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**CONTRACT PROPOSAL**

**INDIAN RIVER BOARD OF EDUCATION**

**AND**

**INDIAN RIVER CHIEF CUSTODIAN ASSOCIATION  
BARGAINING UNIT**

**JULY 1, 2023- JUNE 30, 2024**

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## **PURPOSE**

It is the purpose of this Agreement to promote and insure harmonious relations, cooperation, and understanding between the Employer and the employees covered hereby, to insure true collective bargaining, to establish salaries, physical working conditions, and fringe benefits to the extent that available funds will permit in accordance with Delaware Code.

The employer and the Association jointly pledge their cooperation to work together under this Agreement to secure continued improvement of educational environment by rendering courteous, faithful, efficient service.

## **ARTICLE I**

### **RECOGNITION**

The term "employee" as used herein shall include all custodial employees exclusive of administrative and supervisory personnel. It is further understood that only the following classifications in the Indian River School District are included as Chief Custodians, the bargaining unit established by the certifications of representation dated January 20, 2020, issued by the Department of Labor and Industrial Relations, State of Delaware: Chief Custodian.

## **ARTICLE II**

### **AGREEMENT PROVISIONS**

- A. This Contract shall be for a period of (1) year from its effective date. Should this Contract expire, it shall remain in effect until agreement is reached on a successor Contract.
- B. This Contract is effective for the period July 1, 2019 through June 30, 20. The salary provisions of this contract shall be effective beginning July 1, 2019. However, its conditions shall be effective from the day following its signing by the parties and thereafter until a successor contract is negotiated, ratified, and signed. No grievances shall be valid which allege violations of any terms of this contract which were altered from the predecessor contract, prior to the signing date of this contract.
- C. The parties agree to enter into collective bargaining for a successor Contract in accordance with applicable provisions of Delaware Code, in a good-faith effort to reach agreement on all matters concerning the terms and conditions of employment. Such negotiations shall begin no later than April 1 of the calendar year in which this contract expires. Any Contract so negotiated and adopted by the Board and by the Association shall be reduced to writing and signed by the Board and the Association.
- D. Upon mutual, written consent of the parties, amendments to this contract may be negotiated by the parties during the term of this contract. Any changes so negotiated shall not become effective unless and until ratified by the parties. In the event of such

mid-term negotiations, all provisions of this contract shall remain in full force and effect until such time as changes to this contract, if any, are ratified by the parties.

- E. If any provision of this Contract or any application of this Contract to any employee or group of employees is held to be contrary to law, then such provision or application shall not be deemed valid but all other provisions or application shall continue in full force or effect.
- F. The waiver of any breach or condition of this contract by either party shall not constitute a precedent in the future enforcement of the terms and conditions herein.
- G. Copies of this Contract shall be posted on the District website and distributed by the district to all employees covered under this agreement and to the IRCCA President.
- H. Whenever any notice is required to be given by either of the parties to this Contract to the other, pursuant to the provisions of this Contract, either party shall do so by certified letter at the following addresses:
  - 1. If by the Association, to the Board of Education, Indian River Educational Complex, 31 Hosier Street, Selbyville, Delaware 19975.
  - 2. If by the Board, to Association at the home address of the Association's President.

### **ARTICLE III**

#### **GRIEVANCE PROCEDURE**

**A. Definitions**

A "grievance" shall mean a written claim by an employee that the terms of this Agreement, official written policy of the Board of Education, or written administrative rules and regulations relating to salaries, employee benefits, and/or working conditions have been violated, misinterpreted or misapplied resulting in the abridgement of rights granted to the employee by such documents. A grievance may also be defined as a written claim by the Association that the terms of this Agreement, official written policy of the Board of Education or written administrative rules and regulations relating to salaries, employee benefits and/or working conditions have been violated, misinterpreted or misapplied resulting in the abridgement of rights granted to the Association by such documents.

"Grievant" is the person or group of persons, or Association making the complaint.

"Day or days" shall mean, except where otherwise indicated, chief custodian work days. Thus, weekend or other non-work days are excluded.

"Occurrence" shall mean when the Grievant discovers that there has been a violation of the contract.

**B. Purpose**

The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may from time to time arise affecting employees. These proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

**C. General**

1. The number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process. Time limits may, however, be extended by mutual, written agreement of the parties. Placement of appeal or decisions under this procedure in the U.S. Mail, Certified Mail, within the specified time limit shall constitute compliance with such time limit. Signed faxes or attachments to e-mail will constitute service within the time limits with originals mailed on the same day.
2. The informal level of the Grievance Procedure must be initiated within 25 days of the occurrence giving rise to the grievance.
3. The Grievant or one of the Grievants must be present at all levels of the grievance procedure. Only mutually agreed upon circumstances beyond the Grievant's control may alter this requirement. The Grievant may be represented at all levels by the IRCCA, DSEA, NEA or an attorney at the Grievant's option.
4. All meetings and hearings conducted under Levels I and II of this Procedure shall be conducted privately. Subsequent levels may be private or public, at the Grievant's option.
5. All meetings and hearings shall be scheduled at the mutual convenience of the parties.
6. At all meetings and hearings held under this procedure, the Grievant shall be afforded the rights of due process.
7. Decisions rendered at each level of this procedure after the Informal Level shall be rendered in writing and shall set forth the reason(s) for the decision.
8. Decisions rendered shall be based on such evidence, facts, documents and testimony as was given at the hearing for that Level.
9. The Association may withdraw a grievance at any level of the process without prejudice.
10. The District shall not place any materials related to grievances in an employee's personnel file.

11. Nothing contained in the article shall deprive the employee of the rights of due process under the school laws of the State of Delaware or access to the courts thereof.
12. In the event of an emergency situation, the Principal, Superintendent, or President of the Board may appoint a designee to fulfill his/her obligations in these proceedings.
13. In the event that the Association files a grievance on behalf of a group of grievant(s), all individuals in the group affected by the grievance filed by the Association shall be bound to any resolution which is accepted by the Association.
14. Terminations shall be subject to the Grievance provisions of the agreement beginning at level III. Terminations grievances shall end in Binding Arbitration.

**D. Procedure**

**1. Informal Level**

The Grievant shall first discuss the Grievance with the Principal of the affected employee(s) (or the immediate supervisor if the employee(s) does not reports to the Principal) with the objective of resolving the matter informally.

**2. Level One**

- a. If the Informal Level has not resulted in a satisfactory resolution of the Grievance within ten (10) days, the Grievant may file a formal, written Grievance with the immediate supervisor. The written Grievance must be presented within ten (10) days of the date of the informal decision or if no decision was rendered, within ten (10) days of the date such decision was due.
- b. The written Grievance shall specify:
  - (1) the occurrence(s) or omission(s) which gives rise to the Grievance.
  - (2) the date(s) of such occurrence(s) or omission(s).
  - (3) the provision(s) of the Contract alleged to have been violated, misinterpreted, etc.
  - (4) the remedy sought by the Grievant.
  - (5) the Grievant or group of Grievants.
- c. The immediate supervisor shall issue to the Grievant a written decision on the Grievance within ten (10) days of the date the written Grievance was presented.

