Montgomery County Schools

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TO: Board of Education

FROM: Kevin Lancaster

DATE: March 7, 2011

SUBJ: Agenda Item (Section V – Policies and Regulations)

Attached you will find the Montgomery County Board of Education policies to be voted on for final approval.

I will be available to answer any questions you may have.

These are action items and will require a vote.

STUDENT S AT RISK OF ACADEMIC FAILURE *Policy Code:* **3405**

The principal or designee is responsible for ensuring that teachers identify students at each school who are at risk of academic failure and who are not successfully progressing toward grade promotion and graduation in compliance with G.S. 115C-105.41.

Such identification shall occur as early as reasonably may be done, beginning no later than the fourth grade. In addition, no later than the end of the first quarter or after the teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement shall be developed or updated for each student at risk of academic failure who is not performing at least at grade level.

The principal or designee shall notify the student's parent or guardian that the student has a personal education plan and provide the parent or guardian with a copy of the plan.

Each year the superintendent shall certify to the State Board of Education that the school system has complied with this requirement.

Legal References: G.S. 115C-105.41

Cross References:

Adopted: August 2, 2010
Updated:

DRUG AND ALCOHOL TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS

Policy Code: **7241**

The purposes of this policy are to help ensure the safe operation of school vehicles and to comply with federal law and regulations by establishing a comprehensive program ~~of~~ for drug and alcohol testing of school bus drivers and all other commercial motor vehicle operators employed by the board of education.

A. APPLICABILITY

Persons subject to this policy include any employee, volunteer or independent contractor who operates a commercial motor vehicle in the course of his or her duties for the board of education, including anyone who regularly or intermittently drives a school bus, activity bus or other vehicle designed to transport 16 or more people, including the driver.

B. PROHIBITED ACTS

Commercial motor vehicle operators employed by the board must not be impaired by alcohol or by a prescription or nonprescription drug while on duty or while operating any motor vehicle. For the purposes of this policy, an employee is considered impaired by alcohol in all cases in which testing reveals a blood alcohol content of 0.02 Further, no driver will be permitted to perform safety-sensitive functions if evidence exists of his or her alcohol consumption. In addition, commercial motor vehicle operators, and anyone who supervises commercial motor vehicle operators, must not commit any act prohibited by federal law, including "Controlled Substances and Alcohol Use and Testing" (49 C.F.R. pt. 382) (hereinafter referred to as Part 382), by this policy or by policy 7240, Drug-Free and Alcohol-Free Workplace. No driver may operate may school bus or school activity bus while consuming alcohol or while alcohol remains in the driver's body in violation of G. S. 20-138.2B..

C. TESTING

The transportation department will carry out pre-employment, post-accident, random, reasonable suspicion, return-to-duty and follow-up testing for drugs and alcohol as required by Part 382. School bus drivers and others employed by the board for the primary purpose of operating a commercial motor vehicle must undergo pre-employment testing. Employees whose duties include occasional

driving will not be subject to pre-employment testing but must undergo all other testing required by Part 382.

All employees must undergo drug and alcohol testing before driving a commercial motor vehicle for the board of education.

D. PRE-EMPLOYMENT INQUIRY

All applicants who would be subject to this policy if employed by the board must consent in writing to the release of any information gathered pursuant to Part 382 by any of the applicant's previous employers.

Before employing any applicant subject to this policy or Part 382, the administration shall obtain, pursuant to the applicant's written consent, all records maintained by the applicant's previous employer of prohibited acts committed by the applicant in the two years prior to the inquiry date.

E. TRAINING AND EDUCATION

Each commercial motor vehicle operator and supervisory employee, including principals and assistant principals, must be provided with educational materials that inform the employees of drug testing procedures, prohibited acts, consequences and other aspects of Part 382, this policy and any accompanying administrative procedures. The information also will identify a school district employee who is responsible for providing information on substance abuse. Each employee must sign a statement certifying his or her receipt of these materials.

Each supervisor who is responsible for overseeing the performance of commercial motor vehicle operators, including principals and assistant principals, must undergo at least one hour of training concerning alcohol misuse and one additional hour of training concerning drug abuse.

F. REFERRALS

Each motor vehicle operator who commits acts prohibited by Part 382 or G.S. 20-138.2B, other than provisions governing pre-employment testing, will be provided with information concerning resources available for evaluating and resolving drug or alcohol misuse. This information will include the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs. Before any motor vehicle operator who has committed a

prohibited act under Part 382 or G.S. 20-138.2B will be allowed to drive again, he or she must be evaluated by a substance abuse professional and must satisfactorily complete any appropriate treatment that the substance abuse professional designates.

G. PENALTIES

Employees who have committed a prohibited act, refused any test required by this policy or otherwise violated this policy, G.S. 20-138.2B or Part 382, will be subject to disciplinary action, up to and including dismissal.

