procedures.

Supportive Measures

“Supportive measures” mean nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, unilateral restrictions on contact that are not unreasonably burdensome on a respondent, changes in work or housing locations, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures shall be confidential, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The TIXC is responsible for coordinating the effective implementation of supportive measures.

Education Program or Activity

“Education program or activity” means District operations and includes locations, events, or circumstances over which the District exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

Preponderance of the Evidence

“Preponderance of evidence” means evidence that is of greater weight or more convincing than an asserted fact or facts occurred than evidence in opposition to such facts. It is evidence which as a whole show that an assertion to be proven is more likely than not.

REGULATION AND POLICY DOES NOT AFFECT PARENT RIGHTS

Absent a court order or other legal requirement to the contrary, a parent or guardian is authorized to act on behalf of a minor student regarding decision-making and the exercise of rights under the Title IX Sexual Harassment policy and procedure, including the opportunity to accompany a minor student to meetings and interviews.

SEGREGATION OF FUNCTIONS / CONFLICT OF INTEREST

The TIXC, investigator, decisionmaker(s), and any informal resolution facilitator shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. These individuals are to serve impartially without

prejudgment of the facts at issue. The investigative, initial decision-making, appellate decision-making, and resolution functions must be performed by different trained individuals, who may be District employees or contractors.

CONFIDENTIALITY

With respect to its administration of Title IX Sexual Harassment policies and corresponding procedures, the District must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted under FERPA⁴, required by law, or to carry out Title IX purposes, including the conduct of any investigation, hearing or Title IX judicial proceedings.

Investigative evidence directly related to the allegations of a formal complaint gathered by the District is subject to inspection and review by the parties but is not to be disseminated to the public. The United States Department of Education rule commentary provides that under the applicable FERPA definition of “education records” a parent of a complainant or respondent (or eligible student) has a right to inspect and review any witness statement that is directly related to the student, even if that statement contains information that is also directly related to another student, if the information cannot be segregated or redacted without destroying its meaning.⁴

EMPLOYEES SHALL REPORT

Employees who believe or have been made aware that they or any other employee, student, or visitor has been subject to Title IX Sexual Harassment shall report it to the TIXC. Failure to make such a report shall be grounds for discipline up to and including termination. If the knowledge of the reporting party gives rise to reasonable cause to believe that the reported conduct constitutes child abuse Policy 09.227 or a reportable criminal offense Policy 09.2211, notification of state officials shall be made as required by law.⁶

FALSE REPORTS PROHIBITED

Employees or students who intentionally make false reports related to the District’s administration of this policy and the corresponding procedures, are subject to disciplinary sanctions under applicable District policy, law, or the Code of Acceptable Behavior and Discipline, as applicable.

RELATED EVIDENCE RULES SUMMARY

The following rules apply to the District investigation and grievance process under the Title IX Sexual Harassment regulation:

- a) The District shall not require, allow, rely upon, or otherwise use questions or evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.
- b) The District cannot access, consider, disclose, or otherwise use a party’s records made or maintained in connection with provision of treatment to the party by medical or

mental health professionals or paraprofessionals unless the District obtains written consent from the party.

c) Questions and evidence about the complainant's sexual predisposition or prior behavior are not relevant unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct or, such questions or evidence are offered to prove consent.

RETALIATION PROHIBITED

No District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any Title IX investigation, proceeding, or hearing.

REFERENCES:

²34 C.F.R. § 106.45

³KRS 510.020

⁴85 Fed. Reg. 30433 (May 19, 2020)

Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)

Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)

Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106

Clery Act (20 U.S.C. §1092(f)(6)(A)(v))

Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v))

34 U.S.C. § 12291(a)(10)

34 U.S.C. §12291(a)(3)

34 U.S.C. §12291(a)(8)

RELATED POLICIES:

¹03.162; 03.262; 09.42811

⁵09.14

⁶09.227; 09.2211

03.1621; 03.2621

09.428111

Title IX Sexual Harassment Grievance Procedures

THIS PROCEDURE APPLIES TO “TITLE IX SEXUAL HARASSMENT” UNDER POLICIES 03.1621, 03.2621, AND 09.428111.

REPORTING

1. School employees who have reason to believe that a student has been subjected to Title IX Sexual Harassment are required to promptly make a report to the Title IX Coordinator (TIXC).
2. Students, parents/legal guardians or other individuals who believe a student has been sexually harassed may make a report to the TIXC.
3. If the individual making the report is the alleged victim (“Complainant” as defined in the Title IX Sexual Harassment regulation), or if the Complainant is identified by the individual making the report, the TIXC will meet with the Complainant to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint.
4. The District cannot provide an informal resolution process for resolving a report unless a formal complaint is filed.
5. The Superintendent/designee shall be informed of all reports and formal complaints of sexual harassment.

FORMAL COMPLAINT

1. A Complainant and/or their parent/legal guardian may file a formal written complaint requesting investigation of alleged Title IX Sexual Harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of allegation).

Students who need assistance in preparing a formal written complaint, may consult with the TIXC.

2. In accordance with the Title IX regulations, the TIXC must dismiss a formal complaint under this Title IX procedure if:
 - a. the conduct alleged in the formal complaint does not constitute sexual harassment as defined under the Title IX regulations and the Title IX Sexual Harassment policy; or
 - b) the conduct alleged did not occur within the scope of the District’s education programs and activities, or
 - c) did not occur in the United States.
3. In accordance with the Title IX regulations, the TIXC may dismiss a formal complaint if:
 - a) a Complainant withdraws the formal complaint, or withdraws particular allegations within the complaint;

- b) the Respondent is no longer employed by or enrolled in the District; or
- c) there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding the formal complaint. However, if the conduct potentially violates other policies or laws, it may be addressed through other applicable Board policy/procedure.

4. If a formal complaint is dismissed under this Title IX procedure, the TIXC will promptly and simultaneously send written notices to the parties explaining the reasons. The parties have the opportunity to appeal dismissals as outlined below.

5. In certain circumstances, the TIXC may file a formal complaint even when the alleged victim chooses not to. Examples could include instances where the Respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment; a safety threat within the District, or other alleged serious violations where pursuit of a complaint is warranted.

6. If the conduct alleged in a formal complaint potentially violates other laws or Board policies, the District may address the conduct under another applicable Board policy/procedure.

EMERGENCY REMOVAL/SUSPENSION

The Superintendent may direct the removal of a student from education programs and activities on an emergency basis during the complaint procedure:

1. If there is a determination, following an individualized safety and risk analysis which may be performed as provided in District Policy 09.429 (Threat Assessment), that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a Complainant by a Respondent, or a Respondent's threat of self-harm due to the allegations.¹

2. The Respondent and parent/legal guardian will be provided notice of the emergency removal, and will be provided an opportunity to challenge the decision either before or following the removal (this is an opportunity to be heard, not a hearing) utilizing the procedure applicable to student suspensions per Policy 09.434 Suspension.

3. Any such decision shall be made in compliance with any applicable disability laws, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

EMPLOYEE SUSPENSION WITH PAY

An employee may be suspended with pay during the complaint procedure as provided in Board policies.²

NOTICE TO PARTIES FOLLOWING A FORMAL COMPLAINT

1. The TIXC will provide to the parties' written notice of the formal complaint and allegations of sexual harassment potentially constituting Title IX Sexual Harassment. The notice shall include:

- Notice regarding the complaint procedure and the availability of an informal resolution process;
- Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident[s], if known), allowing sufficient time to prepare before any initial interview (not less than ten [10] calendar days);
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the grievance process;
- The parties may inspect and review evidence directly related to the allegations of Title IX Sexual Harassment;
- Notice that the parties may each have an advisor of their choice (who may be an attorney);
- Notice that knowingly making false statements or submitting false information in bad faith during the complaint process is prohibited and may result in disciplinary action;
- Notice of the name of the investigator, with sufficient time (no less than three [3] calendar days) to raise concerns of conflict of interest or bias.

2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.

3. The TIXC will discuss supportive measures with each party and oversee implementation of such measures as appropriate.

INFORMAL RESOLUTION PROCESS

After a formal complaint has been filed, and if the TIXC believes the circumstances are appropriate, the TIXC may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the Complainant and the Respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a Respondent; apologies; disciplinary actions against a Respondent or a requirement to engage in specific services; or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The Superintendent/designee must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the District. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation

or determination. The parties will be advised that engagement in the informal resolution process is grounds for extension of the investigation timeline.

INVESTIGATION

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent, who should consult with District legal counsel concerning the handling and investigation of the complaint.
2. The Investigator may consult with the TIXC as agreed during the investigation process.
3. If the complaint is against an employee of the District, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.
4. The Investigator will:
 - a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
 - b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.
 - c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
 - d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
 - e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
 - f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the District does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
 - g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten (10) calendar days to submit a written response. Access to such evidence may be provided via file sharing software that does not permit copying or downloading. The Investigator shall advise the parties that evidence is not to be publicly disseminated.
 - h. Consider the parties' written responses to the evidence prior to completing the investigation report.
 - i. Create an investigative report that fairly summarizes relevant evidence including the Investigator's recommendation on whether or not the evidence supports a finding that the Respondent engaged in conduct constituting Title IX Sexual Harassment. The Investigator shall send the report to the parties and advisors

(if any) for their review and written responses which must be filed with the Investigator within ten (10) calendar days of their receipt of the report.

- j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned Decision Maker. The Decision Maker shall immediately inform the parties of the date of his or her receipt of the report and of the deadline for submission of questions as provided below.
- k. The Investigator's report shall be non-binding on the Decision Maker.

5. The investigation shall be concluded within forty (40) calendar days from the date of the TIXC Notice to the Parties Following a Formal Complaint as referenced above, but reasonable extension of time for good cause shall be allowed.

DETERMINATION OF RESPONSIBILITY

The Superintendent shall assign a trained Decision Maker to arrive at a determination of responsibility. The Decision Maker cannot be the Investigator, Informal Resolution Facilitator, or the TIXC.

1. The Decision Maker shall have authority to preside over the pre-decision process in a manner that allows the Complainant and Respondent an equal opportunity to participate, including setting reasonable equally applicable limits on the number of questions and excluding questions on relevancy grounds or that seek privileged or confidential medical treatment information. The Decision Maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness within five (5) calendar days of when the Decision Maker received the investigation report and party responses.

The Decision Maker shall provide a written explanation to a party proposing questions if the Decision Maker excludes a question on grounds that it is not relevant.

2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five (5) calendar days of receiving the answers.

3. Each party will receive a copy of the responses to any follow-up questions.

4. The Decision Maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").

5. The Decision Maker shall issue a written determination, which shall include the following:

- a) Identification of all the allegations potentially constituting Title IX Sexual Harassment;
- b) A description of the procedural steps taken from receipt of the formal complaint through the determination;
- c) A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;

- d) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the District's programs and activities will be provided to the Complainant. In order to preserve confidentiality, remedies provided to the Complainant are not to be described in the determination report;
- e) If applicable, a statement that disciplinary sanctions may require additional hearings or proceedings under separate law and policy: e.g., student expulsion; classified or certified employee public reprimand, suspension without pay, termination; or student alternative education program placement proceedings;
- f) The District's appeal procedure and permissible bases for the parties to appeal the determination.

6. The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that the District provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

7. The implementation of measures or sanctions shall be made subject to and in compliance with applicable disability laws included the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

8. The determination shall be issued with thirty (30) calendar days of the Decision Maker's receipt of the Investigator's report and recommendation, but reasonable extension of time for good cause shall be allowed.

REMEDIES, DISCIPLINE AND OTHER ACTIONS

Range of Remedies to Allow Equal Access to Complainant

1. Remedies are measures used to ensure that the Complainant has equal access to the District's education programs and activities following the Decision Maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the Complainant. The TIXC is responsible for implementing remedies and providing needed assistance to the Complainant.

2. Range of Disciplinary Sanctions (Students)

The following is a non-exhaustive range of disciplinary sanctions that may be imposed when there is a determination that students are responsible for one or more violations involving sexual harassment: In or out of school suspension; expulsion; assignment to alternative education programs; requirement to engage in education or counseling program; disqualification or modification of privileges to participate in sports or extracurricular programs; unilateral no-contact orders, school assignment alteration, or schedule changes; prohibitions or limitations on presence on school property or at school-related events; and

other disciplinary sanctions and interventions set forth in the Code of Acceptable Behavior and Discipline.

3. Range of Disciplinary Sanctions (Employees)

The following is a non-exhaustive range of disciplinary sanctions that may be imposed when there is a determination that employees are responsible for one or more violations involving sexual harassment: Requirement to engage in education or counseling program; unilateral no-contact orders, school assignment alteration; prohibitions or limitations on presence on school property or at school-related events; private reprimand; public reprimand; suspension without pay; termination.

APPEALS

The Superintendent may serve as the Appellate Decision Maker and shall assign or arrange for the services of a trained Appellate Decision Maker if s/he does not serve in that role. The Appellate Decision Maker cannot be the Initial Decision Maker, Informal Resolution Facilitator, Investigator, or TIXC.

The Appellate Decision Maker shall have authority to preside over the appeal process in a manner that allows Complainant and Respondent an equal opportunity to participate, including setting reasonable page limits, enforcing timelines, and limiting review on the record to allowable grounds.

The parties (Complainant and Respondent) have the opportunity to appeal a responsibility determination and dismissals of formal complaints. Appeals will be considered only on the following grounds:

1. A procedural irregularity that affected the outcome;
2. New evidence that was not reasonably available as of the date of the determination regarding responsibility or dismissal of the formal complaint, that could affect the outcome; or The TIXC, Investigator, or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that affected the outcome.
3. The TIXC, Investigator, or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that affected the outcome.

APPEAL STEPS

1. An appeal must be filed in writing within five (5) calendar days of the receipt of the determination decision. Appeals after that deadline will not be considered. The written appeal must state the grounds and arguments for reversal or modification of the determination.
2. Appeals must be filed with the Superintendent, who will submit the appeal to the Appellate Decision Maker or engage in further appellate steps if the Superintendent is the Appellate Decision Maker. Parties initiating an appeal or seeking reversal or modification of a responsibility determination must explain the impact of any asserted error on the outcome and, in the case of new evidence, are to explain why such evidence was not

available, summarize the evidence and explain how the party contends such evidence would have affected the outcome.

3. The Appellate Decision Maker shall notify the other party in writing of the appeal and include copies of the document setting forth the grounds and arguments in support of the appeal. The other party shall have the option to file with the Appellate Decision Maker written arguments in response to the opposing party's appeal within five (5) calendar days of receipt of the appeal document. An untimely response will not be considered.

4. The Appellate Decision Maker shall conduct an impartial review of the appeal including consideration of arguments of the parties and the written record and may consult with District legal counsel in the decision-making process.

5. The Appellate Decision Maker shall issue a written decision describing the result of the appeal and rationale for the result and provide notice of the written decision simultaneously to the parties. The Decision may: affirm the determination, reverse the determination, or modify the determination in whole or in part.

6. The Title IX grievance determination of responsibility is final when there is no timely appeal or on the date when the Appellate Decision Maker sends his or her decision to the parties. A determination that conduct is not Title IX Sexual Harassment does not prevent the imposition of sanctions consistent with other law or policy where the conduct is determined to be in violation of such other law or policy.

RECORDS

Records in connection with sexual harassment reports and the complaint process shall be maintained for a minimum of seven (7) years.

REFERENCES:

¹KRS 158.4410; KRS 158.150; KRS 158.153
704 KAR 19:002
Individuals with Disabilities Education Act
Section 504 of the Rehabilitation Act
The Americans with Disabilities Act

RELATED POLICIES:

²03.173; 03.27
09.429; 09.434

RELATED PROCEDURES:

03.1621 AP.2; 03.2621 AP.2; 09.428111 (all procedures)

09.428111 AP.11

Acknowledgement Form

2022-2023 School Year

I, _____, have received a copy
Employee Name

of the Employee Handbook issued by the District, and understand and agree that I am to review this handbook in detail and to consult District and school policies and procedures with my Principal/supervisor if I have any questions concerning its contents.

I understand and agree:

1. that this handbook is intended as a general guide to District personnel policies and that it is not intended to create any sort of contract between the District and any one or all of its employees;
2. that the District may modify any or all of these policies, in whole or in part, at any time, with or without prior notice; and
3. that in the event the District modifies any of the policies contained in this handbook, the changes will become binding on me immediately upon issuance of the new policy by the District.

I understand that as an employee of the District I am required to review and follow the policies set forth in this Employee Handbook and I agree to do so.

Employee Name (please print)

Signature of Employee

Date

Return this signed form to the Central Office.