**3. Level Two**

- a. If the Grievant is not satisfied with file decision at Level One or if no decision has been received within the time limit specified, the Grievant may appeal the Grievance to the Superintendent. Such appeal shall be filed within ten (10) days of receipt of the Level One decision or if no decision from Level One was received, within ten (10) days of the date such decision was due.**
- b. The appeal to the Superintendent or his designee shall specify the same information as that required for Level One.**
- c. Within ten (10) days of receipt of the appeal, the Superintendent or his/her designee shall hold a hearing on the Grievance. Within ten (10) days of the hearing, the Superintendent or designee shall issue a written decision to the Grievant, and the President of the IRCCA.**

**4. Level Three**

- a. If the Grievant is not satisfied with the decision at Level Two or if no decision has been received within the time limit specified, the Grievant may appeal the Grievance to the Board of Education by serving notice of appeal on the President of the Board, at the School District Central Office, within ten (10) days of receipt of the Level Two decision or within ten (10) days of the time limit for receipt of the Level Two decision.**
- b. The appeal to the Board shall specify the same information as that required for Level One.**
- c. Within ten (10) days of receipt of the appeal, the Board shall hold a hearing on the Grievance. Within ten (10) days of the hearing, the Board shall issue a written decision to the Grievant, and the President of the IREA.**

**5. Level Four**

- a. If the Association is not satisfied with the Level Three decision, or, if no decision was rendered within the specified time, the Association may, within ten (10) days of receipt of the decision or within ten (10) days of the time limit for receipt, submit a request for Arbitration to the Superintendent via certified mail.**
- b. The arbitration process shall be conducted pursuant to Title 1.4, Chapter 40 of the Delaware Code and the regulations of the Public Employment Relations Board.**

## ARTICLE IV

### ASSOCIATION RIGHTS

- A. The Board recognizes and agrees to deal with the IRCCA in all matters relating to this contract.
- B. The Board agrees to provide to the Association upon request all available public information concerning financial resources of the district, minutes of all board meetings, group insurance premium costs, names, addresses and telephone numbers.
- C. Whenever any representative of the Association is engaged during working hours in collective bargaining, contract grievance proceedings, or administrative conferences, he/she shall suffer no loss of pay. Building principals shall give permission before such meetings shall be held.
- D. The Association and its representatives may have the right to use school buildings at reasonable hours for meetings. The principal of the building in question shall give permission in advance of the time and place of such meetings.
- E. The Association shall have the right to use school facilities and equipment including copy machines and other duplication equipment, calculating machines, computers, printers, facsimile machines, phones and all types of audiovisual equipment at reasonable times, when such equipment is not otherwise in use. Communication material prepared pursuant to this section shall not contain libelous and/or slanderous statements regarding any district employee and/or member of the Board of Education. The Association shall pay for the reasonable cost of all materials and supplies used and for any repairs necessitated as a result of such use.
- F. The Association shall have one bulletin board in each school building for its exclusive use.
- G. The Association shall have the right to use school mailboxes.
- H. The Indian River Chief Custodian Association shall be the exclusive representative of the employees under this agreement until mandated otherwise by the employees under this agreement of said district as provided by state law.
- I. Each Association representative may use his or her duty-free work break for Association business provided that it does not interfere nor interrupt the normal school operation.
- J. Duly authorized representatives of the Association and their respective affiliates shall have the right to transact official Association, DSEA, and NEA business on school property at reasonable times provided that this does not interfere nor interrupt the normal school operations in any way as determined by the building principal.

- K. The Indian River Chief Custodian Association shall receive an aggregate of twelve (12) days to attend conferences, meetings, and to conduct Association business without loss of pay to employees released. The IRCCA shall pay for the cost of a substitute if hired for an absent employee. The IRCCA President or designee shall provide notification to the Supervisor of Personnel no later than five (5) calendar days prior to the employee's absence unless there are extenuating circumstances. There shall be no carryover of unused days into succeeding years. Association Leave may be used in portions of days.
- L. The IRCCA President shall appoint a member of the IRCCA Minority Action Committee to serve as an Association representative to the District team for recruitment of applicants for District employment.
- M. Concerns about the accuracy of job descriptions shall be addressed through IRCCA liaison.
- N. This Bargaining Unit shall be entitled to representatives on District Committees whose work impacts the wages and working conditions of bargaining unit members. The Committee Chair shall select the IRCCA representatives from a list of potential candidates provided by IRCCA.

#### **ARTICLE V**

##### **ASSOCIATION - ADMINISTRATION LIAISON**

- A. There shall be a Liaison Committee for each school building which shall meet with the principal or his designee at least once a month for the duration of the school year to review and discuss local school problems and practices, and to play an advisory role in the revision or development of building policies. Areas for consideration shall include but not be limited to such matters as curriculum, text books, distribution of materials and supplies, discipline, school budget allocation, and parent visitations. Said committee shall in no event have less than three members. The committee shall include Association building representatives and other staff as assigned by the principal and/or their designee. Liaison meetings shall be scheduled so as not to conflict with regularly scheduled IRCCA meetings that require the presence of association building representatives.
- B. The IRCCA's Association representatives and officers shall meet with the Superintendent or his designee at the request of either party during the school year to review and discuss current problems and practices including contract issues. Only by mutual agreement shall more than one meeting a month be held.

## ARTICLE VI

### EMPLOYEE RIGHTS

- A. Pursuant to Chapter 40, Title 14, Delaware Code, the Board hereby agrees that employees shall have the right to organize, join and support the Association and its affiliates for the purpose of engaging in collective bargaining and other Association activities.
- B. Nothing contained herein shall be construed to deny or restrict to any employee such rights as he/she may have under Delaware School Laws or other applicable laws and regulations.
- C. The parties agree that the provisions of this Contract shall be applied in manner which does not discriminate based upon race, color, creed, sex, national origin, handicap, domicile, age, or any other classification prohibited by law.
- D. No employee shall be discharged, disciplined, reprimanded orally or in writing, or reduced in rank or compensation without just cause.
- E. When an employee is requested to participate in an interview or in a meeting, the employee shall be informed of the purpose of the meeting, and if the employee reasonably believes the meeting will result in disciplinary action, the employee has the right to refuse to submit to the meeting without Association representation. If the employee requests representation, the employer shall, if needed, postpone the meeting for a reasonable period of time (no later than one (1) day) in order for the employee to secure representation of his/her choice.

If an employee is required to appear before the Board or an agent of the Board for the purpose of confronting the employee with allegations of misconduct and the results of such a meeting could adversely affect the employee's continued employment or salary, the employee shall, at least forty-eight (48) hours prior to the meeting, be given a written notice and specific reasons for the meeting. Both parties shall also be notified in writing at least twenty-four (24) hours prior to the meeting of any additional persons who will be present. Association representation may be requested prior to or at any point during the meeting. If the employee requests representation, the employer shall, if needed, postpone the meeting for a reasonable period of time (no later than one (1) working day) in order for the employee to secure representation of his or her choice.

These provisions shall NOT apply to the following:

- Informal discussions with an employee by the administrative staff pertaining to the employee's performance at his/her work location.
- Those situations where there are reasonable grounds to believe that such notice shall result in the destruction of or non-availability of necessary evidence and witnesses.

- **Situations that may compromise student safety.**

However, any such conversations will take place with due regard for privacy.

- F. The official file shall consist of the file maintained by the Director of Personnel and shall be maintained under the following conditions.**
- 1. No material, other than references received prior to employment by the district, shall be placed in an employee's file unless the employee is notified that such material has been or may be included in his/her files. The employee shall be given the opportunity to read material other than references and affix his/her signature and comments thereon.**
  - 2. Upon written request by an employee, he/she shall be given access to his/her files. Such access shall be granted within three working days, except when made impossible by absence of the necessary district administrators.**
  - 3. An employee shall be permitted to have material in his file reproduced. Such reproduction shall take place in the office where the file is located.**
  - 4. File copies shall not be removed from the office of the school administration, except for reproduction or presentation of evidence purposes.**
  - 5. A representative of the school administration shall be present at any inspection of the employee's files.**
  - 6. A representative of the Association shall at the employee's request accompany the employee during the review of his/her files.**
  - 7. Upon a written request to the district, an employee may remove any document which is older than twenty-four months, from his/her file with the exception of the following:**
    - a. Letters indicating repeated offenses of a similar nature**
    - b. Evaluations**
    - c. Any document received prior to employment**
- G. The Board agrees that it shall not discriminate against any employee because of his/her membership in the Association or collective bargaining with the Board, or his/her institution of any grievance, complaint, or proceedings under this Contract.**
- H. The District shall make every effort to ensure minority representation on all District committees that, in any way, involve employees in the IREA bargaining unit.**
- I. The personal life of an employee is not an appropriate concern for action of the Board of Education except as it may directly prevent the employee from performing their assigned**

duties.

- J. Concerns about the job accuracy of job descriptions will be addressed through IREA Liaison.

## **ARTICLE VII**

### **LEAVES OF ABSENCE**

Chief Custodians are to be granted leaves of absence as set forth by the Delaware Code. The following addition is to be included:

If it is necessary for a chief custodian to apply for a leave of absence for maternity/childcare reasons or for an extended personal illness, or for an extended or critical illness of his/her children or spouse, s/he should be allowed the necessary time up to a period of one year. This time, if not covered by sick leave or vacation time, or paid donated leave (in accordance with federal & state discrimination laws) and the donated leave program in Delaware Law will be without pay and will not be counted in his/her years of experience for salary purposes. During the period of an approved unpaid Leave of Absence, seniority will not be earned but will resume upon return. When the custodian returns to work after the Leave of Absence expires, s/he should be returned to his/her previous or comparable position and previous salary schedule placement.

While on approved leaves of absence, an employee may continue fringe benefit programs by bearing the full premium costs.

#### **Military Training Leave**

Title 14, Section 1327(a) requires that leave of absence for military service be granted and specifies attendant conditions and provisions.

The person who may be appointed to replace the employee shall be appointed for only the period covered by the leave of absence. Section 1327 (b).

Any permanent and full-time employee who is a member of the National Guard or any reserve component of the Armed Forces of the United States and who is ordered to attend training camp or to perform special duty not in excess of fifteen (15) days in any calendar year shall be allowed leave with pay for attending such training sessions or performing such special duty. Such military training or special duty leaves shall not be deducted from vacation leave or in any other way result in loss of privileges or compensation to said employee.

An employee called to temporary military training or special duty shall file a request for military-leave with the secretary of the local board at least two weeks prior to his leave, along with a copy of the official orders summoning him to military service. (State Board of Education regulation, August 21, 1969).

## ARTICLE VIII

### WORKPLACE SAFETY

- A. The Board and the Association agree that effective means for the protection of employees and property are essential to the smooth functioning of the District. All buildings shall be maintained to provide an environment that is conducive to learning even when repairs and renovations are being made.
- B. The Employer and Association shall cooperate in the enforcement of safety regulations. Employees shall not be required to work under unsafe or unhealthy working conditions. Employees shall report what they feel are unsafe or hazardous conditions to the administrator in charge or to the administrator's designee. No employee shall be required to work under unsafe or hazardous conditions unless the proper equipment and training are provided.
- C. If an employee's report of an unsafe, hazardous or unhealthy working condition is made in writing, the administrator shall provide a written response as soon as practical, but in any event within three (3) work days, as to his/her assessment of the work condition and what steps can and shall be taken, if any, to remedy the situation.
- D. Employees shall immediately report cases of injuries suffered by them in connection with their employment to their principal, immediate supervisor and nurse, if available.
- E. The employer shall take reasonable precautions to provide protection for an employee's vehicle and other personal property while on school property, but shall not assume liability for loss or damage.
- F. The Board shall give full support including legal and other assistance for any assault upon the Professional Employee while acting in the discharge of his/her duties or while quelling a disturbance threatening injury to others as long as the Professional Employee's and the Board's interests are the same.
- G. Employees who use their own automobiles in the performance of their normal duties shall be reimbursed for such required and authorized travel at the rate provided by the Delaware Code.
- H. Absent mechanical problems, building heating levels maintained during the school day shall continue at those approximate levels or until the end of the employees' scheduled work day.
- I. An employee who suffers a work-related disabling injury and qualifies for workers' compensation benefits shall continue to receive all Board paid employee benefits as long as the employee is receiving workers' compensation benefits. This shall not apply to employees who are placed on disability pension unless permitted by the insurance carrier.

- J. Employees other than school nurses shall not be required to perform nursing duties except in an emergency. In such a case, a qualified medical person shall be brought on the scene as soon as possible, and the teacher shall be held harmless from liability by the Board unless the employee's act or omission amounts to gross negligence or willful and wanton misconduct.
- K. An Employee may, within the scope of his/her employment, use and apply such force as is reasonable and necessary to quell a disturbance threatening physical injury to others or to protect himself/herself if attacked.

## **ARTICLE IX**

### **DRUG FREE WORKPLACE**

The Indian River School District Board ("Board") believes that illegal drugs and Unauthorized Prescription Drugs, as defined below, have no place in the work environment. Furthermore, Congress passed the Drug-Free Workplace Act of 1988, requiring the certification by federal grantees of a drug-free workplace, and the Board supports that Act. For these reasons, the Board adopts the following policy on drug-free workplace for the Indian River School District ("District") employees subject to any collective bargaining agreement to the contrary:

1. Definitions:

- (a) **Distribution or Sale:** Implies the transfer of unauthorized Drugs, unauthorized Prescription Drugs or look-a-like substances to any other person with or without the exchange of money or other valuable consideration. The receiving party shall be considered as "in possession".
- (b) **Drug:** Any chemical substance that produces physical, mental, emotional, or behavioral change in a user. Drugs include all alcoholic beverages, narcotics, analgesics, stimulants, depressants, including marijuana, hashish and otherwise controlled substances or medications other than those sold to the public on a non-prescription basis or those prescribed to the employee by a licensed physician. Drug shall also include look-alike substances. All references to "Drug" or "Drugs" includes possession, use, or distribution of a Prescription Drug that has not been prescribed by a licensed physician and/or possession, use, or distribution of a Prescription Drug in the dosage or amounts that exceeds that dosage or amounts prescribed for the individual by a licensed physician.
- (c) **Drug Paraphernalia:** Paraphernalia includes objects used to manufacture, compound, convert, produce, process, prepare, analyze, pack, repack, store, conceal, inject, ingest, inhale or otherwise provide a means to enter the human body. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia (Chapter 47, Uniform Controlled Substances Act, Sub-chapter V, §4771).
- (d) **Inservice Days:** During the regular work hours of 8:00 a.m. to 3:30 p.m. consumption of alcoholic beverages will be prohibited.
- (e) **Non-Prescription Drug:** A non-controlled substance used for medical reasons.
- (f) **Possession:** Implies that an employee has unauthorized Drugs or unauthorized Prescription Drugs on his/her person or with his/her personal property or under

his/her control by placement of and knowledge of the whereabouts of same within the School Environment or during school-related activities. Not included as "in possession" is any substance that has been prescribed by a licensed physician and is present only in the dosage or amounts prescribed for the person.

- (g) Prescription Drug:** A controlled substance dispensed directly by a medical practitioner or by a pharmacy with a written prescription from the practitioner. Employees currently taking a prescribed medication from their own physician must carry it in the labeled container provided by a licensed pharmacist. All medication must be kept in its original container (Chapter 47, Uniform Controlled Substances Act, Subchapter 4, §4758).
  - (h) School Environment:** Within or on school property, and/or school sanctioned and/or supervised activities.
  - (i) Unauthorized:** That which is prohibited by the Superintendent of the District and/or government.
  - (j) Use:** Implies that an employee is reasonably known to have assimilated an unauthorized Drug or is reasonably found to be under the influence of same within the School Environment or during a school-related activity.
  - (k) Illegal Substances:** Any and all substances listed in Title 16; Chapter 47 of the Uniform Controlled Substance Abuse Act.
  - (l) Zero Tolerance:** It is against the law for anyone to possess illegal substances. All cases must be reported to the police.
2. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, counterfeit controlled substance or designer drug as defined under 16 Delaware Code, Chapter 47 or comparable federal law, is prohibited in the district, in all places where its employees work, including all state-owned vehicles, and in carrying out any federal grant activity. As a condition of employment, all employees shall abide by this prohibition. Violation of such prohibition shall result in disciplinary action up to and/or including termination of employment.
  3. All violations of the above policy shall be reported to the Superintendent or the Superintendent's designee, who shall report the violation to the appropriate police authority. There may be a termination in all cases of a chargeable offense under 16 Delaware Code, Chapter 47 or comparable federal law; however, a conviction of the charged offense shall not be necessary to terminate the employee for a violation of the policy. The employee terminated may be entitled to due process per Title 14 of the Delaware Annotate Code.
  4. Possession, sale, or distribution of Drugs or Drug paraphernalia by employees in the School Environment is prohibited and shall result in disciplinary action up to and/or including termination of employment.
  5. Suspicion of employees reporting to work under the influence or being under the influence of Drugs/Alcohol while on the job will be addressed through the procedure and consequences as outlined in the attached Drug and Alcohol Testing Procedures.