H. PROCEDURES

All procedures for collection and testing provided in the Federal Highway Administration's "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 C.F.R. pt. 40) and all requirements in Part 382, including testing, reporting, record retention, training and confidentiality, will be followed. Copies of these federal regulations will be readily available. The superintendent shall develop any other procedures necessary to carry out these regulations.

Legal References: 49 U.S.C. app. 2717; 49 C.F.R. pts. 40, 382; G.S. 20-138.2B

Cross References: Drug-Free and Alcohol-Free Workplace (policy 7240)

Adopted: May 1, 2000
Updated: August 3, 2009
Updated:

A. PROFESSIONAL EMPLOYEES

Professional employees who intend to resign for any reason are encouraged to indicate their plans in writing at as early a date in the school year as possible, such as when plans become firm and/or the decision to leave the school district is made. Employees in administrative positions are required to give a 60 day notice unless the superintendent consents to a shorter notice period.

A resignation becomes effective at the end of the school year in which it is submitted. A resignation for any other time requires a 30 days' notice unless the superintendent consents to a shorter notice period.

If a teacher has not been recommended for dismissal but fails to meet the notice requirements and the superintendent does not consent to a waiver of notice, the superintendent shall inform the board and recommend to the board whether a request should be made to the State Board of Education to revoke the teacher's license for the remainder of the school year. The superintendent shall place a copy of the request in the teacher's personnel file.

If a career employee who has been recommended for dismissal under G.S. 115C-325(e)(1) resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal in the employee's personnel file; (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education; and (4) the employee shall be deemed to have voluntarily surrendered his or her certificate pending an investigation by the State Board of Education to determine whether to seek action against the employee's certificate. For purposes of this section, "career employee" means (1) a teacher or administrator with career status, or (2) an administrator or probationary teacher during the term of his or her contract.

B. ALL EMPLOYEES

Letters of resignation must be submitted to the superintendent. Resignations may be accepted, on behalf of the board, by the superintendent or his or her designee. To help ensure the smooth operations of the schools, a 30 day notice is requested whenever possible.

Each employee who is leaving the school district may arrange to meet with any director, supervisor or administrator to discuss his or her reasons for leaving and to identify any practices or policies which he or she feels are detrimental to the objectives of the school district. To the extent possible, statements made by employees will be confidential.

Legal References: G.S. 115C-47, -325(e), -325(o)

Cross References: Personnel Files (policy 7820), Professional Employees: Demotion and Dismissal (policy 7930)

Adopted: May 1, 2000
Updated: August 3, 2009
Updated: November 4, 2010
Updated:

PROFESSIONAL EMPLOYEES: DEMOTION AND DISMISSAL

Policy Code: **7930**

The board recognizes that an effective staff is critical to the smooth operations of the school system and to creating a learning environment where students are able to succeed. When an employee is unable or unwilling to meet performance expectations, the supervisor and superintendent should consider whether dismissal or demotion is appropriate.

Evaluators of career employees are expected to follow policy 7810, Evaluation of Licensed Employees and policy 7820 Personnel Files Evaluators of career or probationary employees should provide the superintendent with carefully documented evidence concerning a person's inadequacies and lack of competencies when such deficiencies have led to the recommendation and contemplation of dismissal or demotion. These documents also should show ways in which the evaluator has endeavored to help the employee become a more effective professional. In the interest of students and the welfare of the school system, dismissal or demotion may be pursued regardless of whether the evaluator has met these expectations, so long as the legal grounds for seeking dismissal or demotion can be sufficiently demonstrated.

All procedures in G.S. 115C-325 will be followed in the dismissal or demotion of career and probationary employees. Career employees and probationary employees during the term of their contracts may be dismissed for the following reasons as outlined in G.S. 115C-325(e)(1):

1. inadequate performance;
2. immorality;
3. insubordination;
4. neglect of duty;
5. physical or mental incapacity;
6. habitual or excessive use of alcohol or non-medical use of a controlled substance as defined in Article5 of Chapter 90 of the General Statutes;
7. conviction of a felony or a crime involving moral turpitude;
8. advocating the overthrow of the government of the United States or the state of North Carolina by force, violence, or other unlawful means;
9. failure to fulfill the duties and responsibilities imposed upon teachers by the General Statutes;
10. failure to comply with such reasonable requirements as the board may prescribe;

11. any cause that constitutes grounds for the revocation of such career teacher's teaching certificate;
12. a justifiable decrease in the number of positions due to school system reorganization or decreased enrollment provided that there is full compliance with other statutory requirements;
13. failure to maintain one's certificate in current status;
14. failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 or the General Statutes; and
15. providing false information or knowingly omitting a material fact on an application for employment or in response to pre-employment inquiry.

Resignation by a career employee who has been recommended for dismissal under G.S. 115C-325(e)(1) is subject to the provisions of policy 7900, Resignation.