6. District volunteers are also prohibited from the possession, sale, or distribution of Drugs or Drug paraphernalia in the School Environment and may result in the dismissal of the individual as a volunteer.
7. Suspicion of volunteers being under the influence of Drugs/Alcohol while performing volunteer duties in the School Environment may be addressed through the procedure as outlined in the attached Drug and Alcohol Testing Procedures at the discretion of the District.
8. Nothing in this policy shall preclude the Board from taking concurrent and/or independent personnel action against the employee under 14 Delaware Code, Sections 1411, 1421 or both for immorality, misconduct in office, incompetency or willful neglect of duty, or under its other rights to discipline or terminate employees.
9. All employees shall notify the Superintendent in writing of any criminal drug statute conviction for a violation occurring in or outside the workplace no later than five working days after such conviction. Failure of the employee to make such a notification may lead to termination of employment per Title 14 of the Delaware Annotated Code. Within ten working days of receiving notice of any employee convicted as described above, the Board shall notify the federal agencies providing grants to and through the State Board and the Department of Education.
10. Within thirty days of receiving notice of any employee convicted as described in Section (2), the Board will:
  - (a) Take appropriate personnel action against such an employee, up to and including termination, and/or
  - (b) Require such an employee to participate satisfactorily in an alcohol/drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.Such action may be taken by the Indian River School District prior to conviction.
11. The Board will inform employees about:
  - (a) The dangers of drug abuse in the workplace;
  - (b) The district's policy of maintaining a drug-free workplace;
  - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
12. The Board shall make a good faith effort to continue to maintain a drug-free workplace through the implementation of this policy and ensuring that all new employees are informed of the policy through the measures set out in section (6).

**DISCIPLINARY PROCEDURES:**

1. Possession, sale, or distribution of drugs or drug paraphernalia in the school environment will:
  - (a) Result in suspension, pending a School Board hearing, with consideration of further disciplinary action, including termination. The School Board hearing will take place no later than thirty (30) working days from the first suspension day unless otherwise provided. The employee may have Association representation at the hearing.
  - (b) Result in a report of the incident to the police.
  
2. Suspicion of reporting to work under the influence or being under the influence of Drugs/Alcohol while on the job will be addressed through the procedure and consequences as outlined below.
  - (a) Drug and Alcohol Testing Procedures

**STATEMENT OF PURPOSE:**

Employees are the District's most valuable resource and their health and safety is therefore a serious concern. Furthermore, substance abuse education is one of the District's most important missions. It is not enough for staff to instruct students regarding substance abuse. District staff must lead by example. Finally, employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs.

Each employee shall be provided with a copy of these procedures. The District will also offer training for each employee regarding substance abuse.

**ASSISTANCE IN OVERCOMING ALCOHOL OR DRUG ABUSE FOR EMPLOYEES WHO VOLUNTARILY SEEK HELP:**

Early recognition of alcohol or drug abuse is important for successful rehabilitation, the affected employee's productivity, and reduced personal, family, and social disruption. Whenever feasible, the District will assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is primarily the individual's responsibility.

The District recognizes substance abuse is a medical problem which can be successfully treated. Most substance abusers, however, deny they have a problem, and ordinarily do not seek treatment voluntarily. This denial is the most significant obstacle to successful treatment.

Employees with alcohol or drug abuse problems may request the confidential assistance of the Assistant Superintendent. Employees may seek help without the approval of their supervisor. The Assistant Superintendent provides assistance on a strictly confidential basis and refers employees to the appropriate counseling and treatment services. Employees who voluntarily request assistance in dealing with an alcohol or drug abuse problem may do so without jeopardizing continued employment. Information disclosed in the process of seeking assistance will not serve as a basis for discipline. Disciplinary action for violation of the District's policies on alcohol and drug abuse will not be reduced if an employee requests assistance after being asked to submit a blood and/or urine specimen.

If an employee seeks assistance, such an employee shall consult with a public or private substance abuse counseling or assessment center and obtain a recommendation as to an appropriate rehabilitation program. The employee may be placed on leave for a time period necessary to successfully complete the recommended rehabilitation program. Such an employee must:

- (1) Provide the Assistant Superintendent with proof of enrollment in the recommended alcohol or drug abuse rehabilitation program and proof of attendance at all required sessions.
- (2) Pay for all costs of rehabilitation which are not covered by the employee's health insurance plan.

**PROHIBITIONS:**

Pursuant to the Board's Drug Free Work Place Policy, the possession, use, manufacture, distribution, dispensation or sale of illegal drugs and/or illegal substances or Drug paraphernalia in the workplace is prohibited. The Board's Alcohol Free Work Place Policy also prohibits the use, sale or manufacture of alcohol at any time in the workplace, on school property, and in State owned or leased vehicles. Further, the District prohibits possession of alcohol in all its facilities, in State owned, District owned or leased vehicles, and in private vehicles when used to transport students. In addition, an employee is subject to disciplinary action if the employee is under the influence of alcohol in the workplace or tests positive for use of an illegal drug and/or illegal substance. For purposes of this policy, "workplace" shall be defined as during regular scheduled work hours or any time an employee is responsible for any District student including but not limited to the following: (a) field trips; (b) after school activities (e.g. sports, student dances, etc.); or (c) on District property, including State-owned vehicles.

**REASONABLE SUSPICION:**

1. With the exception of bus drivers who are engaged in a safety sensitive activity, an employee will be tested only if two administrators agree that there is reasonable suspicion to believe the employee is under the influence of alcohol or an illegal drug and/or illegal substance in the workplace, or if there is reasonable suspicion to believe the employee used alcohol or an illegal Drug in the workplace. In the case of bus drivers, such employees may be tested in accordance with the applicable State Board regulations. This includes the requirement a bus driver who has been suspended due to a positive test for alcohol or drugs must submit to a test prior to returning to work, and the bus driver shall not return to work unless such a test is negative.
2. A determination there is reasonable suspicion to believe an employee is "under the influence" shall be based upon objective factors including, but not limited to, the following: odor of alcohol on the employee's breath, slurred speech, unsteady or erratic movements.
3. In order to have a written record of reasonable suspicion that an employee is "under the influence", one of the administrators who determines there is reasonable suspicion to believe an employee is "under the influence" shall, within one workday of the time the employee is tested for alcohol and/or Drugs, prepare a written report listing the objective factors supporting the reasonable suspicion.

4. Administrative staff shall be trained in the identification of signs and symptoms of intoxication and substance abuse, and procedures for documentation and maintaining confidentiality prior to their involvement in the implementation of the testing procedures.

**TESTING:**

If there is a determination there is reasonable suspicion to believe an employee is under the influence, no discipline shall be imposed in the absence of a confirmatory test unless the employee's behavior, nonfeasance, misfeasance or malfeasance provides a separate basis for discipline. If the District decides to pursue a confirmatory test, the District shall adhere to the following procedure:

1. The employee will be asked, with due regard for privacy, to submit a blood and/or urine specimen at a local collection site for alcohol and drug testing. The Assistant Superintendent, or his/her designee will accompany the employee to the local collection site.
2. If the employee is taking a Prescription Drug, the employee shall disclose that fact and the laboratory will follow its established procedure for verifying the authenticity of the prescription.
3. With regard to alcohol, a positive test result shall be alcohol concentration of .02, or more. Alcohol concentration of .02, or more, means alcohol in a sample of an employee's blood equivalent to .02, or more, grams of alcohol per hundred milliliters of blood; or an amount of alcohol in a sample of an employee's breath (measured by a breathalyzer test) equivalent to .02 or more grams per two hundred ten liters of breath.
4. With regard to Drugs, discipline will be imposed if a National Institute on Drug Abuse certified laboratory confirms an initially positive test result by gas chromatography/mass spectrometry (GC/MS) using the following cutoff levels for its confirmation test:

<u>Substance</u>	<u>Confirmation Test (ng/ml)</u>
Cannabinoids Metabolite	15
Cocaine Metabolite	150
Opiate	300
Phencyclidine	25
Amphetamines	500

These five drugs or classes of drugs, as well as the confirmatory test levels, are taken from the U.S. Department of Transportation Drug Testing Procedures. If the Department of Transportation changes its Drug Testing Procedures by adding drugs or classes of drugs, these Procedures shall be modified to add such drugs or classes of drugs, including the confirmatory test levels adopted by the Department of Transportation.

4. The costs of testing will be paid by the District.
5. If an employee is tested, the employee shall be suspended with pay pending the District's determination.

6. The District shall make a determination as soon as practicable.
7. The imposition of discipline, if any, shall occur only after confirmation of the applicable test.
8. If the drug and/or alcohol test is negative, there shall be no reference to such a test in the employee's personnel file.

**CONSEQUENCES OF A POSITIVE TEST:**

The discipline for an employee who tests positive for drugs, is set forth below:

**Violation**

**Discipline**

**1. Positive test for drugs**

Appropriate discipline which may include termination, but at a minimum suspension without pay for up to 90 work days, and participation in a substance abuse program.

2. If the results of an employee's test for drugs are not a complete negative, but fall below the threshold for discipline, a record of those results shall be placed in the employee's file for a period of two years only. The employee would have the right to attach to those results a description of the circumstances surrounding the results of that test. If the employee were to come under reasonable suspicion and be tested again during that two year period, the following would apply:

- If the results of the second test are negative, no further action would occur and the original results would be removed from the employee's file at the end of the original two years.
- If the results of the second test were as the first test (not a complete negative but below the threshold), the employee would be subject to mandatory evaluation and completion of an education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.
- If the results of the second test were positive (above the threshold), and depending on the circumstances surrounding both tests, the first test results would be considered in deciding the discipline for the positive test.

The discipline for an employee who tests positive for alcohol is set forth below. For purposes of this section, a "second offense" is any incident within 5 years of the 1<sup>st</sup> offense. A "third offense" is any incident within 5 years of the 2<sup>nd</sup> offense.

**Violation**

**Blood Alcohol Concentration  
(BAC) equal to .02**

**Discipline**

**FIRST OFFENSE**

**Employee is sent home and charged one day of personal leave. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.**

**SECOND OFFENSE**

**Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.**

**THIRD OFFENSE**

**Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.**

**BAC greater than .02, but less  
than .08**

**FIRST OFFENSE**

**Employee is suspended for 5 days without pay. Mandatory evaluation and completion of education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.**

**SECOND OFFENSE**

**Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.**

**THIRD OFFENSE**

**Termination**

BAC greater than or equal to .08

**FIRST OFFENSE**

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment if recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

**SECOND OFFENSE**

Termination

Refusal to submit to the testing procedure

Employee is suspended a minimum of 90 work days without pay with the possibility of termination. If not terminated, the employee must also complete education program and/or treatment as recommended by an agency approved by the State of Delaware, Department of Public Safety, Office of Highway Safety.

**REFUSAL TO SIGN THE CONSENT FORM AND SUBMIT TO THE TESTING:**

An Administrator shall obtain the individual's signature on a Consent Form (Attachment No. 1) and provide the individual with a copy of the form, prior to taking the employee to the collection site. If an employee refuses to sign the consent form and submit to the testing when there is reasonable suspicion for testing the employee, such a refusal shall be deemed a positive test result.

**BREATH TESTING PROCEDURES:**

1. Only qualified operators of a breathalyzer test shall sample employee's breath.
2. The Assistant Superintendent or his/her designee who accompanied the employee to the test site shall call a friend, relative or taxi to take the employee home.

**BLOOD TESTING PROCEDURES:**

1. Only authorized personnel at the local collection site shall conduct blood testing. Collection site personnel will draw 5 to 7 milliliters of blood from the individual into a tamper-proof vacutainer bag.
2. Both collection site personnel and the employee shall keep the specimen in view at all times prior to its being sealed and labeled. The employee shall observe the sealing process.
3. Collection site personnel shall place securely on the side of the vacutainer bag an identification label which includes the date, the specimen number and the employee's name. The employee shall observe the application of this label and shall then initial the label as certification it is the specimen the employee provided. Collection site personnel shall note any unusual behavior on the chain of custody form.

4. The employee shall then sign the chain of custody form, which states the date, collection site, the names of the collection site personnel, and the employee's name and specimen number, and which verifies the blood specimen has been in the employee's view continuously from the time of collection until he or she initialed the label.
5. The Assistant Superintendent or his/her designee who accompanied the employee to the local collection site shall call a friend, relative or taxi to take the employee home.

**URINE SPECIMEN COLLECTION PROCEDURES:**

1. Collection site personnel shall direct the individual to remove any unnecessary outer garments, such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Collection site personnel will further direct the individual to put aside all personal belongings, such as a purse or briefcase. The individual may retain his or her wallet.
2. In order to deter adulteration of the urine specimen by substances concealed in the individual's hands or under the individual's fingernails, collection site personnel shall instruct the individual to wash his or her hands prior to urination. After washing hands, the individual shall remain in the presence of collection site personnel and shall not have access to purses or briefcases or to water fountains, faucets, soap dispensers, cleaning agents or any other materials which could be used to adulterate the specimen. Collection site personnel shall note any unusual behavior on the chain of custody form.
3. The individual may provide the urine specimen in the privacy of a stall or otherwise partitioned area assuring privacy. If there is a toilet in such an area, toilet bluing agents shall be placed in the toilet tank so the reservoir of water in the toilet bowl always remains blue. Collection site personnel shall note any unusual behavior on the chain of custody form.
4. Upon receiving the specimen from the individual, collection site personnel shall determine it contains at least 60 milliliters of urine. If the specimen does not contain at least 60 milliliters of urine, collection site personnel should provide the individual with 8 ounces of fluid every 30 minutes until urination occurs.
5. Immediately after the specimen is collected, collection site personnel shall inspect the specimen to determine its color, temperature and any signs of contamination. Collection site personnel should note any unusual findings on the chain of custody form. Collection site personnel shall forward all specimens to the laboratory for testing even if the specimen may be adulterated.
6. Both collection site personnel and the individual shall keep the specimen in view at all times prior to its being sealed and labeled. If collection site personnel transfer the specimen to a second bottle, the individual shall observe the transfer of the specimen.
7. Collection site personnel shall place a tamperproof seal over the bottle cap and down the sides of the bottle. The individual shall observe this sealing process.

8. Collection site personnel shall place securely on the side of the bottle an identification label which contains the date, the specimen number and the individual's name. The individual shall observe the application of this label and shall then initial the label as certification that it is the unadulterated specimen the employee provided.
9. The individual shall then sign the chain of custody form, which states the date, collection site, the names of the collection site personnel, and the individual's name and specimen number, and which verifies the urine specimen was in the individual's view continuously from the time of collection until the employee initialed the label affixed to the bottle. The form shall also verify that the identified specimen is the unadulterated specimen.

**CHAIN OF CUSTODY AND SHIPMENT OF URINE OR BLOOD SPECIMEN:**

1. Collection site personnel must complete the chain of custody form in order to maintain control and accountability of each urine or blood specimen from the point of collection to receipt of test results.
2. The chain of custody form shall document each time a specimen is handled or transferred and the reason for such handling or transfer and shall identify every individual in the chain. Collection site personnel shall minimize the number of persons handling a specimen.
3. Collection site personnel shall ship the collected specimen for testing within 24 hours of collection. Collection site personnel shall place the specimen in a container designed to minimize the possibility of damage during shipment and shall securely seal the container to eliminate the possibility of undetected tampering. On the tape sealing the container, collection site personnel shall sign and enter the date. Collection site personnel shall attach the chain of custody form and the Confidential Medical Questionnaire and Consent Form to the sealed container prior to shipment.
4. Collection site personnel shall secure the sealed container to prevent unauthorized access during temporary storage before shipment.
5. Collection site personnel shall not permit any unauthorized person access to any part of the collection site area when blood or urine specimens are collected or temporarily stored.

**TESTING STANDARDS:**

1. **Security and Chain of Custody.** An approved laboratory will maintain strict security at its facilities and rigorously follow proper chain of custody procedures. The laboratory will fully satisfy every security and chain of custody requirement of NIDA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.
2. **Blood Test and Breath Test.** A positive result shall be blood alcohol concentration of .02% or greater which constitutes a violation of GBCB Staff Conduct Drug and Alcohol-Free Workplace.

3. **Initial Test (Urine).** The laboratory will use an immunoassay which has been approved for commercial use by the U.S. Food and Drug Administration.
4. **Confirmatory Test (Urine).** The laboratory will confirm all initially positive tests results of urine specimens by gas chromatography/mass spectrometry (GC/MS).
5. If the Department of Transportation changes its Drug Testing Procedures by adding drugs or classes of drugs, these Procedures shall be modified to and such drugs or classes of drugs, including the initial test levels and confirmatory test levels adopted by the Department of Transportation.
6. **Reporting Results.** The laboratory will report all test results. As to urine tests, the laboratory will report as positive only those specimens confirmed positive by GC/MS. The laboratory will report the results only in writing and will report only to the Assistant Superintendent. The laboratory will transmit to the Assistant Superintendent a copy of the Toxicology Chain of Custody form and Consent form for all positive test results. The District shall provide copies of such documents to the employee.
7. **Record Retention.** Unless otherwise notified, the laboratory will retain all records pertaining to a given specimen for one year in the case of negative results, and for three years in the case of positive results.
8. **Storage.** The laboratory will store all specimens for at least one year and longer whenever requested.

#### **MISCELLANEOUS PROVISIONS:**

##### **Right to a Representative**

The employee has the right to request an opportunity to talk to a representative prior to signing this form. However, the District will wait no more than 30 minutes for such a representative to appear. If the employee requests the presence of an employee, the District will provide such an employee with coverage so that the employee is available within 30 minutes.

##### **Providing the Urine Specimen**

The employee must provide at least 60 milliliters of urine. If at first the employee is unable to provide 60 milliliters of urine, collection site personnel will give the employee 8 ounces of liquid every thirty minutes until the employee is able to provide 60 milliliters of urine. The employee may provide his or her urine specimen in private. Collection site personnel will not observe the employee.

##### **Accuracy of Test Results**

The District has taken extraordinary precaution to assure the test results are accurate. If the first test produces a positive result, the laboratory will administer a second, more sophisticated test. This second test measures the exact molecules of each drug; every drug has a different molecular structure, just as each person has a different fingerprint. The laboratory's second test identifies each drug by its unique molecular "fingerprint." Only if the second test is also positive does the

laboratory report a positive test result. The scientific and medical community uniformly agrees that the combination of tests used by the laboratory produces extremely accurate results. The National Institute on Drug Abuse regularly inspects the laboratory and has certified that it meets the highest professional standards.

**Chain of Custody**

The District takes exceptional precaution to assure the integrity of each specimen. To ensure an individual's specimen is not accidentally confused with another's, collection site personnel follow a rigorous chain of custody procedure. Individuals providing specimens have a vital role to play in the chain of custody procedures. They must keep their specimen in view at all times until it is sealed and labeled. Each individual then initials the label on his or her specimen.

**Confidentiality**

Test results are highly confidential. The drug testing laboratory informs only the Assistant Superintendent.

**ARTICLE X**

**EVALUATION**

**A. Employee Evaluation**

1. The Board of Education has the right to establish employee evaluation procedures.
2. Employees will be informed of these procedures. A formal evaluation report shall not be placed in the employees personnel file without the employee being given the opportunity to include written comments and sign the report.
3. Chief Custodians will be evaluated jointly by the building principal and the supervisor of building and grounds.
4. If the employee so requests, a conference shall be held between the employee and the evaluator to review any formal evaluation report. Such request must be made within five (5) working days after the employee is given a copy of the evaluation report.
5. Any formal evaluation which is less than satisfactory must be accompanied by written recommendations for improvement.
6. In the event the State of Delaware implements a mandatory evaluation system or process applicable to custodians, the District shall comply with all provisions of such system or process in all regards.
7. The provisions of this Section 6 shall be subject to the Grievance Procedure. However, the substance of an evaluation report, i.e., the judgement of the evaluator, shall not be subject to the grievance procedure.

## **B. Probationary Period**

All new employees shall serve a probationary period of ninety (90) days starting with the first day actually on the job. If at any time during the probationary period the District determines any deficiency or problem, an administrator/supervisor shall provide the employee with written notice and the employee shall be placed on an Improvement Plan. The employee and his/her supervisor shall develop this plan together. If, upon completion of the Improvement Plan, deficiencies are still noted, then the District reserves the right to terminate the employee.

## **ARTICLE XI**

### **SENIORITY**

#### **A. Definitions**

1. **IRSD - The Indian River School District, including all prior component school districts thereof.**
2. **System seniority - The total length of uninterrupted service with the IRSD.**
3. **Ties - Ties in any seniority category shall be broken by calculating seniority for the tied employees.**
4. **Reduction in Force - A reduction in the number of positions in the IRCA bargaining unit or component thereof.**
5. **Layoff - The termination or reduction of an employee's employment due to a RIF.**
6. **Bump - A process whereby an employee otherwise designated for layoff elects to replace a less senior employee.**
7. **Loss of seniority - Employees shall lose all seniority upon voluntary resignation or discharge except that employees who are laid off and subsequently recalled shall have restored to them all seniority accumulated at the time of layoff. Board approved, unpaid leaves of absence shall not interrupt continuous service.**

#### **B. Layoffs and Recalls**

1. **In the event a reduction in force (RIF) within the bargaining unit represented by the IRCCA requires layoffs, the District shall identify the level where the RIF will occur. The employee within that level with the least level seniority shall be laid off. Following action by the board, an employee to be laid off or reduced in hours shall receive a written reduction in force notice 30 calendar days in advance of termination.**

2. **Provided the laid-off employee has greater seniority, the laid off employee may bump any employee holding a position at the same or lower level wherein the laid off employee has previously worked based on the laid off employee's seniority. scales attached to this contract.**
3. **Employees who are bumped shall have the same rights set forth above for laid-off employees.**
4. **An employee exercising the right to bump shall receive the salary rate of the level into which the bump takes place at the employee's current experience step.**
5. **Laid-off employees shall be recalled to the same or lower level from which they were laid off. Recall shall take place in reverse chronological order of the layoff, with the most recently laid-off employee being recalled first. Where dates of layoff are the same for two or more employees, system seniority shall determine the order or recall. Recalled employees shall receive the salary rate of the level to which they are recalled. Employees who refuse recall, lose further recall rights. Laid-off employees shall be entitled to recall rights for an initial period of twelve (12) months from the effective date of layoff and shall be entitled to an additional twelve (12) months upon written request to the District.**

#### **C. Posting of Vacancies**

1. **A posting of permanent positions within the bargaining unit shall be forwarded to the designated association representative at each work site who shall post it in a conspicuous place. The representative will be sent the posting at least ten (10) work days prior to the closing date for applications unless the district determines that a posting period of less than ten (10) working days is necessary notification of such shall be provided to the Association President. Applicants must apply online via the District's online applicant manager system within the posting period specifying their preference (s) for the location and specific positions. The posting shall include the information necessary for an employee to properly apply for the vacancy.**

#### **D. Promotions and Transfers**

1. **For employees seeking promotion, consideration will be based on demonstrated responsibility, performance, and evidence that they possess qualifications as specified in the job descriptions of the Indian River School District. The application procedure shall not include a written test(s). For promotional positions, the district shall choose from the two (3) most senior applicants who are qualified according to the appropriate job description and possessing a certificate if required for the position. Promotions shall be a result of board action.**
2. **Chief custodians who desire a transfer to another building must make application during the posting period. Candidates will be required to complete a skills performance and assessment examination as part of the application process in round one (1) of the chief**

custodian interviews. The Director of Personnel shall acknowledge in writing receipt of said request within two weeks. Only those making application during the posting period will be considered. School District. Lateral transfer requests for the position of Chief shall be determined by selection from the three (3) most senior applicants. The final selection will be made by the building principal and Supervisor of Building and Grounds and will be based on seniority, qualifications, past work performance and the best interests of the school system, if the most senior candidate is not awarded the position, he/she will be provided a written explanation. The application procedure shall not include a written test(s). Employees whose work performance is rated as "Needs Improvement" or "Unsatisfactory" will not be transferred unless it is determined to be in the best interest of the district. Transfers shall be a result of board action.

3. Vacancies/newly created positions will be filled by applicants from within the level using the transfer procedure. Absent qualified applicants the vacancy/newly created position will be filled through the promotion procedure. Absent qualified promotional candidates, qualified regular part-time employees will be given an interview and serious consideration. Outside applicants for vacancies/newly created positions may be offered positions after all qualified internal candidates have been accommodated.
4. Chief custodians will be allowed one transfer per twelve (12) month calendar period (promotions are not considered a transfer).

#### **E. Temporary Transfers**

1. The Personnel Director may recommend temporary transfers or promotions of employees to positions other than those they normally perform in order to meet the requirements of the operation of the Indian River School District subject to Board approval.
2. Any employee temporarily transferred or promoted to a level with a higher rate of pay shall receive such higher rate of pay only if he is in the higher rated level for five (5) working days or longer.
3. Temporary transfer and promotion shall be for a period of no longer than six (6) months or until the end of the school year except by mutual consent. A vacancy created as a result of extended illness or leave of absence is not an open, position for the period of such illness or leave, and shall be considered temporary.

#### **F. Job Classifications**

The employer agrees to inform the Association of any newly established, or revised job classifications.

#### **G. Seniority Lists**

Seniority lists shall be brought up to date once each year by the District. Such list shall contain dates of hire and classifications. A copy of seniority lists shall be sent by mail to the President of the Association.

## **ARTICLE XII**

### **HOLIDAYS WITH PAY**

- A. The following days are holidays with pay for custodial employees: Any day designated by law, proclaimed by the Governor, or approved by the Superintendent. Holidays will follow the approved school calendar each year.
- B. If a holiday occurs while an employee is on vacation, s/he shall receive an additional day of vacation.
- C. If the State determines that it will not fully fund the State salary of custodians during the Easter and Christmas breaks, the two parties agree to adhere to 14 Del C. § 1335 and to negotiate the impact of such determination.
- D. Any employee who is required to work on any of the holidays listed in A-C of this Article shall receive one-and-one-half (1.5) his/her hourly rate to be paid in the same manner as overtime is paid pursuant to Article XIV.
- E. Employees who do not work on declared emergency days shall not be required to make up the time not worked and shall be paid their regular pay for such days. Employees who are required to work on such days shall be paid for such work in accordance with the overtime provisions in Article XV D.

## **ARTICLE XIII**

### **VACATIONS**

Chief Custodians are to be granted vacations as set forth as follows:

- A. Vacations are earned during the fiscal year preceding the period when they are used. Vacation time to a maximum of forty-two (42) days may be carried over. Annual leave accumulated may not exceed forty-two (42) days. If at the end of a fiscal year more than forty-two (42) days have accumulated, it shall be adjusted to forty-two (42) days.
  - 1. Chief custodians are entitled to the following annual leave:
    - a. Chief custodians with less than four years service in the Indian River School District shall accumulate annual leave at the rate of 1-1/4 days for

each month of service.

- b. Chief custodians who have completed four years of service in the Indian River School District shall accumulate annual leave at the rate of 1-3/4 days for each month of service.

- 2. Annual leave days are scheduled upon approval of the Building Administrator or designee in consultation with the chief custodian and will not be unreasonably denied.

The Building Administrator or designee will act upon the vacation request within five (5) work days of the receipt.

Any short term vacation will be scheduled upon mutual agreement.

Vacation leave requested, submitted and approved at least 30 calendar days prior to the start of the vacation shall not be changed by the Building Administrator or designee or the employee except by mutual agreement.

Any denied vacation requests believed to be unreasonable by the respective employee may submit a request for an external review by the Director of Personnel who will render and communicate a decision within five (5) days of receiving the request for review.

- 3. Leave days accrued at another State agency or school district may not be transferred to the Indian River School District.
- 4. Upon leaving district service, custodians shall be paid for accrued leave.

#### **ARTICLE XIV**

#### **SICK LEAVE**

- A. Chief custodians are to be granted sick leave as provided by the Indian River School District and/or the State of Delaware Code.
- B. If a unit member is not in the building due to sickness/unforeseen circumstances, he/she will inform the building administrator.

**ARTICLE XV**

**JURY DUTY AND APPEARANCE AS WITNESS**

The Indian River School District agrees to abide by the Delaware Code when an employee is called for jury sessions or subpoenaed as a witness in a court case.

**ARTICLE XVI**

**HOURS OF WORK AND PREMIUM RATES**

**A. Work Week**

The work week shall consist of forty (40) hours scheduled on five (5) days from 5:00 a.m. to 2:00 p.m. Monday to Friday with Saturday and Sunday off. The starting time of a workday will be agreed between the chief custodian and the building administrator, if no agreement is reached, the Supervisor of buildings and grounds will make the final decision. Within each 8 hour work day shall be a one half (1/2) hour paid meal period.

**B. Chief custodian Work Schedules**

Chief custodian Work Scheduling Requirements: Each Building Administrator or designee will collaborate with the Chief Custodian to establish, an illustration of job functions that should be performed on a daily, weekly, bi-weekly, monthly, semi-annual or annual basis. This illustration should consider the best times that the work could be completed and coordinate dissemination of the work load amongst the custodial staff members.

**C. Hourly Rate of Pay**

The hourly rate of pay shall be calculated as prescribed by the Delaware Department of Education.

For time worked between 11:00 p.m. Friday and 6:00 am Sunday, employees shall be paid one and one-half times the respective hourly rate for a minimum of two (2) hours.

For time worked between 6:01 am on Sunday and 6:00 am Monday and on Holidays shall be at double time for a minimum of three (3) hours.

For time worked in excess of 40 hours per work week, an employee shall receive, at his/her choice, compensatory time off equal to one and one-half times the time worked or overtime pay at time and one half.

Compensatory time may be accumulated to a maximum of forty eight (48) hours beyond

which, overtime hours shall be paid at the appropriate overtime rate when earned. Time on paid or unpaid leave will not count as time worked to be credited towards forty (40) hours per week.

All compensatory time will be scheduled as mutually agreed between the employee and his/her supervisor.

**D. Inclement Weather**

At times when school has been canceled due to inclement weather and the superintendent directs 12 month employees to report, custodial employees assigned for weather emergencies will report at a time designated by the building administrator/chief custodian in consultation with the supervisor of building and grounds.

On these inclement weather days, if 12 month employees work less than an 8 hour day, custodial employees coming in to prepare the buildings and grounds will be permitted to leave early so as to work a comparable length work day (i.e., 6 hour day, 7 hour day, etc.) without loss of pay.

**E. Work Break**

At a time approved by the immediate supervisor, employees shall be entitled to a duty-free work break with pay of fifteen (15) minutes duration during each half of their work shift or in lieu of a work break, the one half hour lunch period may be extended.

**ARTICLE XVII**

**DISTRIBUTION OF OVERTIME**

- A. Overtime shall be offered on an equitable and rotating basis with the basic objectives of keeping the schools operating efficiently while at the same time providing fair treatment for each employee.
- B. When no volunteers are available, the chief custodian will have the opportunity to work the overtime or custodial employees shall be required to work overtime, as assigned on a rotational basis.
- C. Overtime pay may be charged to non-school related organizations/individuals for hours worked even if the custodians worked less than 40 hours in the work week.
- D. When an employee is required to work for an outside organization, he/she shall be paid for this function no later than the second full pay period after s/he works, provided the employee initiates the proper paperwork in a timely manner.
- E. At least one custodial employee shall be on duty on election days for the duration of polling times and shall be paid in accordance with the overtime article.

## ARTICLE XVIII

### WORKING CONDITIONS

- A. Chief custodians performing crossing guard duty shall be trained and equipped with signs and appropriate outer gear.
- B. A substitute will be hired for an employee on paid or unpaid leave beginning with the first day of absence. During the summer months after the last regular school day in June and before the commencement of the new school year, substitute coverage will be provided at the request of the Building Administrator in consultation with Supervisor of Buildings and Grounds.
- C. Members of this bargaining unit will be responsible for cleaning one or more areas in the building.
- D. Employees shall not be required to perform repairs/maintenance of a major nature and/or those that require a trades certificate/license.
- E. The District strives to provide all necessary and proper equipment, in proper working order, to every building on an equitable basis. Once the equipment is in need of repair or replacement, the chief custodian may request repairs and/or replacement to the Supervisor of Buildings and Grounds.
- F. The chief custodian shall be provided with an office space other than the boiler room where possible.
- G. Chiefs Custodians will be provided annual training.
- H. No bargaining unit member shall be laid off or have regular hours reduced as a result of subcontracting.
- I. Chief Custodians will co-manage, co-evaluate, and co-discipline custodians and fireman with the building administrators.
- J. Chief Custodians are responsible for coordinating vacation requests in order to ensure adequate coverage in the building.
- K. Chief Custodians are required to attend any and all Chief Custodian meetings chaired by Supervisor of Building and Grounds.
- L. Chief Custodians will follow all federal and state laws.
- M. Chief Custodians will follow all district policy and procedures.

- N. Chief Custodians will provide professional development for all building custodians and fireman
- O. Chief Custodians are responsible for managing the AESOP substitute system and securing all custodian substitutes.
- P. Chief Custodians will communicate via email and texts.
- Q. Chief Custodians will be responsible for drafting all evaluations, letters of discipline and improvement plans.
- R. Chief Custodians will manage all online systems in the building(HVAC, etc.)

## **ARTICLE XVIII**

### **SALARY AND FRINGE BENEFITS**

- A. In addition to that provided by the State of Delaware, all employees shall receive supplemental local salary and fringe benefits as set forth in the Appendices of this Agreement.  
Local salary schedules will be increased by the following percentages:

FY 21: 1% on scale

FY 22: re opener

FY 23: re opener

- B. **Benefits**  
Except as provided otherwise by this Contract, chief custodians shall be provided with the same fringe benefits as are provided to teachers in the District (e.g., cafeteria plans, Blood Bank, contributions to health insurance, life insurance, AD&D insurance, long-term disability insurance, and so forth.)

The District will post all benefits including but not limited to health, life, comprehensive liability, short term/long term disability and workers' compensation insurance on the district website.

- C. All employees shall be provided free of charge a non-transferable pass for him/herself to all district-sponsored athletic events.

- D. **Uniforms**

The District shall also provide the following to employees:

1. Employees will be provided three (3) sets of uniforms (shirts and pants) yearly. An employee may choose some shorts for long pants in his/Tier yearly allotment. Employees will also be provided with three (3) 100% cotton t-shirts yearly to wear during the summer months. Wearing of the uniform is required. Every third year an employee may elect to receive and one light duty work jacket. Each year, the district will provide a ball cap and toboggan. An IRCCA committee shall meet with the Buildings and Grounds Supervisor annually to review the style, fabric, and colors of uniforms.
2. Replacement of glasses when broken in the line of duty.
3. One (1) pair of coveralls every five (5) years.
4. One (1) pair of insulated coveralls and two (2) pair of light duty overalls every five (5) years.
5. Shoe covers will be available at each work site for the purpose of protecting foot wear during floor stripping and waxing.
6. Chief custodians will receive a \$30 monthly stipend to offset the cost of personal cell phone use for district business.
- ~~7. The \$70 shoe allowance will be placed in the salary scale, effective FY 20~~

- E. **Tuition Reimbursement**

The District shall reimburse employees for college courses (or other training directly related to the work responsibilities of the employee) taken and successfully completed. The following conditions shall apply to this program.

1. Credits subsidized by any other agency are not eligible for reimbursement under this program.
2. All courses for which reimbursement is requested must receive prior approval from the Director of Personnel
3. Tuition reimbursement shall be at the same rate afforded teachers in the District. A total of three thousand dollars (\$3,000) shall be budgeted annually for this

purpose for all employees covered by this contract.

- F. Completion of a District Approved Professional Development Modules
  - a. After a successful completion of the 16 Spartan or other district approved professional development modules, a Chief Custodian will be awarded \$150.00

## **ARTICLE XIX**

### **THE EMPLOYER AND SCHOOL POLICY**

The Association agrees that the Employer has complete authority over the policies and administration of the school system which it exercises under the provisions of law and in fulfilling its responsibilities under this Agreement, including the establishment of work rules and regulations not inconsistent with the terms of this Agreement. When an employee is absent and funds are not available to provide substitutes, the Employer retains the right to change work. Any other matter involving the management of custodial operations and not covered by this Agreement is the province of the Employer.

Contract Ratification Signature Page

In witness whereof, the parties hereto have set their hands and seals the day and year written.

David Rementer President Chief Custodian  
Association  
Date:

Signed By: \_\_\_\_\_

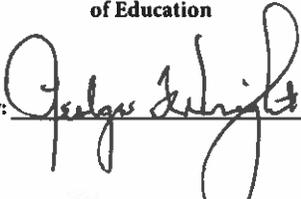
Christopher Salas Vice-President Chief Custodian  
Association  
Date:

Signed By: \_\_\_\_\_

Negotiation Representative:  
Julio Soto Hernandez  
(DSEA Uniserv Director)

\_\_\_\_\_

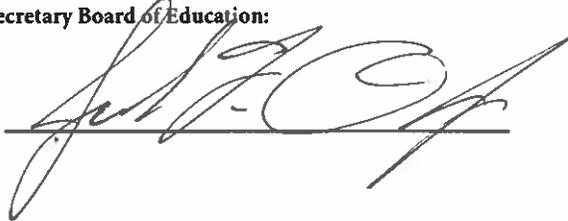
For The Indian River Board  
of Education

Signed By:  \_\_\_\_\_

President, Board of Education  
Date:

Signed By: 09/29/2023 \_\_\_\_\_

Secretary Board of Education:

 \_\_\_\_\_

10-4-23 \_\_\_\_\_