Legal References: G.S. 90 art. 5; 115C-287.1, -307, -325; 143 art. 60; 16 N.C.A.C 6C .0502

Cross References: Professional and Staff Development (policy 1610/7800), Staff Responsibilities (policy 7300), Job Descriptions (policy 7400), Career Status (policy 7410), Evaluation of Licensed Employees (policy 7810), Personnel Files (policy 7820), Annual Independent Audit (policy 8310)

Adopted: May 1, 2000
Updated: April 6, 2009
Updated: March 3, 2010
Updated:

PROBATIONARY TEACHERS: NONRENEWAL

Policy Code: **7950**

The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient, so long as the cause is not arbitrary, capricious or discriminatory or for personal or political reasons. Probationary teachers during the term of their contract will be demoted or dismissed only in accordance with policy 7930, Professional Employees: Demotion and Dismissal.

A. TEACHER RIGHTS UPON NONRENEWAL

By no later than May 15, the superintendent shall provide written notice to the probationary teacher of the superintendent's intent to recommend nonrenewal and the teacher's right, within 10 days of receipt of the superintendent's recommendation, to request and receive written notice of the reasons for the superintendent's recommendation for nonrenewal and the information that the superintendent may share with the board to support the recommendation for nonrenewal. The failure to file a timely request within 10 days shall result in a waiver of the right to this information. If a teacher files a timely request, the superintendent shall provide the requested information, and the teacher shall be permitted to submit supplemental information to the superintendent and board prior to the board's decision.

A probationary teacher, whose contract is not in the final year before the probationary teacher is eligible for career status, has the right to petition the board for a hearing regarding the superintendent's recommendation for nonrenewal. The board will notify the probationary teacher of its decision whether to grant a hearing. For all proceedings initiated after August 31, 2010 teachers eligible for career status have the right to a hearing before the board if the superintendent recommends that the board not grant the teacher career status for any reason other than a reduction in force (see policy 7410, Career Status).

The board will notify the probationary teacher whose contract will not be renewed for the next school year of its decision by June 15. If, however, a teacher submitted a request for information or a hearing, the board shall provide the nonrenewal notification by July 1 or a later date upon the written consent of the superintendent and teacher.

B, NONRENEWAL DUE TO REDUCTION IN FORCE: PROBATIONARY STATUS

The provisions in this section apply to full-time permanent probationary teachers who (1) are non-renewed because of a decrease in the number of school system positions resulting from decreased funding, decreased enrollment or school

system reorganization and (2) are subsequently rehired by the board within three years of their nonrenewal.

The provisions in this section also apply to full-time probationary teachers who (1) resign in good standing effective at the end of the school year after receiving documentation that their position may be eliminated because of a decrease in the number of school system positions resulting from decreased funding, decreased enrollment or school system reorganization and (2) are subsequently rehired by the board.

1. Teachers Not Eligible for Career Status at the Time of Nonrenewal

   The intervening years when the teacher was not employed by the board shall not be deemed to constitute either a break either a break in continuity of years of service or a consecutive year of service for purposes of determining eligibility for career status, provided the teacher gives notice as required in subsection B.3 below.

2. Teachers Eligible for Career Status at the Time of Nonrenewal

   Teachers who have met all service requirements to be eligible for career status pursuant to policy 7410 at the time of their nonrenewal shall be eligible for a career status decision after one additional year of employment upon being rehired, provided the teacher gives notice as required in subsection B.3 below.

3. Required Notice

   a. Within 60 calendar days of the teacher's first day of employment upon being hired, the teacher must:

      (1) give written notice to the executive director of human resources that the teacher's nonrenewal did not constitute a break in service because it was pursuant to policy 7920, Professional Personnel Reduction in Force; and

      (2) provide information establishing to the satisfaction of the superintendent that the teacher was non-renewed because of a decrease in the number of positions triggered by decreased funding or enrollment or due to school system reorganization.

   b. The superintendent or designee shall notify the teacher of the 60-day deadline using a method reasonable calculated to provide actual notice. If the superintendent or designee fails to provide notice within 30 calendar days after the teacher's first day of employment upon rehiring, the teacher's obligation to provide notice shall no commence until such time

that the teacher is notified by the superintendent or designee of the 60-day deadline.

c. The superintendent is not authorized to waive the notice required from the teacher by this subsection without prior approval of the board.

4. Superintendent's Decision and Board Review

a. The superintendent shall issue a written decision to the teacher within a reasonable period of time upon receiving the information required by this section.

b. Within 10 calendar days of receipt, the teacher may petition the board in writing for review of the superintendent's decision.

c. The board will review the matter on the record and issue a written decision.

Legal References: G.S. 115C-45(c), -325

Cross References: Career Status (policy 7410), Professional Personnel Reduction in Force (policy 7920), Professional Employees: Demotion and Dismissal (policy 7930)

Adopted: April 13, 2010
Updated: