

EMPLOYEES (Series 400)

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400 ROLE OF AND GUIDING PRINCIPLES FOR EMPLOYEES

This series of the board policy manual is devoted to the board's goals and objectives for employees in the performance of their jobs. Employees provide a variety of important services for the children of the school district community. They may be teaching or assisting in the classroom, working in the office, maintaining the facilities, driving, or repairing the school buses, or cooking lunches. Each employee plays a vital role in providing an equal opportunity for a quality education for students commensurate with the students' individual needs. While the teachers have the most direct impact on the formal instruction of students, all employees have an impact on the school environment by their dedication to their work and their actions. As role models for the students, employees shall promote a cooperative, enthusiastic, and supportive learning environment for the students.

In striving to achieve a quality education program, the board's goal is to obtain and retain qualified and effective employees. The board shall have complete discretion to determine the number, the qualifications, and the duties of the positions and the school district's standards of acceptable performance. It shall be the responsibility of the superintendent to make recommendations to the board in these areas prior to board action. The board recognizes its duty to bargain collectively with duly certified collective bargaining units. To the extent a group of employees has a recognized collective bargaining unit, the provisions of the master contract regarding such topics shall prevail.

Board policies in this series relating to general employees will apply to employees regardless of their position as a licensed employee, classified employee, substitute, or administrator. Board policies relating to licensed employees will apply to positions that require a teaching license or administrator's certificate or other professional license, certificate, or endorsement, unless administrative positions are specifically excluded from the policy or a more specific policy is in the 300 series, Administration. Classified employees' policies included in this series will apply to positions that do not fall within the definition of licensed employee.

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401.1 EMPLOYEE ORIENTATION

Employees must know their role and duties. New employees shall be required to participate in an orientation program. It shall be the responsibility of the immediate supervisor to provide the new employee with a review of the employee's responsibilities and duties. Payroll procedures and employee benefit programs and accompanying forms will be explained to the employee by the superintendent and/or business manager.

New employees will be required to assume the responsibilities of their position immediately. The administration and the immediate supervisor shall be available to answer questions.

Legal Reference: Iowa Code §§ 20; 279.8 (2009)

Cross Reference: 401.7 Employee Relations to the Administration and to the Board
402.6 Employee Relations to the Public
404 Employee Conduct and Appearance

401.2 EQUAL EMPLOYMENT OPPORTUNITY

The Shenandoah Community School District will provide equal opportunity to employees and applicants for employment in accordance with applicable equal employment opportunity and affirmative action laws, directives, and regulations of federal, state, and local governing bodies. Opportunity to all employees and applicants for employment includes hiring, placement, promotion, transfer or demotion, recruitment, advertising or solicitation for employment, treatment during employment, rates of pay or other forms of compensation, and layoff or termination. The school district will take affirmative action in major job categories where women, men, minorities, and persons with disabilities are underrepresented. Employees will support and comply with the district's established equal employment opportunity and affirmative action policies. Employees will be given notice of this policy annually.

The board will appoint an affirmative action coordinator. The affirmative action coordinator will have the responsibility for drafting the affirmative action plan. The affirmative action plan will be reviewed by the Board at least every two years.

Individuals who file an application with the school district will be given consideration for employment if they meet or exceed the qualifications set by the board, administration, and Iowa Department of Education for the position for which they apply. In employing individuals, the board will consider the qualifications, credentials, and records of the applicants without regard to age, race, color, sex, national origin, religion, creed, sexual orientation, or disability. In keeping with the law, the board will consider the veteran status of applicants.

Prior to a final offer of employment for any teaching position, the school district will perform the background checks required by law. The district may determine on a case-by-case basis that, based on the duties, other positions within the district will also require background checks. Based upon the results of the background checks, the school district will determine whether an offer will be extended. If the candidate is a teacher who has an initial license from the BOEE, then the requirement for a background check is waived.

Advertisements and notices for vacancies within the district will contain the following statement: "The Shenandoah Community School District is an equal employment opportunity/affirmative action (EEO/AA) employer." The statement will also appear on application forms.

Inquiries by employees or applicants for employment regarding compliance with equal employment opportunity and affirmative action laws and policies, including but not limited to complaints of discrimination, will be directed to the Affirmative Action Coordinator by writing to the Affirmative Action Coordinator, Shenandoah Community School District, 601 Dr. Creighton Cir., Shenandoah, Iowa 51601; or by telephoning (712) 246-2520.

Inquiries by employees or applicants for employment regarding compliance with equal employment opportunity and affirmative action laws and policies, including but not limited to complaints of discrimination, may also be directed in writing to the Equal Employment Opportunity Commissions, Milwaukee Area Office, Reuss Federal Plaza, 310 West Wisconsin Ave., Suite 800, Milwaukee, WI., 53203-2292, (800) 669-4000 or TTY (800) 669-6820. <http://www.eeoc.gov/field/milwaukee/index.cfm> or the Iowa Civil Rights Commission, 400 E. 14th Street, Des Moines, Iowa, 50319-1004, (515) 281- 4121 or 1-800-457-4416, <http://www.state.ia.us/government/crc/index.html>. This inquiry or complaint to the federal office may be done instead of, or in addition to, an inquiry or complaint at the local level.

Further information and copies of the procedures for filing a complaint are available in the school district's central administrative office and the administrative office in each attendance center.

Legal Reference: 29 U.S.C. §§ 621-634.
42 U.S.C. §§ 2000e et seq.
42 U.S.C. §§ 12101 et seq.
Iowa Code §§ 19B; 20; 35C; 73; 216; 279.8.
281 I.A.C. 12.4; 95.

Cross Reference: 102 Equal Educational Opportunity
104 Bullying/Harassment
405.2 Licensed Employee Qualifications, Recruitment, Selection
411.2 Classified Employee Qualifications, Recruitment, Selection

401.3 EMPLOYEE CONFLICT OF INTEREST

Employees' use of their position with the school district for financial gain is considered a conflict of interest with their position as employees and may subject employees to disciplinary action.

Employees have access to information and a captive audience that could award the employee personal or financial gain. No employee may solicit other employees or students for personal or financial gain to the employee without the approval of the superintendent. If the approval of the superintendent is given, the employee must conduct the solicitations within the conditions set by the superintendent. Further, the superintendent may, upon five days' notice, require the employee to cease such solicitations as a condition of continued employment.

Employees will not act as an agent or dealer for the sale of textbooks or other school supply companies doing business with the school district. Employees will not participate for personal financial remuneration in outside activities wherein their position on the staff is used to sell goods or services to students or to parents. Employees will not engage in outside work or activities where the source of information concerning the customer, client or employer originates from information obtained because of the employee's position in the school district.

It will also be a conflict of interest for an employee to engage in any outside employment or activity which is in conflict with the employee's official duties and responsibilities. In determining whether outside employment or activity of an employee creates a conflict of interest, situations in which an unacceptable conflict of interest is deemed to exist will include, but not be limited to, any of the following:

1. The outside employment or activity involves the use of the school district's time, facilities, equipment and supplies or the use of the school district's badge, uniform, business card or other evidence of office to give the employee or the employee's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. For purposes of this section, a person is not "similarly situated" merely by being related to an employee who is employed by the school district.
2. The outside employment or activity involves the receipt of, promise of, or acceptance of more or other consideration by the employee or a member of the employee's immediate family from anyone other than the school district for the performance of any act that the employee would be required or expected to perform as part of the employee's regular duties or during the hours during which the employee performs service or work for the school district.
3. The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of the employee during the performance of the employee's duties.

If the outside employment or activity is employment or activity in (1) or (2) above, the employee must cease the employment or activity. If the activity or employment falls under (3), then the employee must:

- a. Cease the outside employment or activity; or
- b. Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. Official action or official duty includes, but is not limited to, participating in any vote, taking affirmative action to influence any vote, or providing any other official service or thing that is not available generally to members of the public in order to further the interest of the outside employment activity.

When procurement is supported by Federal Child Nutrition funds, employees will not participate in the selection, award, or administration of a contract if there is a real or apparent conflict of interest in the contract. Contract, for purposes of this paragraph, includes a contract where the employee, employee's immediate family, partner, or a non-school district employer of these individuals is a party to the contract.

It is the responsibility of each employee to be aware of and take the necessary action to eliminate a potential conflict of interest should it arise.

Legal Reference: 7 C.F.R. 3016.36(3)
Iowa Code §§ 20.7; 68B; 279.8; 301.28.

Cross Reference: 203 Board of Directors' Conflict of Interest
402.4 Gifts to Employees
402.7 Employee Outside Employment
404 Employee Conduct and Appearance

401.4 NEPOTISM

More than one family member may be an employee of the school district. One family member employed by the school district may not be supervised or evaluated by another family member employed by the school district.

The employment by the board of more than one individual in a family is on the basis of their qualifications, credentials and records.

Legal Reference: Iowa Code §§ 20; 71; 277.27; 279.8.

Cross Reference: 405.2 Licensed Employee Qualifications, Recruitment Selection
411.2 Classified Employee Qualifications, Recruitment Selection

401.5 EMPLOYEE COMPLAINTS

Complaints of employees against fellow employees should be discussed directly between employees. If necessary, complaints will be brought directly to the immediate supervisor, principal or superintendent and will be made in a constructive and professional manner. Complaints will never be made in the presence of other employees, students, or outside persons.

A formal grievance procedure is contained in the handbook between the employee's licensed bargaining unit and the board. This policy will not apply to a complaint that has been or could be filed at the employee's discretion under that formal grievance procedure.

Legal Reference: Iowa Code §§ 20; 279.8.

Cross Reference: 309 Communication Channels

401.6 EMPLOYEE RECORDS

The school district will maintain personnel records on employees. The records are important for the daily administration of the educational program, for implementing board policy, for budget and financial planning, and for meeting state and federal requirements.

The records will include, but not be limited to, records necessary for the daily administration of the school district, salary records, evaluations, application for employment, references, and other items needed to carry out board policy. Employee personnel files are school district records and are considered confidential records and therefore are not generally open to public inspection or accessibility. Only in certain limited instances, when the employee has given a signed consent, will employee personnel records be accessible to individuals other than the employee or authorized school officials.

Employees may have access to their personnel files, with the exception of letters of reference, and copy items from their personnel files at a time mutually agreed upon between the superintendent and the employee. The school district may charge a reasonable fee for each copy made. However, employees will not be allowed access to the employment references written on behalf of the employee. Board members will generally only have access to an employee's file when it is necessary because of an employee related matter before the board.

It is the responsibility of the superintendent to keep employees' personnel files current. The board secretary is the custodian of employee records.

It is the responsibility of the superintendent to develop administrative regulations for the implementation of this policy.

Legal Reference: Iowa Code Chs. 20; 21; 22; 91B.

Cross Reference: 402.1 Release of Credit Information
403 Employees' Health and Well Being
708 Care, Maintenance and Disposal of School District Records

401.6R1 EMPLOYEE RECORDS REGULATION

Employee Personnel Records Content

1. Employee personnel records may contain the following information:
 - Personal information including, but not limited to, name, address, telephone number, emergency numbers, birth date and spouse.
 - Individual employment contract.
 - Evaluations.
 - Application, resume and references.
 - Salary information.
 - Copy of the employee's license or certificate, if needed for the position.
 - Educational transcripts.
 - Assignment.
 - Records of disciplinary matters.
2. Employee health and medical records are kept in a file separate from the employee's personnel records. Health and medical records may contain, but are not limited to:
 - Medical professional signed physical form.
 - Sick or long-term disability leave days.
 - Worker's compensation claims.
 - Reasonable accommodation made by the school district to accommodate the employee's disability.
 - Employee's medical history.
 - Employee emergency names and numbers.
 - Family and medical leave request forms.
3. The following are considered public personnel records available for inspection:
 - The name and compensation of the individual, including any written agreement establishing compensation or any other terms of employment, except for that information that is otherwise protected. "Compensation" includes the value of benefits conferred including, but not limited to: casualty, disability, life or health insurance, other health or wellness benefits, vacation, holiday and sick leave, severance payments, retirement benefits and deferred compensation;
 - The dates the individual was employed by the government body;
 - The positions the individual holds or has held with the government body;
 - The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individuals' previous employers, positions previously held and dates of previous employment;
 - The fact that the individual was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies; and,
 - Personal information in confidential personnel records of government bodies relating to student employees shall only be released pursuant to the Family Educational Privacy Rights Act (FERPA.)

Applicant File Records Content

Records on applicants for positions with the school district are maintained in the central administration office. The records will include, but not be limited to:

- Application for employment.
- Resume.
- References.
- Evidence of appropriate license or certificate, if necessary for the position for which the individual

- applied.
- Affirmative action form, if submitted.

Record Access

Only authorized school officials will have access to an employee's records without the written consent of the employee. Authorized school officials may include, but not be limited to, the superintendent, building principal, or board secretary. In the case of a medical emergency, the school nurse or other first aid or safety personnel may have access to the employee's health or medical file without the consent of the employee.

Board members will generally only have access to an employee's personnel file without the consent of the employee when necessary for the conducting of board business.

Employee Record Retention

All employee records, except payroll and salary records, are maintained for a minimum of one year after termination of employment with the district. Applicant records are maintained for minimum of one year after the position was filled. Payroll and salary records are maintained for a minimum of three years after payment.

401.7 EMPLOYEE RELATIONS TO THE ADMINISTRATION AND TO THE BOARD

Employees are encouraged to attend school board meetings. Employees shall be available to provide information and assist in providing recommendations to the board upon request. Employees shall keep the board informed through the administration about educational trends and issues that may assist the board. It shall be the responsibility of the employees to keep the administration informed about the day-to-day occurrences in their work areas.

It shall be the responsibility of the superintendent to develop avenues for communication between the board and the employees. These avenues of communication will not be construed as denying the right of any employee to appeal an action or decision of the superintendent to the board.

Legal Reference: Iowa Code § 279.8 (2009)

Cross Reference 401.5 Employee Complaints
 401.7 Employee Involvement in Decision Making

401.8 EMPLOYEE INVOLVEMENT IN DECISION MAKING

Input from employees regarding the students, the education program and other school district operations will be considered by the administration and the board. Employees may be requested to make a presentation to the board. The administration, in its discretion, may consult with employees about proposed changes in the education program and operations of the school district.

Employees having suggestions for changes or improvements in administrative procedure or policy should take such suggestions directly to the principal or the superintendent. The principal or superintendent will discuss the suggestion with the employee. After a final decision is made on any policy or procedure, employees will be expected to accept and support the decision in their subsequent actions, discussions, and relations.

Legal Reference: Iowa Code § 279.8 (2009).

Cross Reference: 302.2 Administration and Employees
401.7 Employee Relations to the Administration and to the Board

401.9 USE OF SCHOOL DISTRICT FACILITIES & EQUIPMENT BY EMPLOYEES

The primary purpose of the school district facilities and equipment is to deliver a quality education program. Resources for school district equipment are limited; therefore, each user must operate the equipment with the utmost care. Employees may use school district equipment for any school purpose or activity held during the school day or for a school-sponsored event.

Employees may use the school district facilities for non-school-sponsored events when it does not interfere with the delivery of the education program. Employees must have the permission of the appropriate supervisor, do it on their own time and must pay for the materials used. An employee's request will not supersede a prior request. The employee will be responsible for ensuring the building is in the condition it was found. For non-educational business, the employee will be responsible to meet the requirements set out by the principal when the request is granted.

Legal Reference: Iowa Code §§ 256.12; 279.8; 297.9 (2009).

Cross Reference: 905 Use of School District Facilities & Equipment

401.10 USE OF SCHOOL DISTRICT MATERIALS FOR INTERNAL COMMUNICATIONS

School district materials are purchased and used for the delivery of the education program. Employees may use school district materials and equipment for internal communication among themselves when the communication is directly related to the education program. Communications distributed to or between employees shall also be distributed to the building principal and the superintendent.

When the communication will involve unusual expense or use of materials, the employee must first have permission of the principal.

Legal Reference: Iowa Code § 279.8 (2009)

Cross Reference: 401.9 Use of School District Facilities & Equipment by Employees

401.11 TRANSPORTING OF STUDENTS BY EMPLOYEES

Generally, transportation of students is in a motor vehicle owned by the school district and driven by an employee. In some cases, it may be more economical or efficient for the school district to allow an employee of the school district to transport the students in the employee's motor vehicle.

Employees who transport students for school purposes must have the permission of the superintendent.

This policy statement applies to transportation of students for school purposes in addition to the regular bus route transporting students to and from their designated attendance center.

Legal Reference: Iowa Code chs 285; 321 (2009).

Cross-Reference: 401.12 Employee Travel Compensation
711 Transportation
904.1 Transporting Students in Private Vehicles

401.12 EMPLOYEE TRAVEL COMPENSATION

Employees traveling on behalf of the school district and performing approved school district business will be reimbursed for their actual and necessary expenses. Actual and necessary travel expenses will include, but not be limited to, transportation and/or mileage costs, lodging expenses, meal expenses and registration costs.

Travel Outside the School District

Travel outside of the school district must be pre-approved. Pre-approval will include an evaluation of the necessity of the travel, the reason for the travel and an estimate of the cost of the travel to qualify as approved school district business. Travel outside the school district by employees, other than the superintendent, is pre-approved by the superintendent or an immediate supervisor. Travel outside the school district by the superintendent shall be approved by the board president.

Reimbursement for actual and necessary expenses may be allowed for travel outside the school district if the employee received pre-approval for the travel. Prior to reimbursement of actual and necessary expenses, the employee must provide the school district with a detailed, itemized receipt, indicating the date, purpose, and nature of the expense for each claim item. In exceptional circumstances, the superintendent may allow a claim without proper receipt. Written documentation explaining the exceptional circumstances is maintained as part of the school district's record of the claim.

Failure to have a detailed, itemized receipt will make the expense a personal expense. Personal expenses, including mileage, in excess of that required for the trip are reimbursed by the employee to the school district no later than 10 working days following the date of the expense.

Reimbursement for actual and necessary expenses for travel outside the school district will be limited to the pre-approved expenses. Pre-approved expenses for registration are limited to the actual cost of the registration.

Pre-approved expenses for transportation within three-hundred miles of the school district administrative office will be by automobile. If a school district vehicle is not available, the employee will be reimbursed mileage at the Internal Revenue Service standard mileage rate. Travel to/from home and work is never a reimbursable travel expense. Travel Costs for a spouse or anyone other than the district employee shall be a personal expense not reimbursed by the district.

Travel Within the School District

Employees required to travel in their personal vehicle between school district buildings to carry out the duties of their position may be reimbursed mileage at the Internal Revenue Service standard mileage rate. It is the responsibility of the superintendent to approve travel within the school district by employees. It is the responsibility of the board to review the travel within the school district by the superintendent through the board's audit and approval process.

Travel allowances within the district will be provided only after Board approval. Employees who are allowed a within district travel allowance will have the amount of the allowance actually received during each calendar year included on the employee's W-2 form as taxable income according to the Internal Revenue Code.

Use of District-Owned Vehicles

Certain district employment positions may require regular and extensive travel. Due to the required duties of these positions, the district may provide certain positions with use of district-owned vehicles. Employees who utilize district-owned vehicles during the course of their job duties are fulfilling the public purpose of meeting the needs of the educational community in an efficient, and time-sensitive manner. District-owned vehicles are purchased and maintained with public money and must be used strictly in accordance with fulfilling a public

purpose. These vehicles represent the district in carrying out its educational mission. Therefore, district-owned vehicles will be clearly marked at all times to identify the district.

The superintendent is responsible for developing administrative regulations regarding actual and necessary expenses, in-school district travel allowances and assignment and proper use of school district vehicles. The administrative regulations will include the appropriate forms to be filed for reimbursement to the employee from the school district and the procedures for obtaining approval for travel outside of and within the school district.

Legal Reference: Iowa Constitution, Art. III, § 31.
Iowa Code §§ 70A.9-.11.
1980 Op. Att'y Gen. 512.

Cross Reference: 219.3 Board of Directors' Member Compensation and Expenses
401.11 Transporting of Students by Employees
401.16 Credit Cards
904.1 Transporting Students in Private Vehicles

401.13 EMPLOYEE ACTIVITY PASSES

Passes for employees and their guest to school sponsored activities will be available to employees for working two school activities for no additional compensation. The employee may opt out of receiving a pass and working two school activities. An employee who receives a pass and does not work two school activities by the end of the fiscal year will be required to repay the district for the cost of the pass for the employee and guest.

Legal Reference: Iowa Code § 279.8 (2009).

Cross Reference:

401.14 RECOGNITION FOR SERVICE OF EMPLOYEES

The board recognizes and appreciates the service of its employees. Employees who retire, resign, or reach a certain level of years of service may be honored by the board, administration, and staff in an appropriate manner.

If the form of honor thought appropriate by the administration and employees involves unusual expense to the school district, the superintendent will seek prior approval from the board.

Legal Reference: Iowa Const. Art. III, § 31.
Iowa Code § 279.8.

Cross Reference: 407 Licensed Employee Termination of Employment
413 Classified Employee Termination of Employment

401.14.1 EMPLOYEE EXPRESSION

The board believes the district has an interest in maintaining an orderly and effective work environment while balancing employees' First Amendment right to freedom of expression and diverse viewpoints and beliefs. When employees speak within their official capacity, their expression represents the district and may be regulated. The First Amendment protects a public employee's speech when the employee is speaking as an individual citizen on a matter of public concern. Even so, employee expression that has an adverse impact on district operations and/or negatively impacts an employee's ability to perform their job for the district may still result in disciplinary action up to and including termination.

Employees will comply with Iowa law to the extent that compliance does not infringe on employees' free speech rights.

Employees who use social media platforms are encouraged to remember that the school community may not be able to separate employees as private citizens, from their role within the district. Employee expression on social media platforms that interferes with the district's operations or prevents the district from functioning efficiently and effectively may be subject to discipline up to and including termination.

A district employee who acts to protect a student from engaging in free expression or who refuses to infringe on the student's engaging in free expression; and who is acting within the scope of their professional ethics will not be retaliated against or face any adverse employment action based on their behavior provided that expression is otherwise permitted by law and board policy.

If the board or courts find an employee that is subject to licensure, certification or authorization by the Board of Educational Examiners discriminated against a student or other co-employee, the board will refer the employee to the Board of Educational Examiners for additional proceedings as required by law and which may result in discipline up to and including termination.

Legal Reference: U.S. Const. Amend. 1
Kennedy v. Bremerton School District, 597 U.S. (2022)
Iowa Code §§ 279.73; 280.22

Cross Reference: 401.13 Staff Technology Use/Social Networking
502.3 Student Expression and Student Publication Code

401.15 EMPLOYEE POLITICAL ACTIVITY

Employees will not engage in political activity upon property under the jurisdiction of the board including the use of school district email accounts. Activities including, but not limited to, posting of political circulars or petitions, the distribution of political circulars or petitions, the collection of or solicitation for campaign funds, solicitation for campaign workers, general information regarding elections or ballot issues and the use of students for writing or addressing political materials, or the distribution of such materials to or by students are specifically prohibited.

Violation of this policy may be grounds for disciplinary action.

Legal Reference: Iowa Code §§ 55; 279.8.

Cross Reference: 409.5 Licensed Employee Political Leave
414.5 Classified Employee Political Leave

401.16 CREDIT AND PROCUREMENT CARDS

Employees may use school district credit cards for the actual and necessary expenses incurred in the performance of work-related duties. Actual and necessary expenses incurred in the performance of work-related duties include, but are not limited to, fuel for school district transportation vehicles used for transporting students to and from school and for school-sponsored events, payment of claims related to professional development of the board and employees, and other expenses required by employees and the board in the performance of their duties.

School credit cards shall not be used for purchasing goods for personal use, for non-school matters, or for school related purchases that have not been authorized in advance. Violating any of these restrictions may result in discipline up to and including termination of employment. The use of a credit card for personal purchases may also violate the criminal code of Iowa and may be deemed misconduct in office.

Employees and officers using a school district credit card must submit a detailed receipt in addition to a credit card receipt indicating the date, purpose, and nature of the expense for each claim item. Failure to provide a proper receipt will make the employee responsible for expenses incurred. Those expenses are reimbursed to the school district no later than ten working days following use of the school district's credit card. In exceptional circumstances, the superintendent or board may allow a claim without proper receipt. Written documentation explaining the exceptional circumstances is maintained as part of the school district's record of the claim.

The school district may maintain a school district credit card for actual and necessary expenses incurred by employees and officers in the performance of their duties. The superintendent may maintain a school district credit card for actual and necessary expenses incurred in the performance of the superintendent's duties. The transportation director may maintain a school district credit card for fueling school district transportation vehicles in accordance with board policy.

It is the responsibility of the superintendent to determine whether the school district credit card use is for appropriate school business. It is the responsibility of the board to determine through the audit and approval process of the board whether the school district credit card use by the superintendent and the board is for appropriate school business.

The superintendent is responsible for developing administrative regulations regarding actual and necessary expenses and use of a school district credit card. The administrative regulations will include the appropriate forms to be filed for obtaining a credit card.

Legal Reference: Iowa Constitution, Art. III, § 31.
Iowa Code §§ 279.8, .29, .30.
281 I.A.C. 12.3(1).

Cross Reference: 216.3 Board of Directors' Member Compensation and Expenses
401.7 Employee Travel Compensation

401.17 STAFF TECHNOLOGY USE/SOCIAL NETWORKING

Computers, electronic devices, and other technology are powerful and valuable education and research tools and, as such, are an important part of the instructional program. In addition, the school district depends upon computers as an integral part of administering and managing the schools' resources, including the compilation of data and recordkeeping for personnel, students, finances, supplies and materials. This policy outlines the board's expectations in regard to these different aspects of the school district's computer resources. Employees must conduct themselves in a manner that does not disrupt from or disrupt the educational process and failure to do so will result in discipline, up to and including, discharge.

General Provisions

The superintendent is responsible for designating a Technology Director who will oversee the use of school district technology resources. The Technology Director will prepare in-service programs for the training and development of school district staff in technology skills, appropriate use of district technology and for the incorporation of technology use in subject areas.

The superintendent, working with appropriate staff, shall establish regulations governing the use and security of the school district's technology resources. The school district will make every reasonable effort to maintain the security of the district networks and devices. All users of the school district's technology resources, including students, staff, and volunteers, shall comply with this policy and regulation, as well as others impacting the use of school equipment and facilities. Failure to comply may result in disciplinary action, up to and including discharge, as well as suspension and/or revocation of technology access privileges.

Usage of the school district's technology resources is a privilege, not a right, and that use entails responsibility. District-owned technology; and district maintained social media and e-mail accounts are the property of the school district. Therefore, users of the school district's network must not expect, nor does the school district guarantee, privacy for e-mail or use of the school district's network including web sites visited. The school district reserves the right to access and view any material stored on school district equipment or any material used in conjunction with the school district's network.

The superintendent, working with the appropriate staff, shall establish procedures governing management of technology records in order to exercise appropriate control over records, including financial, personnel and student information. The procedures will address at a minimum:

- (1) passwords,
- (2) system administration,
- (3) separation of duties,
- (4) remote access,
- (5) data back-up (including archiving of e-mail),
- (6) record retention, and
- (7) disaster recovery plans.

Social Networking or Other External Web Sites

For purposes of this policy any web site, other than the school district web site or school-school district sanctioned web sites, are considered external web sites. Employees shall not post confidential or proprietary information, including photographic images, about the school district, its employees, students, agents, or others on any external web site without consent of the superintendent. The employee shall adhere to all applicable privacy and confidentiality policies adopted by the school district when on external web sites. Employees shall not use the school district logos, images, iconography, etc. on external web sites. Employees shall not use school district time

or property on external sites that are not in direct relation to the employee's job. Employees, students, and volunteers need to realize that the Internet is not a closed system, and anything posted on an external site may be viewed by others, all over the world. Employees, students, and volunteers who don't want school administrators to know their personal information, should refrain from exposing it on the Internet. Employees should not connect with students via external web sites without consent of the superintendent. Employees, who would like to start a social media site for school district sanctioned activities, should contact the superintendent.

It is the responsibility of the superintendent to develop administrative regulations implementing this policy.

Legal Reference: Iowa Code § 279.8.
281 I.A.C. 13.35, .26.

Cross Reference:	104	Anti-Bullying/Harassment
	306	Administrator Code of Ethics
	401.11	Employee Orientation
	407	Licensed Employee Termination of Employment
	413	Classified Employee Termination of Employment
	605	Instructional Materials

401.17R1 STAFF TECHNOLOGY USE REGULATION

General

The following rules and regulations govern the use of the school district's network systems, employee access to the internet, and management of digital records:

- (1) Employees will be issued a school district e-mail account. Passwords must be changed periodically.
- (2) Each individual in whose name an access account is issued is responsible at all times for its proper use.
- (3) Employees are expected to review their e-mail regularly throughout the day and shall reply promptly to inquiries with information that the employee can reasonably be expected to provide.
- (4) Communications with parents and/or students must be made on a school district computer, unless in the case of an emergency.
- (5) Employees may access the internet for education-related and/or work-related activities.
- (6) Employees shall refrain from using technology resources for personal use, including access to social networking sites.
- (7) Use of the school district technology and school e-mail address is a public record. Employees cannot have an expectation of privacy in the use of the school district's computers.
- (8) Use of technology resources in ways that violate the acceptable use and conduct regulation, outlined below, will be subject to discipline, up to and including discharge.
- (9) Use of the school district's network is a privilege, not a right. Inappropriate use may result in the suspension or revocation of that privilege.
- (10) Off-site access to the school district network will be determined by the superintendent in conjunction with appropriate personnel.
- (11) All network users are expected to abide by the generally accepted rules of network etiquette. This includes being polite and using only appropriate language. Abusive language, vulgarities and swear words are all inappropriate.
- (12) Network users identifying a security problem on the school district's network must notify appropriate staff. Any network user identified as a security risk or having a history of violations of school district computer use guidelines may be denied access to the school district's network.
- (13) Employees are representatives of the district at all times and must model appropriate character, both on and off the worksite. This applies to material posted with personal devices and on personal websites and/or social media accounts. Posted messages or picture which diminish the professionalism or discredit the capacity to maintain respect of students and parents may result in disciplinary action up to and including termination if the content posted is found to be disruptive to the educational environment and adversely impacts the employee's ability to effectively serve as a role model or perform his/her job duties for the district. The type of material that would affect an employee's ability to serve as an appropriate role model includes, but is not limited to, text or depictions involving hate speech, nudity, obscenity, vulgarity, or sexually explicit content. Employee communications with students should be limited as appropriate. If there is any uncertainty, employees should consult their building administrator.

Prohibited Activity and Uses

The following is a list of prohibited activity for all employees concerning use of the school district's network. Any violation of these prohibitions may result in discipline, up to and including discharge, or other appropriate penalty, including suspension or revocation of a user's access to the network.

- Using the network for commercial activity, including advertising, or personal gain.
- Infringing on any copyrights or other intellectual property rights, including copying, installing, receiving, transmitting, or making available any copyrighted software on the school district computer network. *See Policy 605.7, Use of Information Resources* for more information.

- Using the network to receive, transmit or make available to others obscene, offensive, or sexually explicit material.
- Using the network to receive, transmit or make available to other messages that are racist, sexist, and abusive or harassing to others.
- Use of another's account or password.
- Attempting to read, delete, copy, or modify the electronic mail (e-mail) of other system users.
- Forging or attempting to forge e-mail messages.
- Engaging in vandalism. Vandalism is defined as any malicious attempt to harm or destroy school district equipment or materials, data of another user of the school district's network or of any of the entities or other networks that are connected to the Internet. This includes, but is not limited to, creating and/or placing a virus on the network.
- Using the network to send anonymous messages or files.
- Revealing the personal address, telephone number or other personal information of oneself or another person.
- Using the network for sending and/or receiving personal messages.
- Intentionally disrupting network traffic or crashing the network and connected systems.
- Installing personal software or using personal technology on the school district's technology and/or network without the permission of the Director of Information Technology.
- Using the network in a fashion inconsistent with directions from teachers and other staff and generally accepted network etiquette.

Other Technology Issues

Employees with personal cell phones should avoid using their phones for school district business. Employees should contact students and their parents through school district technology or phone system unless in the case of an emergency or with prior consent of the principal. Employees should not release their cell phone number, personal e-mail address, etc. to students or their parents. Employees, who are coaches or sponsors of activities, may create a text list of students and parents in order to communicate more effectively as long as the texts go to all students and the principal is included in the text address list.

401.18 LIMITATIONS TO EMPLOYMENT REFERENCES

The district believes in taking appropriate measures to promote the health and welfare of all students. Any school employee, contractor, or agent shall not assist another school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

This limitation does not apply if the matter has been properly reported to law enforcement and any other regulatory authorities required by law, and either:

- the matter has been officially closed by the law enforcement agency;
- the individual is acquitted or otherwise exonerated of the alleged misconduct; or
- more than four years has passed since the case was opened, and no charges or indictment have been filed.

Legal References: 20 U.S.C. §7926
281 I.A.C. 12.3(14)

Cross References: 401.5 Employee Records
402.2 Child Abuse Reporting
402.3 Abuse of Students by School District Employees
405.2 Licensed Employee Qualifications, Recruitment, Selection
411.2 Classified Employee Qualifications, Recruitment, Selection

401.19 EMPLOYEE ORIENTATION

Employees must know their role and duties. New employees may be required to participate in an orientation program for new employees. The employee's immediate supervisor should provide the new employee with a review of the employee's responsibilities and duties. Payroll procedures and employee benefit programs and accompanying forms will be explained to the employee by the School Business Official. Regular employee's ineligible for the school district's group health plan will be given information regarding where they can obtain health care or health care insurance.

Legal Reference: Iowa Code §§ 20; 279.8.
191 I.A.C. 74.

Cross Reference: 404 Employee Conduct and Appearance
406 Licensed Employee Compensation and Benefits
412 Classified Employee Compensation and Benefits

401.20 EMPLOYEE USE OF CELL PHONES

The use of cell phones and other communication devices may be appropriate to provide for the effective and efficient operation of the school district and to help ensure safety and security of people and property while on school district property or engaged in school-sponsored activities.

The Board authorizes the purchase and employee use of cell phones as deemed appropriate by the superintendent. School district-owned cell phones shall be used for authorized school district business purposes, consistent with the school district's mission and goals.

Use of cell phones in violation of board policies, administrative regulations, and/or state/federal laws will result in discipline, up to and including dismissal, and referral to law enforcement officials, as appropriate.

The superintendent is directed to develop administrative regulations for the implementation of this policy, including a uniform and controlled system for identifying employee cell phone needs, monitoring use and reimbursement. Provisions may also be included for staff use of privately owned cell phone for authorized school district business.

Employees may possess and use cell phones during the school day as outlined in this policy and as provided in the administrative regulation developed by the superintendent. Employees should not use cell phones for personal business while on-duty, including staff development times, parent-teacher conferences, etc., except in the case of an emergency or during prep time or break/lunch times. Employees, except for bus drivers, see below, are prohibited from using cell phones while driving except in the case of an emergency and any such use must comply with applicable state and federal law and district policies and regulations.

Cell phones are not to be used for conversations involving confidential student or employee information. School district-provided cell phones devices are not to be loaned to others.

School bus drivers are prohibited from using any communication device while operating the bus except in the case of an emergency, or to call for assistance, after the vehicle has been stopped. Any such use must comply with applicable state and federal law and district policies and regulations.

Employees violating the policy will be subject to discipline, up to and including, discharge. It is the responsibility of the superintendent to develop administrative regulations regarding this policy.

Legal References: Internal Revenue Comment Notice, 2009-46, http://www.irs.gov/irb/2009-23_IRB/ar07.html
Iowa Code §§ 279.8; 321.276.

Cross References: 406 Licensed Employee Compensation and Benefits
412 Classified Employee Compensation and Benefits
707.5 Internal Controls

Approved 8/9/21

Reviewed 8/9/21

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401.20R1 EMPLOYEE USE OF CELL PHONES REGULATION

Cell Phone Usage

1. Cell phones shall be used in a manner that does not disrupt instruction and should not be used during school-sponsored programs, meetings, in-services, or other events where there exists a reasonable expectation of quiet attentiveness unless there is a reason of personal health or safety involved.
2. Cell phones should not be used to transmit confidential student or personal information either verbally or written.
3. Employees are prohibited from using a cell phone while driving as part of their work duties, unless in the case of an emergency, unless the vehicle has come to a complete stop and the gear is in park.
4. Cell phones are provided specifically to carry out official school district business when other means of communications are not readily available. These devices may not be used for routine personal communications.
5. Personal use of school district-provided cell phones is limited to making or receiving calls for emergency and/or incidental purposes. Whenever possible, such calls should be made or received on school district or other public telephones.
6. Employees issued a cell phone are responsible for its safekeeping at all times. Defective, lost, or stolen cell phones are to be reported immediately to the superintendent who will in turn notify the service provider. Reckless or irresponsible use of school district equipment, resulting in loss or damage may result in the employee having to reimburse the school district for any associated costs of replacement or repair.
7. Cell phones and any other school district issued communication equipment issued for employees are to be returned to the board secretary at the conclusion of the school year, activity or as otherwise specified or immediately upon request.

Cell Phone Authorization - School district-provided cell phones may be purchased and authorized for staff use in accordance with the following guidelines:

Cell phones may be assigned or made available on a temporary basis, by the superintendent, when it is determined:

1. The assignment of a cell phone device to the employee is a prudent use of school district resources;
2. The employee's job responsibilities requires the ability to communicate frequently outside of district property and/or regular district hours.
3. The employee's job involves situations where immediate communication is necessary to ensure the safety of individuals and security of school district property.]

Cell Phone Business Procedures

School district employees may be reimbursed for use of privately owned cell phones to conduct school district business in accordance with board policy and this regulation, with prior approval of the superintendent.

1. Requests for reimbursement for authorized use of employee-owned cell phones are to be submitted on school district provided forms accompanied by a copy of the billing statement with the school district business related calls highlighted. A notation for each highlighted entry, indicating the nature of the call is required. The employee's immediate supervisor must sign-off on the billing statement verifying the calls were school district business related. School district reimbursement for authorized use of employee-owned cell phones will be made in conformance with school district payment procedures. Requests for reimbursement, including the highlighted billing statement must be submitted within thirty (30) days of the end of the time period for which reimbursement is requested. Requests submitted after the reimbursement deadline has passed will be denied.
2. If personal calls are made on a district-owned phone and the calls result in an additional plan charge to the district, the calls must be itemized and reimbursed to the district.

402.1 RELEASE OF CREDIT INFORMATION

The following information will be released to an entity with whom an employee has applied for credit or has obtained credit: title of position, income, and number of years employed. This information will be released without prior written notice to the employee. Confidential information about the employee will be released to an inquiring creditor with a written authorization from the employee.

It is the responsibility of the board secretary or superintendent to respond to inquiries from creditors.

Legal Reference: Iowa Code §§ 22.7; 279.8.

Cross Reference: 401.6 Employee Records

402.2 CHILD ABUSE REPORTING

In compliance with state law and to provide protection to victims of child abuse, the board believes incidents of alleged child abuse should be reported to the proper authorities. All licensed school employees, teachers, coaches and paraeducators and all school employees 18 years of age or older are mandatory reporters as provided by law and are to report alleged incidents of child abuse they become aware of within the scope of their professional duties.

When a mandatory reporter suspects a student is the victim of child abuse, the mandatory reporter shall make an oral report of the suspected child abuse to the Iowa Department of Human Services within 24 hours of becoming aware of the abusive incident and shall make a written report to the Iowa Department of Human Services within 48 hours following the oral report. If the mandatory reporter believes the child is in immediate danger, the local law enforcement agency will also be notified.

Within six months of their initial employment, mandatory reporters will take a training course involving the identification and reporting of child abuse, or submit evidence they've taken the course within the previous three years. Once the training course has been taken, the certificate will remain valid for three years. Employees who have taken the two-hour training course will take the one-hour follow-up training course every three years and prior to the expiration of their certificate.

Legal Reference: Iowa Code §§ 232.67-.77; 232A; 235A; 280.17.441 I.A.C. 9.2; 155; 175.

I.C. Iowa Code

Iowa Code § 232

Iowa Code § 232A

Iowa Code § 235A

Iowa Code § 280.17

Description[Juvenile Justice](#)[Juvenile Justice Restitution](#)[Child Abuse](#)[Uniform School Requirements - Child abuse reporting](#)**I.A.C. Iowa Administrative Code**

441 I.A.C. 155

441 I.A.C. 175

441.I.A.C. 9.2

Description[Human Services - Child Abuse Prevention](#)[Human Services - Abuse of Children](#)[Human Services - Statement of Policy](#)**Cross Reference:****Code**

401.6

402.3

502.9

507

Description

Limitations to Employment References

Abuse of Students by School District Employees

Interviews of Students by Outside Agencies

Student Health and Well-Being

402.2R1 CHILD ABUSE REPORTING REGULATION

Iowa law requires licensed employees to report to the Iowa Department of Human Services (DHS) instances of suspected child abuse which they become aware of within the scope of their professional duties.

The law further specifies that a licensed employee who knowingly or willfully fails to report a suspected case of child abuse is guilty of a simple misdemeanor and that the licensed employee may be subject to civil liability for damages caused by the failure to report.

Employees participating in good faith in the making of a report or in a judicial proceeding that may result from the report, are immune from liability.

Child Abuse Defined

"Child abuse" is defined as:

1. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
2. The commission of a sexual offense with or to a child as a result of the acts or omissions of the person responsible for the child... Sexual offense includes sexual abuse, incest, and sexual exploitation of a minor.
3. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, or other care necessary for the child's welfare when financially able to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone will not be considered abusing the child ...
4. The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to *Iowa Code*, section 725.1 which deals with prostitution.
5. Any mental injury to a child's intellectual or psychological capacities evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed by a licensed physician or qualified mental health professional
6. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts of omissions of the person responsible for the care of the child.

Teachers in public schools are not "persons responsible for the care of the child" under this definition. However, a teacher who abuses a child is subject to civil, criminal, and professional sanctions.

Reporting Procedures

Licensed employees, including teachers and school nurses, are required to report, either orally or in writing, within twenty-four hours to the Iowa Department of Human Services (DHS) when the employee reasonably believes a child has suffered from abuse within the scope of employment. Within forty-eight hours of an oral report, a written report must be filed with DHS.

Each report should contain as much of the following information as can be obtained within the time limit. However, the law specifies a report will be considered valid even if it does not contain all of the following information:

- name, age, and home address of the child;
- name and home address of the parents, guardians or other persons believed to be responsible for the care of the child;
- the child's present whereabouts if not the same as the parent's or other person's home address;
- description of injuries, including evidence of previous injuries;

- name, age, and condition of other children in the same home;
- any other information considered helpful; and,
- name and address of the person making the report.

Board policy states it is not the responsibility of employees to prove that a child has been abused or neglected. Employees should not take it upon themselves to investigate the case or contact the family of the child. DHS is responsible for investigating the incident of alleged abuse.

402.3 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES

Physical or sexual abuse of students, including inappropriate and intentional sexual behavior, by employees will not be tolerated. The definition of employees for the purpose of this policy includes not only those who work for pay but also those who are volunteers of the school district under the direction and control of the school district. Employees found in violation of this policy will be subject to disciplinary action up to and including discharge.

The school district will respond promptly to allegations of abuse of students by school district employees by investigating or arranging for the investigation of an allegation. The processing of a complaint or allegation will be handled confidentially to the maximum extent possible. Employees are required to assist in the investigation when requested to provide information and to maintain the confidentiality of the reporting and investigation process.

The school district has appointed a Level I investigator and alternate Level I investigator. The school district has also arranged for a trained, experienced professional to serve as the Level II investigator. The Level I investigator and alternate will be provided training in the conducting of an investigation at the expense of the school district. The names of the investigators are listed in the student handbook, published annually in the local newspaper, and posted in all school facilities.

The superintendent is responsible for drafting administrative regulations to implement this policy.

Legal Reference: Iowa Code §§ 232.67, .70, .73, .75; 235A; 272A; 280.17; 709; 728.12(1).
281 I.A.C. 12.3(6), 102; 103.
441 I.A.C. 155; 175.

Cross Reference:	104	Bullying/Harassment
	402.2	Child Abuse Reporting
	503.5	Corporal Punishment

402.3E1 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES

Complaint of Injury to or Abuse of a Student by a School District Employee

Please complete the following as fully as possible. If you need assistance, contact the Level I investigator in your school.

Student's name and address: _____

Student's telephone no.: _____ Student's school: _____

Name and place of employment of employee accused of abusing student: _____

Allegation is of: _____ Physical Abuse _____ Sexual Abuse*

Please describe what happened. Include the date, time and where the incident took place, if known. If physical abuse is alleged, also state the nature of the student's injury: _____

Were there any witnesses to the incident or are there students or persons who may have information about this incident? _____ yes _____ no

If yes, please list by name, if known, or classification (for example "third grade class," "fourth period geometry class"): _____

*Parents of children who are in pre-kindergarten through sixth grade and whose children are the alleged victims of or witnesses to sexual abuse have the right to see and hear any interviews of their children in this investigation.

Please indicate "yes" if the parent/guardian wishes to exercise this right: _____ Yes _____ No

_____ Telephone Number

Has any professional person examined or treated the student as a result of the incident? _____ yes _____ no
_____ unknown

If yes, please provide the name and address of the professional(s) and the date(s) of examination or treatment, if known: _____

Has anyone contacted law enforcement about this incident? _____ yes _____ no

Please provide any additional information you have which would be helpful to the investigator. Attach additional pages if needed. _____

Your name, address, and telephone number: _____

Relationship to student: _____

Complainant Signature

Witness Signature

Date

Witness Name & Address (please print)

Be advised that you have the right to contact the police or sheriff's office, the county attorney, a private attorney, or the Iowa Board of Educational Examiners (if the accused is a licensed employee) for investigation of this incident. The filing of this report does not deny you that opportunity.

You will receive a copy of this report (if you are the named student's parent or guardian) and a copy of the Investigator's Report within fifteen calendar days of filing this report unless the investigation is turned over to law enforcement.

402.3E2 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES

Report of Level I Investigation

Student's name: _____ Student's age: _____ Student's grade: _____

Student's address: _____

Student's school: _____ Name of accused school employee: _____

Name and address of person filing report: _____

Name and address of student's parent or guardian, if different from person filing report: _____

Date report of abuse was filed: _____

Allegation is of: _____ Physical abuse _____ Sexual abuse*

Describe the nature, extent, and cause of the student's injury, if any and if known: (Attach additional pages if needed). _____

Describe your investigation (Please do not use student witnesses' full names): (Attach additional pages if needed).

*Were parent(s) or guardian(s) advised of their right to see and hear any interview of their pre-kindergarten through sixth grade children who are alleged victims of or a witness in a sexual abuse investigation? _____ Yes
 _____ No

Was the right exercised? _____ Yes _____ No

Were audio tapes made of any interviews? _____ Yes _____ No Video tapes? _____ Yes _____ No

Was any action taken to protect the student during or as a result of the investigation? ____ Yes ____ No

If yes, describe: ____ student excused from school ____ school employee placed on leave

____ student assigned to different class ____ other (please specify)

Level I investigator's conclusions:

____ The complaint is being dismissed for lack of jurisdiction.

____ Physical abuse was alleged, but no allegation of injury was made.

____ Physical abuse was alleged, but no evidence of physical injury exists, and the nature of the alleged incident makes it unlikely an injury, as defined in the rules, occurred.

____ Sexual abuse was alleged, but the alleged actions of the school employee, even if true, would not meet the definition of sexual abuse in the rules.

____ Alleged victim was not a student at the time of the incident.

____ Alleged school employee is not currently employed by this school district.

____ Alleged incident did not occur on school grounds, on school time, at a school-sponsored activity, nor in a school-related context.

____ The complaint has been investigated and concluded at Level I as unfounded.

____ Complaint was withdrawn.

____ Insufficient evidence exists that an incident of abuse, as defined in the rules, took place.

____ The complaint has been investigated at Level I and is founded.

____ The investigation is founded at Level I and is being turned over to Level II for further investigation.

____ Investigation of the complaint was deferred at Level I and referred to law enforcement at this time.

____ The investigation is concluded at Level I because the accused school employee has admitted the violation, has resigned, or has agreed to relinquish any teaching license held.

Current status of investigation:

____ Closed. No further investigation is warranted.

____ Closed and referred to school officials for further investigation as a personnel matter.

____ Deferred to law enforcement officials.

____ Turned over to Level II investigator.

Other comments: _____

I have given a copy of the report of abuse and of this investigative report to the employee named in the report, the employee's supervisor, and the student's parent or guardian and informed the person filing the report of the options of contacting law enforcement, private counsel, or the State Board of Educational Examiners, if the accused school employee holds an Iowa teacher's certificate or license.

Name of Investigator (Please Print)

Investigator's Place of Employment

Signature of Investigator

Date

402.3R1 ABUSE OF STUDENTS BY SCHOOL DISTRICT EMPLOYEES REGULATION

An individual who has knowledge an employee has physically or sexually abused a student may immediately report it to the school nurse, who is the school district's Level I investigator. "Employee" means one who works for pay or as a volunteer under the direction and control of the school district. The report is written, signed and witnessed by a person of majority age. The witness may be the Level I investigator. The reporter is the individual filing the report. The report will contain the following:

- The full name, address, and telephone number of the person filing.
- The full name, age, address, and telephone number, and attendance center of the student.
- The name and place of employment of the employee who allegedly committed the abuse.
- A concise statement of the facts surrounding the incident, including date, time, and place of occurrence, if known.
- A list of possible witnesses by name, if known.
- Names and locations of persons who examined, counseled, or treated the student for the alleged abuse, including the dates on which those services were provided, if known.

Upon request, the Level I investigator may assist the reporter in completing the report. An incomplete report will not be rejected unless the missing information would render the investigation futile or impossible. An employee receiving a report of alleged abuse of a student by an employee will pass the report to the investigator and will keep the report confidential to the maximum extent possible. In performing the investigation, the investigator will have access to the educational records of the alleged student victim as well as access to the student for interviewing purposes.

In order for the school district to have jurisdiction over the acts and to constitute a violation of the law, acts of the employee must be alleged to have occurred on school grounds, on school time, at a school-sponsored activity, or in a school-related context. However, the student need not be a student in the school district. The student can be from another school district. To be investigable, the written report must include basic information showing that the victim of the alleged abuse is or was a student at the time of the incident, that the alleged act of the employee resulted in injury or otherwise meets the definition of abuse in these rules, and that the person responsible for the act is currently an employee. If the report is not investigable due to lack of jurisdiction, the investigator will dismiss the complaint and inform the reporter of other options available. Other options available to the reporter include contacting law enforcement authorities, private counsel, or the Board of Educational Examiners in the case of a licensed employee.

If the Level I investigator believes the student is in imminent danger if continued contact is permitted between the employee and the student, the Level I investigator may:

- temporarily remove the student from contact with the employee;
- temporarily remove the employee from service; or,
- take other appropriate action to ensure the student's safety.

The Level I investigator will have access to the educational records of the student and access to the student for purposes of interviewing the student about the report.

Physical Abuse Allegations

When physical abuse is reported, the Level I investigator will make copies of the report and give a copy to the person filing the report, the students' parents and the immediate supervisor of the employee named in the report. The employee named in the report will not receive a copy of the report until the employee is initially interviewed.

The Level I investigator will use discretion in handling the information received regarding an investigation of

abuse by an employee, and those persons involved in the investigation will not discuss information regarding the complaint outside the investigation. The entire investigative procedure will be thoroughly explained, including the confidential nature of the proceedings, to the student and other persons involved in the investigation.

Within five days of receipt of an investigable report, the Level I investigator will complete an informal investigation. The informal investigation will consist of interviews with the student, the employee and others who may have knowledge of the alleged incident. If the Level I investigator determines that the allegations in the report are founded and that immediate and professional investigation is necessary, the Level I investigator may defer further investigation and contact appropriate law enforcement officials, the student's parents and the person filing the report. Within fifteen days of receipt of the report, the Level I investigator will complete a written investigative report, unless the investigation was temporarily deferred.

The written investigative report will include:

- The name age, address and attendance center of the student named in the report.
- The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
- The name and work address of the employee named in the report as allegedly responsible for the abuse of the student.
- An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.
- A general review of the investigation.
- Any actions taken for the protection and safety of the student.
- A statement that, in the investigator's opinion, the allegations in the report are either:
 - Unfounded. (*It is not likely that an incident, as defined in these rules, took place*), or
 - Founded. (*It is likely that an incident took place.*)
- The disposition or current status of the investigation.
- A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include, but are not limited to:
 - Contacting law enforcement officials.
 - Contacting private counsel for the purpose of filing a civil suit or complaint.
 - Filing a complaint with the board of educational examiners if the employee is a licensed employee.

The investigator will retain the original and provide a copy of the written investigative report to the school employee named in the report, the employee's supervisor and the student's parent or guardian. The person filing the report, if not the student's parent or guardian, is notified only that the Level I investigation has been concluded and of the disposition or anticipated disposition of the case.

It is the responsibility of the Level I investigator to determine whether it is more likely than not that an incident of abuse as defined in the rules took place between the student and employee. The Level I investigator does not make the determination of whether the use of physical contact was appropriate or whether any of the exceptions apply. That is the responsibility of the Level II investigator. Upon completion of the report, if the Level I investigator determines the allegations of physical abuse are founded and serious, the Level I investigator will notify law enforcement authorities. If the allegations are founded but the physical abuse is not of a serious nature, the Level I investigator will refer the case on to law enforcement officials, the Level II investigator.

The Level II investigator will review the Level I investigator's final investigative report and conduct further investigation. The Level II investigative report will state the conclusion as to the occurrence of the alleged incident, the applicability of exceptions, the reason for the contact or force used, and recommendations regarding the need for further investigation. In determining the applicability of the exceptions or the reasonableness of the

contact or force used, the Level II investigator will use the following definitions:

Physical abuse is non-accidental physical injury to the student as a result of the action of an employee. Injury occurs when evidence of it is still apparent at least twenty-four hours after its occurrence. The following do not constitute physical abuse, and no employee is prohibited from:

- Using reasonable and necessary force, not designed, or intended to cause pain:
 - To quell a disturbance or prevent an act that threatens physical harm to any person.
 - To obtain possession of a weapon or other dangerous object within a pupil's control.
- For the purposes of self-defense or defense of others as provided for in Iowa Code § 704.3.
- For the protection of property as provided for in Iowa Code §§ 704.4, .5.
- To remove a disruptive pupil from class, or any area of school premises or from school- sponsored activities off school premises.
- To prevent a student from the self-infliction of harm.
- To protect the safety of others.
- Using incidental, minor, or reasonable physical contact to maintain order and control.
- In determining the reasonableness of the contact or force used, the following factors are considered:
 - The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.
 - The size and physical condition of the student.
 - The instrumentality used in making the physical contact.
 - The motivation of the school employee in initiating the physical contact.
 - The extent of injury to the student resulting from the physical contact.

"Reasonable force" is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

Upon completion of the Level II investigation, the Level I investigator will forward copies of the Level II investigative report to the employee, the employee's immediate supervisor and the student's parent. The Level I investigator will notify the person filing the report of the current status of the case.

If the Level II investigator's report or law enforcement officials conclude abuse occurred, or the employee admits the violation, or the employee has surrendered the employee's certificate or license, the Level I investigator will file a complaint with the State Board of Educational Examiners. The Level I investigator will also arrange for counseling services for the student if the student or student's parents request counseling services.

Sexual Abuse

Sexual abuse is defined as including sexual acts involving a student, acts that encourage the student to engage in prostitution, as well as inappropriate, intentional sexual behavior or sexual harassment by the employee toward a student. "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a term or condition of the student's education or benefits;
2. Submission to or rejection of the conduct is used as the basis for academic decisions affecting that student; or
3. The conduct has the purpose or effect of substantially interfering with a student's academic performance by creating an intimidating, hostile or offensive education environment.

When sexual abuse is reported, the Level I investigator will make copies of the report and give a copy to the person filing the report, the students' parents and the immediate supervisor of the employee named in the report.

The employee named in the report will not receive a copy of the report until the employee is initially interviewed. The designated investigator will not interview the school employee named in a report of sexual abuse until after a determination is made that jurisdiction exists, the alleged victim has been interviewed and a determination made that the investigation will not be deferred.

The investigator will notify the parent, guardian, or legal custodian of a student in prekindergarten through grade six of the date and time of the interview and of the right to be present or to see and hear the interview or send a representative in the parent's place. The Level I investigator will interview the student as soon as possible, but in no case later than five days from the receipt of a report or notice of the allegation of sexual abuse. The Level I investigator may record the interview electronically.

The Level I investigator will exercise discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator will maintain the confidentiality of the report.

It is the responsibility of the Level I investigator to determine whether it is more likely than not that an incident took place between the employee and the student. If the Level I investigator believes the employee committed a sex act with a student or sexually exploited a student, the Level I investigator will defer the Level I investigation and immediately notify law enforcement officials, the student's parents and the person filing the report.

If the Level I investigator determines an incident occurred, while not an illegal sex act with a student or sexual exploitation of a student, but where the employee engaged in inappropriate, intentional sexual behavior, further investigation is warranted. If further investigation is warranted, the Level I investigator may proceed to interview the employee and other individuals who may have knowledge of the circumstances contained in the report. Prior to interviewing other individuals who may have knowledge of the circumstance contained in the report, the Level I investigator will provide notice of the impending interview of student witnesses or the student who is in prekindergarten through grade six, to their parent, guardian, or legal custodian, and may provide notice to the parent or guardian of older students, prior to interviewing those students. The Level I investigator shall, if founded, arrange for the Level II investigator to further investigate the allegations.

Within fifteen days of receipt of the report or notice of alleged sexual abuse, the Level I investigator will complete a written investigative report unless the investigation was temporarily deferred. The written investigative report will include:

- The name, age, address, and attendance center of the student named in the report.
- The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
- The name and work address of the school employee named in the report as allegedly responsible for the abuse of the student.
- An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.
- A general review of the investigation.
- Any actions taken for the protection and safety of the student.
- A statement that, in the investigator's opinion, the allegations in the report are either:
 1. Unfounded. (*It is not likely that an incident, as defined in these rules, took place*), or
 2. Founded. (*It is likely that an incident took place.*)

- The disposition or current status of the investigation.
- A listing of the options available to the parents or guardian of the student to pursue the allegations. These Code
- options include, but are not limited to:
 1. Contacting law enforcement officials.
 2. Contacting private counsel for the purpose of filing a civil suit or complaint.
 3. Filing a complaint with the board of educational examiners if the school employee is certificated.

The investigator will retain the original and provide a copy of the investigative report to the school employee named in the report, the school employee's supervisor and the name student's parent or guardian. The person

filing the report, if not the student's parent or guardian, is notified only that the Level I investigation has been concluded and of the disposition or anticipated disposition of the case.

If the allegations are founded, the Level I investigator will refer the case to the Level II investigator. The Level II investigator will review the Level I investigator's final investigative report and conduct further investigation if necessary. The Level II investigative report will state conclusively as to the occurrence of the alleged incident, conclusively as to the nature of the sexual abuse and recommendations regarding the need for further investigation. Upon completion of the Level II investigation, the Level I investigator will forward copies of the Level II investigative report to the employee, the employee's immediate supervisor and the student's parent. The Level I investigator will notify the person filing the report of the current status of the case.

If the Level II investigator's report or law enforcement officials conclude sexual abuse occurred, or the employee admits the violation, or the employee has surrendered the employee's certificate or license, the Level I investigator will file a complaint on behalf of the district after obtaining the superintendent's signature with the State Board of Educational Examiners. The Level I investigator will also arrange for counseling services for the student if the student or student's parents request counseling services.

In cases involving founded physical or sexual abuse by a licensed employee, the board will notify the Board of Educational Examiners. Information of unfounded abuse at Level I or Level II will not be kept in the employee's personnel file. If the Level I investigative report is founded but Level II is unfounded, then the Level I report is removed from the employee's permanent file.

It is the responsibility of the board to annually identify a Level I and Level II investigator. The board will also designate annually an alternate Level I investigator, preferably of the opposite sex of the designated Level I investigator, to whom reports may also be made. The names and telephone numbers of the Level I investigator and the alternate Level I investigator is included in employee handbooks, student handbooks, annually published in the local newspaper, and prominently displayed in all school buildings.

402.4 GIFTS TO EMPLOYEES

Employees may receive a gift on behalf of the school district. Employees will not, either directly or indirectly, solicit, accept, or receive any gift, series of gifts or an honorarium unless the donor does not meet the definition of "restricted donor" stated below or the gift or honorarium does not meet the definition of gift or honorarium stated below.

A "restricted donor" is defined as a person or other entity which:

- Is seeking to be, or is a party to, any one or any combination of sales, purchases, leases or contracts to, from or with the school district;
- Will be directly and substantially affected financially by the performance or nonperformance of the employee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region; or
- Is a lobbyist or a client of a lobbyist with respect to matters within the school district's jurisdiction.

A "gift" is the giving of anything of value in return for which something of equal or greater value is not given or received. However, "gift" does not include any of the following:

- Contributions to a candidate or a candidate's committee;
- Information material relevant to an employee's official function, such as books, pamphlets, reports, documents, periodicals or other information that is recorded in a written, audio or visual format;
- Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related;
- An inheritance;
- Anything available or distributed to the general public free of charge without regard to the official status of the employee;
- Items received from a charitable, professional, educational or business organization to which the employee belongs as a dues paying member if the items are given to all members of the organization without regard to an individual member's status or positions held outside of the organization and if the dues paid are not inconsequential when compared to the items received;
- Actual expenses of an employee for food, beverages, travel and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the employee has participation or presentation responsibilities;
- Plaques or items of negligible resale value given as recognition for public service;
- Nonmonetary items with a value of less than three dollars that are received from any one donor during one calendar day;
- Items or services solicited or given to a state, national or regional organization in which the state of Iowa or a school district is a member for purposes of a business or educational conference, seminar or other meeting or solicited by or given for the same purposes to state, national or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees for purposes of a business or educational conference, seminar or other meeting;
- Items or services received by members or representatives of members as part of a regularly scheduled event that is part of a business or educational conference, seminar or other meeting that is sponsored and directed by any state, national or regional government organization in which the state of Iowa or a political subdivision of the state of Iowa is a member or received at such an event by members or representatives of members of state, national or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees;
- Funeral flowers or memorials to a church or nonprofit organization;
- Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding

anniversary;

- Payment of salary or expenses by the school district for the cost of attending a meeting of a subunit of an agency when the employee whose expenses are being paid serves on a board, commission, committee, council or other subunit of the agency and the employee is not entitled to receive compensation or reimbursement of expenses from the school district for attending the meeting; or
- Gifts other than food, beverages, travel, and lodging received by an employee which are received from a person who is a citizen of a country other than the United States and is given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the employee.
- Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions. The costs of food, drink, lodging, and travel are not "registration costs" under this paragraph. Meetings or sessions which a public official or public employee attends for personal or professional licensing purposes are not "informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions" under this paragraph.

An "honorarium" is anything of value that is accepted by, or on behalf of, an employee as consideration for an appearance, speech, or article. An honorarium does not include any of the following:

- Actual expenses of an employee for registration, food, beverages, travel or lodging for a meeting, which is given in return for participation in a panel or speaking engagement at a meeting when the expenses relate directly to the day or days on which the employee has participation or presentation responsibilities;
- A nonmonetary gift or series of nonmonetary gifts donated within thirty days to a public body, an educational or charitable organization or the Iowa department of general services; or
- A payment made to an employee for services rendered as part of a private business, trade, or profession in which the employee is engaged if the payment is commensurate with the actual services rendered and is not being made because of the person's status as an employee of the district, but, rather, because of some special expertise or other qualification.

It is the responsibility of each employee to know when it is appropriate to accept or reject gifts or an honorarium.

Legal References: Iowa Code ch. 68B.

Cross References: 221 Gifts to Board of Directors
401.3 Employee Conflict of Interest
704.4 Gifts-Grants-Bequests

402.5 REQUIRED PROFESSIONAL DEVELOPMENT FOR EMPLOYEES

Appropriate training and professional development of all employees is crucial to the success of all students. The district will provide professional development opportunities appropriate to the duties of school employees.

For all professional development programs the district requires employees to take, the district will provide to the employee notice indicating the section of the law, or rules adopted by the state board of education or board of educational examiners that the district determines requires the employee to participate in the professional development program.

Cross References

Code	Description
302.06	Superintendent Professional Development
303.07	Administrator Professional Development
408.01	Licensed Employee Professional Development

402.6 EMPLOYEE RELATIONS TO THE PUBLIC

Members of the school district shall be treated with respect by employees. The board encourages active participation by employees in community activities and events.

It shall be the responsibility of employees as they participate in various community groups and events, to make a conscientious effort to make the school district and its events a real part of the community. Employees shall take advantage of their participation in the community to look for opportunities in which the community and school district can join forces for the betterment of the school district and the community.

Legal Reference: Iowa Code § 279.8 (2009).

Cross Reference: 303.7 Superintendent Civic Activities
 304.8 Administrator Civic Activities
 903 Public Participation in the School District
 904 Community Activities Involving Students

402.7 EMPLOYEE OUTSIDE EMPLOYMENT

The board believes the primary responsibility of employees is to the duties of their position within the school district as outlined in their job description. The board considers an employee's duties as part of a regular, full-time position as full-time employment. The board expects such employees to give the responsibilities of their positions in the school district precedence over any other employment.

It is the responsibility of the superintendent to counsel employees, whether full-time or part-time, if, in the judgment of the superintendent and the employee's immediate supervisor, the employee's outside employment interferes with the performance of the employee's duties required in the employee's position within the school district.

The board may request the employee to cease the outside employment as a condition of continued employment with the school district.

Legal Reference: Iowa Code §§ 20.7; 279.8.

Cross Reference: 401.3 Employee Conflict of Interest
408.3 Licensed Employee Tutoring

402.8 EMPLOYEE TELEPHONE CALLS

The board recognizes the need of its employees to receive and make telephone calls during working hours. Telephone calls related to education program business shall be made in the office and will be paid by the school district.

Employees may receive and make personal telephone calls during lunches, breaks, or preparation periods. Employees may receive an emergency telephone call at any time.

Classroom and office telephones are available for personal telephone calls. These telephones may only be used for local personal telephone calls; all other calls, including long-distance calls, must be paid for by the employee. It shall be the responsibility of the employee to exercise discretion in making and receiving telephone calls during working hours.

Legal Reference: Iowa Code §§ 20.9; 279.8 (2009)

Cross Reference: 401.9 Use of School District Facilities & Equipment by Employees

402.9 SOLICITATIONS FROM OUTSIDE

Generally, employees should be free from solicitations at their place of employment. No organization or individuals, including employees, may solicit or distribute flyers or other materials within school district facilities or on school district grounds without approval of the superintendent.

No employee shall be made responsible, or assume responsibility, for the collection of money or the distribution of fund drive literature within the school district unless such activity is voluntary and has been approved by the superintendent.

Legal Reference: Iowa Code §§ 279.8 (2009)

Cross Reference:	401.15	Employee Political Activity
	504.6	Student Fund-Raising
	904	Community Activities Involving

402.10 PAYMENT OF WAGES

Employees hired after April 1, 2005, must use direct deposit of their payroll check to a bank of their choice. Those employees hired before April 1, 2005, are strongly encouraged to use direct deposit to a bank of their choice.

Persons who do not have a bank account may petition the board to be paid by check. If the board grants permission, those employees must pick up their checks at the Central Office, 304 W. Nishna Rd., on the 20th of the month during normal working hours.

Legal Reference: Iowa Code

Cross Reference:

403.1 EMPLOYEE PHYSICAL EXAMINATIONS

School bus drivers will present evidence of good health every other year in the form of a physical examination report unless otherwise required by law or medical opinion. Employees whose physical or mental health, in the judgment of the administration, may be in doubt will submit to additional examinations, when requested to do so, at the expense of the school district.

The cost of the initial examination will be paid by the employee. The form indicating the employee is able to perform the duties for which the employee was hired must be returned prior to payment of salary.

It is the responsibility of the superintendent to write an exposure control plan to eliminate or minimize district occupational exposure to blood borne pathogens. The plan for designated employees will include, but not be limited to, scope and application, definitions, exposure control, methods of compliance, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and record keeping.

The requirements stated in the Master Contract between employees in that certified collective bargaining unit and the board regarding physical examinations of such employees are followed.

Legal Reference: 29 C.F.R. Pt. 1910.1030.
49 C.F.R. §§ 391.41 – 391.49.
Iowa Code §§ 20.9; 279.8, 321.376.
281 I.A.C. 43.15; 43.17.

Cross Reference: 403 Employees' Health and Well-Being

403.2 EMPLOYEE INJURY ON THE JOB

When an employee becomes seriously injured on the job, the employee's supervisor will notify a member of the family, or an individual of close relationship as soon as the employee's supervisor becomes aware of the injury.

If possible, an employee may administer emergency or minor first aid. An injured employee will be turned over to the care of the employee's family or qualified medical employees as quickly as possible. The school district is not responsible for medical treatment of an injured employee.

It is the responsibility of the employee injured on the job to inform the superintendent within twenty-four hours of the occurrence. It is the responsibility of the employee's immediate supervisor to file an accident report within twenty-four hours after the employee reported the injury.

It is the responsibility of the board secretary to file worker's comp claims

Legal Reference: Iowa Code §§ 85; 279.40; 613.17.

Cross Reference: 403 Employees' Health and Well-Being
409.2 Licensed Employee Personal Illness Leave
414.2 Classified Employee Personal Illness Leave

403.3 COMMUNICABLE DISEASES - EMPLOYEES

Employees with a communicable disease will be allowed to perform their customary employment duties provided they are able to perform the essential functions of their position and their presence does not create a substantial risk of illness or transmission to students or other employees. The term "communicable disease" will mean an infectious or contagious disease spread from person to person, or animal to person, or as defined by law.

Prevention and control of communicable diseases is included in the school district's bloodborne pathogens exposure control plan. The procedures will include scope and application, definitions, exposure control, methods of compliance, universal precautions, vaccination, post-exposure evaluation, follow-up, communication of hazards to employees and record keeping. This plan is reviewed annually by the superintendent and school nurse.

The health risk to immunosuppressed employees is determined by their personal physician. The health risk to others in the school district environment from the presence of an employee with a communicable disease is determined on a case-by-case basis by the employee's personal physician, a physician chosen by the school district or public health officials.

An employee who is at work and who has a communicable disease which creates a substantial risk of harm to a student, coworkers, or others at the workplace will report the condition to the Superintendent any time the employee is aware that the disease actively creates such risk.

Health data of an employee is confidential, and it will not be disclosed to third parties. Employee medical records are kept in a file separate from their personnel file.

It is the responsibility of the superintendent, in conjunction with the school nurse, to develop administrative regulations stating the procedures for dealing with employees with a communicable disease.

Legal Reference: 29 U.S.C. §§ 794, 1910.
42 U.S.C. §§ 12101 *et seq.*
45 C.F.R. Pt. 84.3.
Iowa Code chs. 139A; 141A.
641 I.A.C. .1, .2, .7.

Cross Reference: 401.6 Employee Records
403.1 Employee Physical Examinations
507.3 Communicable Diseases - Students

403.3E1 HEPATITIS B VACCINE INFORMATION AND RECORD

The Disease

Hepatitis B is a viral infection caused by the Hepatitis B virus (HBV) which causes death in 1-2% of those infected. Most people with HBV recover completely, but approximately 5-10% become chronic carriers of the virus. Most of these people have no symptoms but can continue to transmit the disease to others. Some may develop chronic active hepatitis and cirrhosis. HBV may be a causative factor in the development of liver cancer. Immunization against HBV can prevent acute hepatitis and its complications.

The Vaccine

The HBV vaccine is produced from yeast cells. It has been extensively tested for safety and effectiveness in large scale clinical trials.

Approximately 90 percent of healthy people who receive two doses of the vaccine and a third dose as a booster achieve high levels of surface antibody (anti-HBs) and protection against the virus. The HBV vaccine is recommended for workers with potential for contact with blood or body fluids. Full immunization requires three doses of the vaccine over a six-month period, although some persons may not develop immunity even after three doses.

There is no evidence that the vaccine has ever caused Hepatitis B. However, persons who have been infected with HBV prior to receiving the vaccine may go on to develop clinical hepatitis in spite of immunization.

Dosage and Administration

The vaccine is given in three intramuscular doses in the deltoid muscle. Two initial doses are given one month apart, and the third dose is given six months after the first.

Possible Vaccine Side Effects

The incidence of side effects is very low. No serious side effects have been reported with the vaccine. Ten to 20 percent of persons experience tenderness and redness at the site of injection and low-grade fever. Rash, nausea, joint pain, and mild fatigue have also been reported. The possibility exists that other side effects may be identified with more extensive use.

CONSENT OF HEPATITIS B VACCINATION

I have knowledge of Hepatitis B and the Hepatitis B vaccination. I have had an opportunity to ask questions of a qualified nurse or physician and understand the benefits and risks of Hepatitis B vaccination. I understand that I must have three doses of the vaccine to obtain immunity. However, as with all medical treatment, there is no guarantee that I will become immune or that I will not experience side effects from the vaccine. I give my consent to be vaccinated for Hepatitis B.

 Signature of Employee (consent for Hepatitis B vaccination)

 Date

 Signature of Witness

 Date
REFUSAL OF HEPATITIS B VACCINATION

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring the Hepatitis B virus infection. I have been given the opportunity to be vaccinated with Hepatitis B vaccine at no charge to myself. However, I decline the Hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with the Hepatitis B vaccine, I can receive the vaccination series at no charge to me.

 Signature of Employee (refusal for Hepatitis B vaccination)

 Date

 Signature of Witness

 Date

I refuse because I believe I have (check one)

_____ started the series _____ completed the series

RELEASE FOR HEPATITIS B MEDICAL INFORMATION

I hereby authorize _____ (individual or organization holding Hepatitis B records and address) to release to the Shenandoah Community School District, my Hepatitis B vaccination records for required employee records.

I hereby authorize release of my Hepatitis B status to a health care provider, in the event of an exposure incident.

 Signature of Employee

 Date

 Signature of Witness

 Date

CONFIDENTIAL RECORD

Employee Name (last, first, middle) _____

Social Security No. _____

Job Title: _____

	Hepatitis B Vaccination Date	Lot Number	Site	Administered by
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____

Additional Hepatitis B status information: _____

Post-exposure incident: (Date, time, circumstances, route under which exposure occurred) _____

Identification and documentation of source individual: _____

Source blood testing consent: _____

Description of employee's duties as related to the exposure incident: _____

Copy of information provided to health care professional evaluating an employee after an exposure incident: _____

Attach a copy of all result of examinations, medical testing, follow-up procedures, and health care professional's written opinion.

Training Record: (date, time, instructor, location of training summary) _____

403.3R1 UNIVERSAL PRECAUTIONS REGULATION

Universal precautions (UP) are intended to prevent transmission of infection, as well as decrease the risk of exposure for employees and students. It is not currently possible to identify all infected individuals, thus precautions must be used with every individual. UP pertain to blood and other potentially infectious materials (OPIM) containing blood. These precautions do not apply to other body fluids and wastes (OBFW) such as saliva, sputum, feces, tears, nasal secretions, vomitus, and urine unless blood is visible in the material. However, these OBFW can be sources of other infections and should be handled as if they are infectious. The single most important step in preventing exposure to and transmission of any infection is anticipating potential contact with infectious materials in routine as well as emergency situations. Based on the type of possible contact, employees and students should be prepared to use the appropriate precautions prior to the contact. Diligent and proper hand washing, the use of barriers, appropriate disposal of waste products and needles, and proper decontamination of spills are essential techniques of infection control. All individuals should respond to situations practicing UP followed by the activation of the school response team plan. Using common sense in the application of these measures will enhance protection of employees and students.

Hand Washing

Proper hand washing is crucial to preventing the spread of infection. Textured jewelry on the hands or wrists should be removed prior to washing and kept off until completion of the procedure and the hands are rewashed. Use of running water, lathering with soap, and using friction to clean all hand surfaces is key. Rinse well with running water and dry hands with paper towels.

- Hands should be washed before physical contact with individuals and after contact is completed.
- Hands should be washed after contact with any used equipment.
- If hands (or other skin) come into contact with blood or body fluids, hands should be washed immediately before touching anything else.
- Hands should be washed whether gloves are worn or not and, if gloves are worn, after the gloves are removed.

Barriers

Barriers anticipated to be used at school include disposable gloves, absorbent materials, and resuscitation devices. Their use is intended to reduce the risk of contact with blood and body fluids as well as to control the spread of infectious agents from individual to individual. Gloves should be worn when in contact with blood, OPIM or OBFW. Gloves should be removed without touching the outside and disposed of after each use.

Disposal of Waste

Blood, OPIM, OBFW, used gloves, barriers and absorbent materials should be placed in a plastic bag and disposed of in the usual procedure. When the blood or OPIM is liquid, semi-liquid or caked with dried blood, it is not absorbed in materials, and is capable of releasing the substance if compressed, special disposal as regulated waste is required. A band-aid, towel, sanitary napkin, or other absorbed waste that does not have the potential of releasing the waste if compressed would not be considered regulated waste. It is anticipated schools would only have regulated waste in the case of a severe incident. Needles, syringes, and other sharp disposable objects should be placed in special puncture-proof containers and disposed of as regulated waste. Bodily wastes such as urine, vomitus or feces should be disposed of in the sanitary sewer system.

Clean up

Spills of blood and OPIM should be cleaned up immediately. The employee should:

1. Wear gloves.

2. Clean up the spill with paper towels or other absorbent material.
3. Use a solution of one part household bleach to one hundred parts of water (1:100) or other EPA-approved disinfectant and use it to wash the area well.
4. Dispose of gloves, soiled towels, and other waste in a plastic bag.
5. Clean and disinfect reusable supplies and equipment.

Laundry

Laundry with blood or OPIM should be handled as little as possible with a minimum of agitation. It should be bagged at the location. If it has the potential of releasing the substance when compacted, regulated waste guidelines should be followed. Employees who have contact with this laundry should wear protective barriers.

Exposure

An exposure to blood or OPIM through contact with broken skin, mucous membrane or by needle or sharp stick requires immediate washing, reporting and follow-up.

- Always wash the exposed area immediately with soap and water.
- If a mucous membrane splash (eye or mouth) or exposure of broken skin occurs, irrigate, or wash the area thoroughly.
- If a cut or needle stick injury occurs, wash the area thoroughly with soap and water.

The exposure should be reported immediately, the parent or guardian is notified, and the person exposed contacts a physician for further health care.

403.4 HAZARDOUS CHEMICAL DISCLOSURE

The board authorizes the development of a comprehensive hazardous chemical communication program for the school district to disseminate information about hazardous chemicals in the workplace.

Each employee will annually review information about hazardous substances in the workplace. When a new employee is hired or transferred to a new position or work site, the information and training, if necessary, is included in the employee's orientation. When an additional hazardous substance enters the workplace, information about it is distributed to all employees, and training is conducted for the appropriate employees. The superintendent will maintain a file indicating which hazardous substances are present in the workplace and when training and information sessions take place.

Employees who will be instructing or otherwise working with students will disseminate information about the hazardous chemicals with which they will be working as part of the instructional program.

It is the responsibility of the superintendent to develop administrative regulations regarding this program.

Legal Reference: 29 C.F.R. Pt. 1910; 1200 *et seq.*
Iowa Code chs. 88; 89B.

Cross Reference: 403 Employees' Health and Well-Being

403.5 SMOKING AND NONSMOKING EMPLOYEE WORK AREAS

School district facilities and grounds, including school vehicles, are off limits for tobacco or nicotine use, including the use of look-a-likes where the original would include tobacco or nicotine. This requirement extends to students, employees, and visitors. This policy applies at all times, including school-sponsored and non-school-sponsored events. Persons failing to abide by this request are required to extinguish their smoking material, dispose of the tobacco, nicotine, or other product, or leave the school district premises immediately.

Employees who violate this policy may be subject to disciplinary action. It is the responsibility of the administration to enforce this policy.

Legal Reference: Goals 2000: Educate America Act, Pub. L. No. 103-227, 108 Stat. 125 (1994).
 House File 2212, Iowa General Assembly (2008)
 Iowa Code §§ 142D; 279.8, .9; 297 (2011).

Cross Reference: 403 Employees' Health and Well-Being
 502.9 Smoking – Drinking - Drugs

403.6 EMPLOYEE WELLNESS PROGRAM

The board recognizes the contribution of good health to the performance and well-being of the employee and the school district. The board supports and encourages a wellness program.

It shall be the responsibility of the superintendent, in conjunction with the school nurse, to develop, oversee, and maintain a wellness program.

Legal Reference: Iowa Code § 279.8 (2009).

Cross Reference: 403 Employees' Health and Well-Being

403.8 SUBSTANCE-FREE WORKPLACE

The board expects the school district and its employees to remain substance free. No employee will unlawfully manufacture, distribute, dispense, possess, use, or be under the influence of in the workplace, any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance or alcoholic beverage as defined by federal or state law. "Workplace" includes school district facilities, school district premises or school district vehicles. A "workplace" also includes non-school property if the employee is at any school-sponsored, school-approved, or school-related activity, event, or function, such as field trips or athletic events where students are under the control of the school district or where the employee is engaged in school business.

If an employee is convicted of a violation of any criminal drug offense committed in the workplace, the employee will notify the employee's supervisor of the conviction within five days of the conviction.

The superintendent will make the determination whether to require the employee to undergo substance abuse treatment or to discipline the employee. An employee who violates the terms of this policy may be subject to discipline up to and including termination. An employee who violates this policy may be required to successfully participate in a substance abuse treatment program approved by the board. If the employee fails to successfully participate in a program, the employee may be subject to discipline up to and including termination.

The superintendent is responsible for publication and dissemination of this policy to each employee. In addition, the superintendent will oversee the establishment of a substance-free awareness program to educate employees about the dangers of substance abuse and notify them of available substance abuse treatment programs.

It is the responsibility of the superintendent to develop administrative regulations to implement this policy.

Legal Reference: 41 U.S.C. §§ 81.
 42 U.S.C. §§ 12101 *et seq.*
 34 C.F.R. Pt. 85.
 Iowa Code §§ 123.46; 124; 279.8.

Cross Reference: 404 Employee Conduct and Appearance

403.8E1 SUBSTANCE-FREE WORKPLACE NOTICE TO EMPLOYEES

EMPLOYEES ARE HEREBY NOTIFIED it is a violation of the Substance-Free Workplace policy for an employee to unlawfully manufacture, distribute, dispense, possess, use, or be under the influence of in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance or alcohol, as defined in Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation at 21 C.F.R. 1300.11 through 1300.15 and Iowa Code Chapter 204.

"Workplace" is defined as the site for the performance of work done in the capacity as an employee. This includes school district facilities, other school premises or school district vehicles. Workplace also includes non-school property if the employee is at any school-sponsored, school-approved, or school-related activity, event, or function, such as field trips or athletic events where students are under the control of the school district or where the employee is engaged in school business.

Employees who violate the terms of the Substance-Free Workplace policy may be required to successfully participate in a substance abuse treatment program approved by the board. The superintendent retains the discretion to discipline an employee for violation of the Substance-Free Workplace policy. If the employee fails to successfully participate in such a program the employee is subject to discipline up to and including termination.

EMPLOYEES ARE FURTHER NOTIFIED it is a condition of their continued employment that they comply with the above policy of the school district and will notify their supervisor of their conviction of any criminal drug statute for a violation committed in the workplace, no later than five days after the conviction.

SUBSTANCE-FREE WORKPLACE ACKNOWLEDGMENT FORM

I, _____, have read and understand the Substance-Free Workplace policy. I understand that if I violate the Substance-Free Workplace policy, I may be subject to discipline up to and including termination or I may be required to participate in a substance abuse treatment program. If I fail to successfully participate in a substance abuse treatment program, I understand I may be subject to discipline up to and including termination. I understand that if I am required to participate in a substance abuse treatment program and I refuse to participate, I may be subject to discipline up to and including termination. I also understand that if I am convicted of a criminal drug offense committed in the workplace, I must report that conviction to my supervisor within five days of the conviction.

(Signature of Employee)

(Date)

403.8R1 SUBSTANCE-FREE WORKPLACE REGULATION

A superintendent who suspects an employee has a substance abuse problem will follow these procedures:

1. **Identification** - the superintendent will document the evidence the superintendent has which leads the superintendent to conclude the employee has violated the Substance-Free Workplace policy. After the superintendent has determined there has been a violation of the Substance-Free Workplace policy, the superintendent will discuss the problem with the employee.
2. **Discipline** - if, after the discussion with the employee, the superintendent determines there has been a violation of the Substance-Free Workplace policy, the superintendent may recommend discipline up to and including termination [*or may recommend the employee seek substance abuse treatment*]. Participation in a substance abuse treatment program is voluntary.
3. **Failure to participate in referral** – if the employee refuses to participate in a substance abuse treatment program or if the employee does not successfully complete a substance abuse treatment program, the employee may be subject to discipline up to and including termination.
4. **Conviction** - if an employee is convicted of a criminal drug offense committed in the workplace, the employee must notify the employer of the conviction within five days of the conviction.

403.9 DRUG AND ALCOHOL TESTING PROGRAM

Employees who operate school vehicles are subject to drug and alcohol testing if a commercial driver's license is required to operate the school vehicle and the school vehicle transports sixteen or more persons including the driver or the school vehicle weighs twenty-six thousand one pounds or more. For purposes of the drug and alcohol testing program, the term "employees" includes applicants who have been offered a position to operate a school vehicle.

The employees operating a school vehicle as described above are subject to pre-employment drug testing and random, reasonable suspicion and post-accident drug and alcohol testing. Employees operating school vehicles shall not perform a safety-sensitive function within four hours of using alcohol. Employees governed by this policy shall be subject to the drug and alcohol testing program beginning the first day they operate or are offered a position to operate school vehicles and continue to be subject to the drug and alcohol testing program as long as they may be required to perform a safety-sensitive function as it is defined in the administrative regulations. Employees with questions about the drug and alcohol testing program may contact the school district contact person, the school nurse located at the K-8 school.

Employees who violate the terms of this policy are subject to discipline up to and including termination. The district is required to keep a record of all drug or alcohol violations by employees for a minimum of five years. Employees are put on notice that information related to drug or alcohol violations will be reported to the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse. Additionally, the district will conduct FMCSA Clearinghouse queries for employees annually. Employees must provide written consent for the district to conduct FMCSA Clearinghouse queries; however, employees who choose to withhold consent will be prohibited from performing any safety sensitive functions.

It is the responsibility of the superintendent to develop administrative regulations to implement this policy in compliance with the law. The superintendent will inform applicants of the requirement for drug and alcohol testing in notices or advertisements for employment.

The superintendent will also be responsible for publication and dissemination of this policy and its supporting administrative regulations and forms to employees operating school vehicles. The superintendent will also oversee a substance-free awareness program to educate employees about the dangers of substance abuse and notify them of available substance abuse treatment resources and programs.

IASB Drug and Alcohol Testing Program (IDATP) Web site:

https://www.ia-sb.org/Main/Affiliated_Programs/Iowa_Drug_Alcohol_Testing_Program.aspx.

Information about the Federal Motor Carrier Safety Administration Clearinghouse is located at:

clearinghouse.fmcsa.dot.gov

Information about resources for a substance-free awareness program and related services may be obtained from the school district's employee assistance program, the Department of Education at (515) 281-3021 or Department of Health, Substance Abuse Division at (515) 281-3641. For regulations and forms,

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm?>

- Legal Reference: American Trucking Association, Inc., v. Federal Highway Administration, 51 Fed. 3rd 405 (4th 1995).
49 U.S.C. §§ 5331 et seq.
42 U.S.C. §§ 12101.
41 U.S.C. §§ 81.
49 C.F.R. Pt. 40; 382; 391.
34 C.F.R. Pt. 85.
Local 301, Internat'l Assoc. of Fire Fighters, AFL-CIO, and City of Burlington, PERB No. 3876 (3-26-91).
Iowa Code §§ 124; 279.8; 321.375(2); 730.5.
- Cross Reference: 403.8 Substance-Free Workplace
409.2 Licensed Employee Personal Illness Leave
414.2 Classified Employee Personal Illness Leave

403.9R1 DRUG AND ALCOHOL TESTING PROGRAM REGULATION

This administrative regulation supports the Drug and Alcohol Testing Program policy. It also establishes and explains the requirements of the school district's drug and alcohol testing program required for employees operating school vehicles. Note the Drug and Alcohol Testing Program Definitions, Code No. 403.9R2.

- A. Questions regarding the drug and alcohol testing program policy, its supporting administrative regulations or the drug and alcohol testing program may be directed to the school district contact person, school nurse at the K-8 School.
- B. Covered Drivers
 - 1. A driver is covered by the drug and alcohol testing program if the driver:
 - a. Drives a vehicle transporting sixteen or more personas, including the driver, OR drives a vehicle weighing over twenty-six thousand one pounds; and
 - b. Required to hold a commercial driver's license for the driver position.
 - 2. Covered drivers include:
 - a. Applicants seeing a position as a driver;
 - b. Full time, regularly employed drivers;
 - c. Casual, intermittent, occasional or substitute drivers; and
 - d. Lease drivers and independent, owner-operator contractors who are either directly employed by or under lease to a school district or who operate a school vehicle at the direction of or with the consent of a school district.
 - 3. Drivers are subject to the drug and alcohol testing program and its requirements throughout the year, including the times when school is not in session or when the driver is on leave.
- C. Prohibited Driver Conduct
 - 1. Drivers shall not report to duty or remain on duty with a 0.04 alcohol concentration or greater.
 - 2. Drivers shall not report to duty or remain on duty when using any drug except:
 - a. When a licensed medical practitioner has advised the driver that the drug does not adversely affect the driver's ability to safely operate a school vehicle; and
 - b. The school district is informed in writing of the medication and licensed medical practitioner's opinion.
 - 3. Drivers shall not use alcohol at least four hours prior to, or during the performance of, a safety-sensitive function.
 - 4. Drivers shall not possess alcohol while on duty. This includes possessing prescriptions and over-the-counter medicines containing alcohol unless the packaging seal is unbroken.
 - 5. Drivers required to take a post-accident alcohol test shall not use alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
 - 6. Drivers shall not refuse to submit to a drug or alcohol test. A refusal to test is considered a positive test requiring the driver to bear the personal and financial responsibility to undergo a substance abuse evaluation as a condition of continued employment and subjecting the driver to discipline up to and including termination.
 - 7. Drivers shall not report for duty or remain on duty performing a safety-sensitive function if the driver has a positive drug test result.
- D. Alcohol Testing Procedures
 - 1. Driver's breath or saliva is tested for alcohol.
 - 2. The screening alcohol test is conducted with an evidentiary breath testing device or a saliva testing device.
 - a. The screening breath alcohol or saliva test determines whether the driver's alcohol concentration is less than 0.02. The confirmation alcohol test is conducted only by an evidentiary breath alcohol testing device to determine whether the driver can continue to perform a safety-sensitive function.
 - b. A confirmation alcohol test result of less than 0.02 alcohol concentration allows the driver to

- continue to perform a safety-sensitive function.
 - c. A confirmation alcohol test result of 0.02 alcohol concentration but less than 0.04 alcohol concentration requires the driver to cease performing a safety-sensitive function for twenty- four hours.
 - d. A confirmation alcohol test result of 0.04 breath alcohol concentration or greater requires the driver to cease performing a safety-sensitive function and undergo a substance abuse evaluation.
- 3. Alcohol testing is conducted at collection sites which provide privacy to the driver and contain the necessary equipment, personnel, and materials.
 - a. Alcohol testing is conducted at a designated collection site unless the situation requires another location.
 - b. In the event privacy cannot be assured, privacy will be provided to the extent practical.
- 4. Screening alcohol testing steps.
 - a. Once the driver is notified to submit to an alcohol test, the driver must complete the Alcohol/Drug Test Notification Form and proceed immediately to the collection site. Collection site personnel contact the school district contact person immediately when a driver does not arrive at the specified time. Failure to arrive at the collection site in a timely manner is considered a refusal to test.
 - b. Upon arrival, the driver must provide a photo identification. Repeated failure of the driver to produce a photo identification is considered insubordination as well as a refusal to test.
 - c. The testing procedure is explained to the driver by the collection site person.
 - d. The breath alcohol technician (BAT) or saliva test technician (STT) and the driver complete and sign the appropriate sections of the alcohol testing form.
 - e. Evidentiary breath alcohol testing device procedures.
 - 1) The driver forcefully blows into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
 - 2) The screening alcohol test is stopped when the driver fails twice to provide an adequate amount of breath. In that case:
 - a) A refusal of the driver to try a second time to provide adequate breath is considered a refusal to test.
 - b) A physician analyzes the driver's inability to provide adequate breath.
 - c) Failure to provide adequate breath is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate breath.
 - 3) The results of the screening alcohol test are shared with the driver.
 - f. Saliva alcohol testing device procedures.
 - 1) The driver and the STT review the expiration date of the saliva alcohol testing device, and if the date is valid, the packaging is opened.
 - 2) The driver or STT places the swab in the driver's mouth until the swab is completely saturated. If the alcohol test is started again, only the STT may place the swab in the driver's mouth.
 - 3) The saliva alcohol testing device is activated with the saturated swab in place.
 - 4) The saliva alcohol test is stopped when the driver fails twice to provide an adequate amount of saliva. In that case:
 - a) The school district is informed.
 - b) The driver must submit to a breath alcohol test immediately.
 - 5) The saliva testing device results are read two minutes, and no later than fifteen minutes, after the saliva testing device was activated.
 - 6) The results of the screening alcohol test are shared with the driver.
 - g. The driver and breath alcohol technician or saliva test technician must sign the alcohol testing form following completion of the alcohol test. Failure to sign the form after the alcohol test is not considered a refusal to test. However, in the remarks section of the form, the BAT or STT notes the driver's refusal to sign.

- h. Screening alcohol test results.
 - 1) An alcohol test result of less than 0.02 alcohol concentration is reported to the school
 - 2) An alcohol test result of less than 0.02 alcohol concentration is reported to the school district in a confidential manner and the driver may continue to perform a safety-sensitive function.
 - 3) An alcohol test result of 0.02 alcohol concentration or more requires a confirmation alcohol test be performed between fifteen and thirty minutes after the screening test.
 - 4) The BAT or STT provides the school district contact person with a copy of the alcohol testing form if written communication was not used to report the test results.
- i. Potential incomplete or invalid screening alcohol tests are repeated with corrected procedures.
- 5. Confirmation alcohol testing steps.
 - a. The driver is instructed to not eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during the fifteen-minute waiting period to avoid accumulation of mouth alcohol leading to an artificially high reading.
 - b. The confirmation alcohol test is done between fifteen and twenty minutes of the screening alcohol test whether or not the driver followed the requirements.
 - c. If a different collection site is used, the driver must be under the observation of the collection site person or school district person while waiting for the confirmation alcohol test.
 - d. If a different collection site person conducts the confirmation alcohol test, the driver must again provide photo identification.
 - e. The testing procedures is explained to the driver by a BAT.
 - f. The BAT and the driver complete and sign the appropriate section of the alcohol testing form.
 - 1) Refusal of the driver to sign the form prior to the confirmation alcohol test is considered a refusal to test.
 - 2) The school district is notified immediately of the refusal to sign.
 - g. The driver forcefully blows into the evidentiary breath testing device mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
 - h. The confirmation alcohol test results, which are the final and official test results, are shared with the driver.
 - i. The driver and BAT must sign the alcohol testing form following completion of the alcohol test. Failure to sign the form after the alcohol test is not considered a refusal to test. However, in the remarks section of the form, the BAT notes the driver's refusal to sign.
 - j. The BAT informs the school district's contact person of the results of the test in a confidential manner.
 - 1) An alcohol test result of less than 0.02 alcohol concentration is reported to the school district in a confidential manner and the driver may continue to perform a safety-sensitive function.
 - 2) The breath alcohol technician notifies the school district contact person immediately of confirmation alcohol test results of 0.02 alcohol concentration or more.
 - 3) The collection site person provides the school district contact person with a copy of the alcohol testing form if written communication was not used to report the test results.
 - k. Potentially incomplete or invalid confirmation alcohol tests are repeated with corrected procedures.
 - l. The breath alcohol test is stopped when the driver fails twice to provide an adequate amount of breath. In that case:
 - 1) A physician analyzes the driver's inability to provide adequate breath.
 - 2) Failure to provide adequate breath is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate breath.
 - 3) A refusal of the driver to try a second time to provide adequate breath is considered a refusal to test.
- E. Drug Testing Procedures
 - 1. Driver's urine is tested for marijuana, cocaine, opiate, amphetamines, and phencyclidine.

2. A split specimen urine drug test, often called “split sample test,” is used to conduct the drug test.
 - a. A negative drug test result allows the driver to continue to perform a safety-sensitive function.
 - b. A positive drug test result on the primary sample requires the driver to be removed from performing a safety-sensitive function.
 - c. A positive drug test result on the primary sample allows the driver an opportunity to request the split sample be tested by another certified laboratory only for the specific drug found in the primary sample. A negative drug test result on the split sample results in a negative drug test result.
 - d. A positive drug test result requires the driver to bear the personal and financial responsibility to undergo a substance abuse evaluation as a condition of continued employment.
3. Drivers taking medication at a licensed medical practitioner’s direction may perform a safety-sensitive function if the licensed medical practitioner determines there is not an adverse effect on performing a safety-sensitive function and the school district is informed in writing of the medication and licensed medical practitioner’s opinion.
4. Drug testing is conducted at collection sites which provide privacy to the driver and where the necessary equipment, personnel and material are located.
 - a. Drug testing is conducted at a designated collection site unless the situation requires another location. Public restrooms can be used as collection sites in exceptional circumstances.
 - b. In the event privacy cannot be assured, privacy is provided to the extent practical. However, direct observation is allowed if:
 - 1) Reasons exist to believe the driver may alter or substitute the specimen.
 - 2) The driver presents a specimen with a temperature outside the allowed range and does not provide an oral body temperature or the oral body temperature varies from the specimen provided.
 - 3) The last specimen provided by the driver was determined by the laboratory to not meet specific gravity and urine creatinine concentration criteria.
 - 4) The collection site person observes conduct of the driver to substitute or adulterate the specimen.
 - 5) The driver has previously been determined to have used a drug without medical authorization and the particular test is for follow-up testing upon or after return to duty.
 - c. Direct observation is approved by the supervisor of the collection site person or the designated school district representative. Non-medical personnel performing direct observation must be of the same gender as the driver.
5. Drug testing steps.
 - a. The school district contact person makes arrangements with the collection site for the test.
 - b. Once the driver is notified to submit to a drug test, the driver must complete the Alcohol/Drug Test Notification Form and proceed immediately to the collection site. The collection site person contacts the school district contact person immediately when a driver does not arrive at the specified time. Failure to arrive at the collection site in a timely manner is considered a refusal to test.
 - c. Upon arrival, the driver must provide a photo identification. Repeated failure of the driver to produce a photo identification is considered insubordination as well as a refusal to test. The driver may require the collection site person to provide proof of identification.
 - d. The driver may keep his or her wallet but must remove any unnecessary outer garments, purses, briefcases, and similar items at the request of the collection site person.
 - e. Immediately prior to providing a urine specimen, the driver must wash his or her hands. The driver must then provide forty-five milliliters of urine and deliver it immediately to the collection site person.
 - 1) Drivers who cannot provide an adequate amount of urine receive instructions for drinking water and trying again.
 - 2) The drug test is stopped when the driver fails twice to provide an adequate amount of urine.

- 3) Failure to provide adequate urine is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate urine.
- f. The specimen is kept in view of the driver and the collection site person.
- g. Upon receipt of the specimen, the collection site person immediately, and in no event later than four minutes from the time of urination, measure the temperature of the specimen.
- h. The driver may volunteer to have his or her oral temperature taken to provide evidence against alteration or substitution if there is some question about the temperature of the specimen.
- i. The collection site person inspects the specimen for color and other signs of contaminants and notes any unusual findings in the remarks section of the chain of custody form.
- j. Another specimen is required as soon as possible under direct observation if adulteration or substitution is suspected by the collection site person. Specimens suspected of adulteration nor substitution are also sent to the laboratory for testing.
- k. The specimen is divided in to the primary and the split specimen, sealed and labeled. The label is initialed by the driver.
- l. The driver is required to read and sign the statement of the chain of custody form certifying the specimens are the drivers.
- m. The collection site person is required to note on the chain of custody form any unusual behavior or appearance of the driver and any failure to cooperate.
- n. The collection site person completes the chain of custody form, and the driver signs the form indicating the collection is complete. Failure of the driver to sign the form after the drug test is not considered a refusal to test. However, the collection site person notifies the school district contact person and notes the driver's failure to sign on the form.
- o. The specimens are packaged for shipping to the laboratory and are shipped immediately or placed in secure storage until they can be shipped.
6. Laboratory.
 - a. The laboratory used by the school district's drug and alcohol testing program is certified by the U.S. Department of Health and Human Services (DHHS). Certified laboratories meet the testing procedures, personnel and record keeping requirements of the law.
 - b. Upon arrival of the specimens at the laboratory, the split specimen is stored, and the primary specimen is tested.
 - 1) A positive drug test result on the initial test of the primary specimen requires a confirmation drug test of the primary specimen.
 - 2) The split specimen is discarded if the primary specimen has a negative drug test result.
7. Medical Review Officer (MRO).
 - a. The MRO may release drug testing records of a driver to unauthorized individuals only with the written consent of the driver.
 - b. The MRO keeps a record of negative drug test results and reports negative drug test results to the school district, usually within two working days.
 - c. The primary role of the MRO is to review and interpret positive drug test results to determine whether a legitimate explanation exists for the positive drug test result.
 - 1) After reviewing the chain of custody form and the laboratory drug test results, the MRO contacts the driver to discuss the positive drug test result prior to notifying the school district and to ask whether the driver requests a drug test of the split sample. The driver's request for a drug test of the split sample must be made within seventy-two hours of talking with the MRO.
 - 2) Upon request of the driver, the split specimen is sent to a second certified laboratory to test only for the drug found in the primary specimen.
 - 3) The MRO contacts the school district contact person for assistance if the driver cannot be reached.
 - 4) The school district contact person must confidentially inform the driver to contact the MRO.
 - 5) Upon contacting the driver, the school district contact person must inform the MRO that the

driver was contacted.

- 6) Drivers who cannot be contacted are placed on temporary medically unqualified status or medical leave.
- d. The MRO may verify a positive drug test without talking to the driver if:
 - 1) The driver declines the opportunity to discuss the positive drug test.
 - 2) The driver fails to contact the MRO within five days after the school district contact person has contacted the driver.
 - 3) MRO verification of positive drug test results under these circumstances can be challenged by the driver if the driver presents the MRO with information documenting a serious illness, injury or other circumstances unavoidably preventing the driver from timely contacting the MRO. The MRO, based on this additional information, may find a legitimate explanation for the positive drug test result, and declare the drug test negative.
- e. The driver is notified of the drugs found in a positive drug test result by the MRO, the school district contact person or by certified mail to the driver's last known address.
- f. The school district receives a written report of the negative and positive drug test results from the MRO.

F. Substance Abuse Professional

1. A substance abuse evaluation by a substance abuse professional is the personal and financial responsibility of the driver as a condition of continued employment when a driver has:
 - a. A positive drug test;
 - b. A positive alcohol test of 0.04 alcohol concentration or greater; or
 - c. Otherwise violates the drug and alcohol testing program policy, its supporting documents, or the law.
2. The substance abuse evaluation determines what assistance, if any, the driver needs in resolving problems with alcohol misuse and/or drug use.
3. A list of available substance abuse professionals to provide assistance to bus drivers is available through the school nurse.

G. Pre-employment Testing

1. Drivers shall submit to a drug test if a job offer is made. The job offer is contingent upon:
 - a. A negative drug test result; and
 - b. A signed written statement authorizing former employers to release all information on the driver related to drugs and alcohol.
2. Prior to allowing a driver to perform a safety-sensitive function, and no later than fourteen days after performing a safety-sensitive function, information must be obtained, or a good faith effort must have been made to obtain the information about the driver's drug and alcohol history.
 - a. The following information must be obtained about the driver for the two-year period preceding the date of the application.
 - 1) Alcohol test result of 0.04 alcohol concentration or greater;
 - 2) Positive drug test results; and
 - 3) Refusals to be tested.
 - b. The information must be obtained, or a good faith effort made to obtain, the information if the driver is currently performing and will continue to perform a safety-sensitive function.
 - c. The information must be obtained, or a good faith effort made to obtain, the information if the driver performed a safety-sensitive function and is no longer employed by the school district.
 - d. The information does not need to be obtained if the driver did not perform a safety-sensitive function and is no longer employed by the school district.
 - e. The school district may obtain information held by the prior employer for the two-year period preceding the date of application even if the information came from other employers.
 - f. A good faith effort requires the school district to request and hopefully receive, the information prior to the driver driving and no later than fourteen days after first driving by taking the following steps:
 - 1) Obtain the driver's written consent immediately after a conditional employment offer is

made.

- 2) Send a completed consent for Release of Information signed by the driver to prior employers via certified mail.
- 3) Contact the prior employers' drug and alcohol testing program managers about the status of the request if no response is received within reasonable period.
- 4) Take appropriate action (i.e. follow-up with a SAP, terminate employment) if the information received, whether prior to or after the fourteen day period, requires.
- 5) Document and maintain the documentation of the steps taken to obtain the information when it is not received or the prior employer refuses to submit the information.

H. Random Testing

1. Annually, ten percent of the average number of drivers are selected for random alcohol tests and fifty percent of the average number of drivers are selected for random drug tests.
2. The drivers' identification numbers are selected by a scientific method giving each driver an equal chance to be selected.
3. Random tests are unannounced and spread throughout the year.
4. Drivers selected for **random alcohol testing** are notified just before, during or just after any performing a safety-sensitive function. The school district documents why some, if any, drivers were selected but not notified.
5. Drivers selected for **random drug testing** are notified at any time. The school district must document why some, if any, drivers were selected but not notified.
6. Once the driver is notified of being selected for a random test, the driver must proceed immediately to the collection site. However, drivers performing a safety-sensitive function must safely stop and proceed to the collection site as soon as possible.

I. Reasonable Suspicion Testing

1. A driver may be required to submit to a reasonable suspicion **drug** test at any time.
2. A driver may be required to submit to a reasonable suspicion **alcohol** test just before, during or just after the time the driver is required to be in compliance with the drug and alcohol testing program policy, its supporting documents or the law.
 - a. A reasonable suspicion alcohol test is performed within two hours and no later than eight hours of determining reasonable suspicion.
 - b. If the alcohol test is not given within two hours, the reasons for the delay must be documented.
 - c. If the alcohol test is not given within eight hours, attempts to test are stopped and the reason for not testing must be documented.
3. A reasonable suspicion test request is made by an employee who received training to determine reasonable suspicion. The reasons for the reasonable suspicion must be documented within twenty-four hours or prior to the release of the test results. If more than one employee trained to determine reasonable suspicion observes the driver, that employee must also document their reasons.

J. Post-accident Testing

1. Drivers are subject to both post-accident drug and alcohol testing as soon as possible after an accident in which:
 - a. A fatality, other than the driver, occurred.
 - b. The driver was cited, and bodily injury occurred to a person who, as a result of the injury, required immediate medical treatment away from the scene of the accident; or
 - c. The driver was cited, and one or more motor vehicles incurred disabling damage as a result of the accident, requiring a motor vehicle to be transported away from the accident scene by a tow truck or other motor vehicle.
 - 1) "Disabling damage" is damage which precludes the departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It includes damage to motor vehicles that could have been driven but would have been further damaged if so driven.
 - 2) "Disabling damage" excludes damage which can be remedied temporarily:
 - a) Tire disablement without other damage even if no spare tire is available.
 - b) Headlight or taillight damage.

- c) Damage to turn signals, horn, or windshield wipers which make them inoperative.
- 2. Drivers must remain readily available for post-accident testing.
 - a. Drivers who leave the scene or who do not remain readily available are deemed to have refused to test.
 - b. Necessary medical treatment cannot and should not be denied to a driver waiting to complete post-accident drug and alcohol tests.
- 3. Alcohol testing requirements.
 - a. The alcohol test is administered within two hours and no later than eight hours of the accident.
 - b. The reasons for administering the test later than two hours after the accident must be documented.
 - c. The reasons for not administering the test within eight hours of the accident must be documented.
 - d. Drivers are prohibited from consuming alcohol for eight hours after the accident or until the alcohol test is completed.
- 4. Drug testing requirements.
 - a. The drug test is administered as soon as possible and no later than 32 hours after the accident.
 - b. The reasons for not administering the test must be documented.
- 5. Results of drug or alcohol testing conducted by law enforcement officers or other officials on the scene with independent authority to conduct such tests are presumed valid if the testing conforms to the law. The school district must receive a copy of the results to use them.
- K. Return-to-duty/Follow-up Testing
 - 1. Prior to returning to duty after a positive drug test, a positive alcohol test of 0.04 alcohol concentration or greater, or otherwise violating the drug and alcohol testing program policy, its supporting documents or the law, the driver bears the personal and financial responsibility to:
 - a. Be re-evaluated by a substance abuse professional to determine that the driver has properly followed any treatment program prescribed.
 - b. Submit to the tests required by the substance abuse professional. The substance abuse professional may require a return-to-duty test for drugs, alcohol, or both.
 - c. Have a negative return-to-duty drug test result and/or an alcohol test result of less than 0.02 alcohol concentration before the driver can return to duty and perform any safety-sensitive function.
 - 2. After returning to duty, the driver is subject to a minimum of six unannounced follow-up tests within twelve months for alcohol, drugs, or both, as determined by the substance abuse professional.
 - a. The substance abuse professional can terminate the follow-up testing requirement after the first six tests have been completed or continue the follow-up testing for up to sixty months from the date of the driver's return to duty.
 - b. Alcohol follow-up testing is done just before, during or just after performing a safety-sensitive function.
 - c. Drug follow-up testing is done any time.
- L. School District Responsibilities
 - 1. Provide drivers with information on the drug and alcohol testing requirements of the drug and alcohol testing program policy, its supporting documents, and the law, including the driver's obligations.
 - 2. Supervisors of drivers or employees designated to determine reasonable suspicion must receive sixty minutes of training on alcohol misuse and sixty minutes of training on drug use. The training must address the physical, behavioral, speech and performance certificate must be maintained by the school district until the employee leaves employment of the school district or is no longer authorized to make a reasonable suspicion determination.
 - 3. Provide drivers with instructions prior to the driver operating a school vehicle to enable the driver to comply with the drug and alcohol testing requirements.
 - 4. Disallow drivers to report to work or perform a safety-sensitive function when the school district has actual knowledge of a driver's drug use whether or not a drug test was conducted.
 - 5. Disallow drivers to report to work or perform a safety-sensitive function when the school district has actual knowledge of a driver with 0.02 alcohol concentration or great whether or not an alcohol test

was conducted.

6. Ensure, through the school district's drug and alcohol testing program service provider, that the quality assurance plan, developed by the manufacturer and approved by the National Highway Traffic Safety Administration (NHTSA) for the evidentiary testing device or saliva alcohol testing device used for alcohol testing of its drivers, describes the inspection, maintenance and calibration requirements and intervals for the device.
 7. Ensure, through the school district's drug and alcohol testing program service provider, that the collection site person using an evidentiary breath testing device is a certified breath alcohol technician (BAT).
 8. Ensure, through the school district's drug and alcohol testing program service provider, that the collection site person using a saliva alcohol testing device is a certified BAT or saliva test technician (STT).
- M. Consequences of violating the drug and alcohol testing program policy, its supporting documents, or the law.
1. Each violation is dealt with based on the circumstances surrounding the violation. The following consequences may result from a violation.
 - a. Drivers may be disciplined up to and including termination.
 - b. Drivers may not be permitted to perform safety-sensitive functions.
 - c. Drivers may be advised of the resources available to them in evaluating and resolving programs associated with the misuse of alcohol or use of drugs.
 - d. Drivers refusing to submit to drug and/or alcohol testing are considered insubordinate and are subject to termination.
 - e. Drivers/applicants who refuse to submit to or cooperate with the drug and-or alcohol testing process and requirements shall be disqualified from further consideration.
 - f. Drivers, as a condition of continued employment, bear the personal and financial responsibility for undergoing a substance abuse evaluation to determine what assistance, if any, the driver needs in resolving problems associated with the misuse of alcohol or use of drugs and be required to follow any recommended substance abuse treatment program.
 - g. Misuse of alcohol or use of drugs and be required to follow any recommended substance abuse treatment program.
 - h. Prior to returning to duty, the driver is required to have a negative drug and/or alcohol test result and be subject to the follow-up drug and/or alcohol testing determined necessary based on the circumstances surrounding the incident.
 - i. Drivers refusing to submit to drug and/or alcohol testing are considered insubordinate and are subject to discipline up to and including termination.
 2. Nothing in the drug and alcohol testing program policy, its supporting documents or the law relating to drug and alcohol testing limits or restricts the right of the board or superintendent to discipline, up to and including termination, a driver for conduct which violated the school district's policies, supporting documents and procedures.
- N. Drug and alcohol testing records.
1. Drug and alcohol testing records are stored in locked files at limited access locations separate and apart from the driver's general personnel records.
 2. The records are released only with the written consent of the driver. Only those records specifically authorized for release may be released. However:
 - a. Records may be released to appropriate government agencies without a driver's written consent.
 - b. Records may be released to appropriate school district employees without a driver's written consent.
 - c. School districts may, without a driver's written consent make a driver's drug and alcohol test records available to a decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the driver and arising from the result of an alcohol or drug test under the drug and alcohol testing program policy, its supporting documents or the law or from the school district's

- d. determination that the driver violated the drug and alcohol testing program, its supporting regulations, or the law.
- 3. With a written request, drivers may access and copy their drug and alcohol test records in accordance the board policy related to employee records. A driver is not denied access to these records for failure to pay fees associated with other records.
- 4. The following records of the school district's drug and alcohol testing programs are maintained for the time period indicated.
 - a. One year.
 - 1) Records of negative and canceled drug test results and alcohol test results of less than 0.02 breath alcohol concentration.
 - 2) Records related to a driver's test results.
 - 3) Records related to other violations of the law.
 - 4) Records related to substance abuse evaluations.
 - b. Two years.
 - 1) Records related to the alcohol and drug collection process, except calibration evidentiary breath testing devices, and training.
 - c. Five years.
 - 1) Alcohol test results of 0.02 alcohol concentration and greater.
 - 2) Verified positive drug test results.
 - 3) Documentation of refusals to take required alcohol and/or drug tests.
 - 4) Evidentiary breath testing device calibration documentation.
 - 5) Driver substance abuse evaluations and referrals.
 - 6) Annual calendar year summary.
 - 7) Records related to the administration of the drug and alcohol testing program.
 - d. Forever or as designated below.
 - 1) Reasonable suspicion training certificates must be retained two years after the employee is no longer authorized to make a reasonable suspicion.
 - 2) Records related to the education and training of drivers must be retained two years after the employee ceased to perform a safety sensitive function.
- 5. The following records of a school district collection site for saliva alcohol testing are maintained for the time period indicated.
 - a. Two years.
 - 1) Records related to the alcohol collection process.
 - b. Five years.
 - 1) Collector copy of Chain of Custody Form for Controlled Substance Testing.
 - 2) Collector copy of Breath Alcohol Test Form.
 - 3) Quality assurance plan, if any.
 - 4) Quality control check sheet.
 - c. Records related to the education and training of STTs must be retained two years if the employee ceased to perform the duties of an STT.

403.9R2 DRUG AND ALCOHOL TESTING PROGRAM DEFINITIONS

Air blank – a reading by an evidentiary breath testing device (EBT) of ambient air containing non-alcohol.

Alcohol – the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) – the alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred ten liters of breath as indicated by an evidentiary breath alcohol test or saliva alcohol test under the law.

Alcohol use – the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) – an individual who instructs and assists drivers in the alcohol testing process and operates an evidentiary breath testing device, non-evidentiary breath testing device or saliva testing device.

Canceled or invalid test – in drug testing it is a drug test that has been declared invalid by a Medical Review Officer of a specimen that has been rejected for testing by a laboratory. In alcohol testing it is a test that is deemed to be invalid under the law. A canceled drug test or alcohol test is neither a positive or negative test.

Chain of Custody – procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures require that an appropriate drug testing custody form be used from time to collection to receipt by the laboratory and that upon receipt by the laboratory and appropriate laboratory chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.

Collection site -- a place where drivers present themselves for the purpose of providing body fluid or a tissue sample to be analyzed for specific drugs or breath alcohol concentration.

Confirmation test – for alcohol testing it is a second test following a screening alcohol test with a result of 0.02 breath alcohol concentration or greater that provides quantitative data of breath alcohol concentration. For drug testing it is a second analytical procedure (GC/MS) to identify the presence of a specific drug or metabolite which is independent of the initial test, and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

Controlled substances/drugs – marijuana, cocaine, opiates, amphetamines, and phencyclidine.

Driver- any person who operates a school vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the school district or who operate a school vehicle at the direction of or with the consent of the school district. For the purposes of pre-employment/pre- duty testing only, the term “driver” includes applicants for drivers of school vehicle positions.

Initial test (or screening test) – in drug testing it is an immunoassay screen to eliminate “negative” urine specimens from further consideration. In alcohol testing it is an analytic procedure to determine whether a driver may have prohibited concentration of alcohol in a breath or saliva specimen.

Licensed medical practitioner – a person who is licensed, certified, and/or registered, in accordance with applicable federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs.

Medical review officer (MRO) – a licensed physician (medical doctor or doctor of osteopathy) responsible for

receiving laboratory results generated by an employer's drug testing program who has knowledge or substance abuse disorders and has appropriate medical training to interpret and evaluate a driver's confirmed positive test result together with the driver's medical history and any other relevant bio-medical information.

Non-suspicion-based post-accident testing – testing of a driver after an accident without regard to whether there is any reasonable suspicion of drug usage, reasonable cause to believe the driver has been operating the school vehicle while under the influence of drugs, or reasonable cause to believe the driver was at fault in the accident and drug usage may have been a factor.

Performing a safety-sensitive function – a driver is considered to be performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

Random Selection Process – when drug and alcohol tests are unannounced, and every driver has an equal chance of being selected for testing.

Reasonable suspicion – when the school district believes the appearance, behavior, speech, or body odors of the driver are indicative of the use of drugs or alcohol.

Refusal to test – when a driver (1) fails to provide adequate breath or saliva for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of the law, (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provision of the law, or (3) engages in conduct that clearly obstructs the testing process. A refusal to test is treated as a positive drug test result or an alcohol test result of 0.04 alcohol concentration or greater.

Safety-sensitive function – all time from the time when a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.

Saliva test technician (STT) – an individual who has successfully completed U.S. DOT approved training for saliva alcohol testing who instructs and assists drivers in the initial (screening) alcohol testing process and operates a non-evidentiary breath testing or saliva testing device.

School vehicle – a vehicle owned, leased, and/or operated at the direction or with the consent of the school district which transports sixteen or more persons, including the driver, or weighs over twenty-six thousand one pounds and requires the driver to have/possess a commercial driver's license in order to operate the vehicle.

Split specimen/split sample – the division of the urine specimen into thirty milliliters in a specimen bottle (the primary sample) and into at least fifteen milliliters in second specimen bottle (the split sample).

Substance abuse professional (SAP) – a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances- related disorders.

403.9E1 DRUG AND ALCOHOL TESTING PROGRAM NOTICE TO EMPLOYEES

EMPLOYEES GOVERNED BY THE DRUG AND ALCOHOL TESTING POLICY ARE HEREBY NOTIFIED they are subject to the school district's drug and alcohol testing program for pre-employment drug testing and in addition are subject to random, reasonable suspicion and post-accident drug and alcohol testing as outlined in the Drug and Alcohol Testing Program policy, its supporting documents, and the law.

Employees who operate school vehicles classified as "commercial motor vehicles" by the U.S. Department of Transportation are subject to drug and alcohol testing. A "commercial motor vehicle" is a vehicle that transports sixteen or more persons including the driver or has a gross vehicle weight rating (GVWR) of 26,001 pounds or more. For purposes of the drug and alcohol testing program, "employees" also includes applicants who have been offered a position to operate a commercial motor vehicle owned by the school. Employees that will operate a school-owned commercial motor vehicle are subject to the drug and alcohol testing program regulations beginning the first day they are offered a position to operate a school vehicle and continue to be subject to the drug and alcohol testing program until such time employment is terminated or the employee will no longer operate, at any time, a commercial motor vehicle for the school.

It is the responsibility of the superintendent to inform employees of the drug and alcohol testing program requirements. Employees with questions regarding the drug and alcohol testing requirements will contact the school district's contact person.

EMPLOYEES GOVERNED BY THE DRUG AND ALCOHOL TESTING POLICY ARE FURTHER NOTIFIED that employees violating this policy, its supporting documents or regulations will be subject to discipline up to and including termination.

EMPLOYEES GOVERNED BY THE DRUG AND ALCOHOL TESTING POLICY ARE FURTHER NOTIFIED that information related to drug or alcohol violations will be reported to the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse.

EMPLOYEES GOVERNED BY THE DRUG AND ALCOHOL TESTING POLICY ARE FURTHER NOTIFIED it is a condition of their continued employment to comply with the Drug and Alcohol Testing Program policy, its supporting documents, regulations, and the law. It is a condition of continued employment for employees operating a school vehicle to notify their supervisor of any prescription medication they are using. Drug and alcohol testing records about a driver are confidential and are released in accordance with this policy, its supporting documents, regulations, or the law.

403.9E2 DRUG AND ALCOHOL TESTING PROGRAM ACKNOWLEDGMENT FORM

I, (_____), have received a copy, read and understand the Drug and Alcohol Testing Program policy of the Shenandoah Community School District and its supporting documents.

I understand that if I violate the Drug and Alcohol Testing Program policy, its supporting documents, or the law, I may be subject to discipline up to and including termination.

I also understand that I must inform my supervisor of any prescription medication I use.

In addition, I have received a copy of the U.S. DOT publication, “What Employees Need to Know about DOT Drug & Alcohol Testing,” and have read and understand its contents.

Furthermore, I know and understand that I am required to submit to a controlled substance (drug) test, the results of which must be received by this employer before being employed by the school district and before being allowed to perform a safety-sensitive function. I also understand that if the results of the pre-employment test are positive, that I will not be considered further for employment with the school district.

I further understand that drug and alcohol testing records about me are confidential and may be released in accordance with this policy, its supporting documents, regulations, or the law.

(Signature of Employee)

(Date)

403.9E3 DRUG & ALCOHOL PROGRAM AND PRE-EMPLOYMENT TESTING WRITTEN CONSENT TO SHARE INFORMATION

I, (Name of Employee), understand that as part of my employment in a position that requires a commercial driver's license in the Shenandoah Community School District, I grant consent for the District to conduct queries of the Federal Motor Carrier Safety Administration ("FMCSA") Commercial Driver's License Drug and Alcohol Clearinghouse to determine whether drug or alcohol violation information about me exists in the Clearinghouse. I further consent to the District sharing information related to my drug and alcohol testing results with prior, current and future employers, as well as the FMCSA Clearinghouse in accordance with state and federal laws.

I understand that the District will check and perform queries of my drug and alcohol testing results prior to my employment in any position which requires the use of a commercial driver's license. I further understand the District will check and perform queries of my testing results annually and is required to report any drug and alcohol violations of this policy to the FMCSA Clearinghouse.

I understand that I am not required to consent to the query of the FMCSA Clearinghouse or the District sharing of drug and alcohol testing information with past, present, or future employers or the FMCSA Clearinghouse; but that without my consent I understand I will be prohibited from performing safety sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

I hereby give my consent to the District to perform queries of the FMCSA Clearinghouse and share my drug and alcohol testing results with past, present and future employers, as well as the FMCSA Clearinghouse.

(Signature of Employee)

(Date)

403.9E4 DRUG/ALCOHOL TEST NOTIFICATION FORM

Date

Name (Print)

Social Security Number

The above named employee is to have the following test: _____ Drug _____ Alcohol _____ Both Drug & Alcohol

Type of Test: _____ Random _____ Pre-employment (drug only) _____ Post-accident _____ Reasonable suspicion

Time Sent by District

School District Contact & Phone

Time Arrived at Collection Site

Collection Site Person

Time Test Was Completed

Collection Site Person

I understand I am to go directly to the collection site located at (address of collection site): _____

I understand a positive drug test result or an alcohol test result of .04 alcohol concentration or greater will result in termination of my employment and that an alcohol test result of greater than .02 but less than .04 alcohol concentration requires me to cease performing a safety-sensitive function for twenty-four hours.

I further understand my drug and alcohol testing results are reported to and maintained by the school district and the Iowa Drug and Alcohol Testing (IDATP) medical review officer for the purpose of completion of reports including, but not limited to, the Annual Summary/MIS reports required under the federal drug and alcohol testing regulations.

Employee's Signature

Date

403.9E5 CERTIFICATION OF PREVIOUS EMPLOYERS REQUIRING
A COMMERCIAL DRIVER'S LICENSE_____
Name_____
Social Security Number

I certify that I have been employed by the following employers during the two years prior to the date stated below and that I was required to possess a commercial driver's license (CDL) during the term of my employment.

Company _____ Phone _____

Address _____

City /State/Zip _____

Company _____ Phone _____

Address _____

City /State/Zip _____

Company _____ Phone _____

Address _____

City /State/Zip _____

Company _____ Phone _____

Address _____

City /State/Zip _____

Company _____ Phone _____

Address _____

City /State/Zip _____

Signature_____
Date

403.9E6 DRUG AND ALCOHOL REASONABLE SUSPICION OBSERVATION FORM

Employee's Name	Date of Observation
Time of Observation: From _____ a.m/p.m to _____ a.m/p.m. Location: _____	
Observed personal behavior: (check all appropriate items)	
Speech: _____ Normal _____ Incoherent _____ Confused _____ Loud _____ Slurred _____ Whispering _____ Silent _____ Disruptive	
Balance: _____ Normal _____ Swaying _____ Staggering _____ Falling	
Walking and Turning: _____ Normal _____ Stumbling _____ Swaying _____ Falling _____ Arms raised for balance _____ Reaching for support	
Awareness: _____ Normal _____ Confused _____ Paranoid _____ Sleepy or Stupor _____ Lack of coordination	
Odor: _____ Normal _____ Alcohol _____ Burned rope	
Appearance: _____ Red Eyes _____ Vomiting _____ Half closed eyes	
Comments: _____	

Reasonable suspicion of current use, or impaired by _____ alcohol _____ drugs. Above behavior witnessed by:

Signed	Date
Signed (optional)	Date

This form must be completed by each trained employee observing the driver suspected of drug use and/or alcohol misuse by behavior, speech and/or odor while on duty, the earlier of within twenty-four hours of the determination of reasonable suspicion or prior to receiving the test results. The observations must be specific, contemporaneous, and articulable concerning the appearance, behavior, speech, and body odor of the driver.

403.9E7 DRUG AND ALCOHOL TESTING PROGRAM
PRE-EMPLOYMENT DRUG TEST ACKNOWLEDGMENT FORM

I, _____, have been informed of the requirement to submit to a drug test prior to being employed by the school district to perform a safety-sensitive function. I consent to submit to the drug and alcohol testing program as required by the Drug and Alcohol Testing Program policy, its supporting documents, and the law.

I understand that the results of my drug test will be shared with the school district. I also understand that if I have a positive drug test result, I will not be considered further for employment with the school district.

I further understand that the drug and alcohol testing records and information about me is confidential and may be released at my request or in accordance with the law.

(Signature of Applicant)

(Date)

403.9E8 RANDOM TESTING DRIVER CHANGE LIST FORM
IOWA DRUG AND ALCOHOL TESTING PROGRAM

School District Contact Person: _____ Date: _____

School District: _____ Phone: _____

Address: _____

Social Security Number and Name (first and last). Example 111-22-3333, John Doe.

<u>SSN</u>	<u>Additions Name</u>	<u>SSN</u>	<u>Deletions Name</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Please list all qualified drivers who must be tested under the federal regulations. Make copies of this form if you need additional space. Changes must be made in writing. Telephone changes cannot be accepted.

Changes must be received the last business day of the prior quarter to be effective for the quarter. Random selection list updates cannot be data entered for a new month if this form is received on or after the first of the new quarter.

IDAPT participants please fax or mail to:

Medical Enterprises
200 Essex Ct.
Omaha, NE 68114
FAX: (402) 393-8946

403.9E9 DRUG AND ALCOHOL TESTING PROGRAM REFERRAL TO SUBSTANCE ABUSE
PROFESSIONAL ACKNOWLEDGMENT FORM

I, _____, understand I have violated the Drug and Alcohol Testing Program policy, its supporting administrative regulations, and the law by having a

_____ Positive drug test result _____ Alcohol test result of 0.04 breath alcohol concentration or greater.

I understand in order to continue my employment, I must bear the personal and financial responsibility to be evaluated by a substance abuse professional who shall determine what assistance, if any, I need in resolving problems associated with drug use and/or alcohol misuse. I consent to submit to an evaluation by a substance abuse professional and I understand that my failure to cooperate with and complete the substance abuse evaluation may subject me to discipline up to and including termination.

I also understand that in order to continue my employment, I must successfully complete the substance abuse professional's recommended substance abuse treatment program, if any. I consent to successfully complete any recommended substance abuse treatment program, and I understand that my failure to successfully participate and complete the recommended substance abuse treatment program, if any, may subject me to discipline up to and including termination.

I further understand that in order to continue my employment, I must authorize the release to the school district any records related to my substance abuse evaluation and recommended substance abuse treatment program in the possession of or accessible by the substance abuse professional. I consent to authorize the release of the substance abuse professional's records related to my substance abuse evaluation and recommended substance abuse treatment program, if any, to the school district and I understand that my failure to release these records may subject me to discipline up to and including termination.

403.9E10 POST-ACCIDENT DRUG AND ALCOHOL TESTING INSTRUCTIONS TO DRIVERS

The following instructions have been reviewed by the drivers subject to the drug and alcohol testing program. These instructions must be kept in the school vehicle for reference in the event of an accident. The driver operating the school vehicle is responsible to carry out the instructions.

1. Take action to maintain the safety and health of the persons being transported in the school vehicle.
2. Report the accident to the following person as soon as practicable following the accident and follow any directions given to the driver.

School district contact person:

School district telephone:

School district contact person home telephone:

Back-up school district contact person:

Back-up school district contact person home telephone:

3. Determine whether any of the following have occurred, and if so, post-accident drug and alcohol testing must be done.
 - a. A fatality, other than the driver, occurred.
 - b. The driver was cited, **and** bodily injury occurred to a person who, as a result of the injury, required immediate medical treatment away from the scene of the accident.
 - c. The driver was cited, **and** one or more motor vehicles incurred disabling damage as a result of the accident, requiring a vehicle to be transported away from the scene of the accident by a tow truck or other motor vehicle.
 - (1) "Disabling damage" is damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It includes damage to motor vehicles that could have been driven but would have been further damaged if so driven.
 - (2) "Disabling damage" excludes damage which can be remedied temporarily at the scene of the accident without special tools or parts:
 - a. Tire disablement without damage even if no spare tire is available.
 - b. Headlight or taillight damage.
 - c. Damage to turn signals, horn, or windshield wipers which make them inoperative.
4. Consume no alcohol for eight hours or prior to submitting to a post-accident alcohol test, whichever occurs first, following an accident meeting the criteria in "3" above.
5. Remain available to submit to a post-accident alcohol test within two hours and no later than eight hours after the accident.
6. Remain available to submit to a post-accident drug test as soon as possible after the accident and no later than 32 hours after the accident.

7. Failure to remain available for post-accident drug and alcohol testing is considered a refusal to test and may subject the driver to discipline up to and including termination.
8. Seek appropriate medical attention despite the need to remain available to submit to post-accident drug and alcohol tests.
9. Using the Transportation Emergency Assistance Program manual developed by the Iowa Pupil Transportation Association, contact the nearest school district transportation director for assistance.
10. Obtain the name, badge number and telephone number of the law enforcement officer if the law enforcement officer conducts a post-accident drug and/or alcohol test. If possible, obtain copies of any alcohol and drug test results conducted by the law enforcement officer. Since these test results are generally unacceptable to meet the school district's requirements for post-accident drug and alcohol testing, the driver must remain available for post-accident drug and alcohol testing by a trained collection site person.
11. Complete the School Bus Accident Report form issues by the Iowa Department of Education as soon as possible.
12. Document failure to submit to a post-accident alcohol test if no alcohol test was conducted:
 - a. Document why the driver was not alcohol tested within two hours after the accident.
 - b. Document why the driver was not alcohol tested within eight hours after the accident.
 - c. A copy of the documentation must be submitted to the school district contact person upon return to the school district.
13. Document failure to submit to a post-accident drug test if no drug test was conducted:
 - a. Document why the driver was not drug tested within 32 hours after the accident.
 - b. A copy of the documentation must be submitted to the school district contact person upon return to the school district.

403.9E11 DRUG AND ALCOHOL TESTING PROGRAM WORKSHEET

Section I: General requirements

- _____ Determine qualifying drivers in the drug and alcohol testing program. (*Driver must meet first and third **OR** second and third*)
- _____ Driver or may drive a vehicle transporting 16 or more persons, including the driver;
 - _____ Driver or may drive vehicles weighing over 26,001 pounds requiring a commercial driver license; and
 - _____ Driver full time, part-time, occasionally, under a lease or under a contract with an independent contractor or otherwise driver with the consent of the school district.
- _____ Total drivers meeting the qualifications above in the drug and alcohol testing program.
- _____ Regularly employed drivers
 - _____ Substitute drivers
 - _____ Others who are available to driver.
- _____ Determine delivery method of drug and alcohol testing program. (*Choose one.*)
- _____ Iowa Drug and Alcohol Testing Program (IDATP). (*Contact IASB for information.*)
 - _____ Other service provider.
 - _____ School district will conduct its own program.
- _____ Identify/Verify the school district contact person(s) and back-up school district contact person(s).
- _____ Draft revised board policy and its supporting documents and forms.
- _____ Hold meeting to inform drivers about the federal regulations and revised board policy and its supporting documents and forms.
- _____ Inform drivers that time involved with drug and alcohol testing is on- duty time and they will be paid.
 - _____ Inform drivers that their records related to drug and alcohol testing are confidential records and will only be released with appropriate authorization.
- _____ Adopt revised board policy and its supporting documents and forms.
- _____ Hold meeting or meet with drivers individually to inform them about the federal regulations, and revised board policy and its supporting documents and forms.
- _____ Drivers complete policy sign off sheet. (403.9E2)
 - _____ Drivers take policy and sign off sheet with them to complete within a limited number of days. (403.9E2)
 - _____ Compile a list of resources available to provide evaluation and assistance with drug use or alcohol misuse for the drivers.
- _____ Confirm with the school district's employee assistance program the availability of a substance abuse professional or locate the nearest substance abuse professional.
- _____ The substance abuse professional is required to be a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance profession, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders.
 - _____ Make arrangements with substance abuse professional to have drivers sign a release of the

substance abuse professional's records related to the driver. (Contact IASB for a sample form).

_____ Ensure the substance abuse professional will refer drivers for treatment, if any, to a public agency, a person under contract with the school district, the sole source of appropriate treatment under the driver's health insurance program, or the sole source of appropriate treatment reasonably accessible to the driver and not to the substance abuse professional's personal practice or to a person or organization from which the substance abuse professional receives financial remuneration or has a financial interest.

_____ Make arrangements for written documentation from substance abuse professional when a driver fails to cooperate and successfully complete the substance abuse evaluation and the recommended substance abuse treatment, if any.

_____ Develop a training program or contract for training to educate drivers about the effects of drug use and alcohol misuse on their work and their personal lives.

_____ File new policy sign off sheet in each driver's drug and alcohol testing personnel file.

_____ File new unsigned policy sign off sheet in the driver's drug and alcohol testing personnel file with documentation why it is unsigned.

_____ Instruct drivers on revised procedures to follow in the event of an accident. (403.9E10)

_____ Place revised summary of post-accident instructions in each school vehicle for reference by driver in the event of an accident. (403.9E10)

_____ Make arrangements to have a minimum of two employees receive the reasonable suspicion training.

_____ Contact the collection site and arrange a meeting to review the following.

_____ Procedures for setting up appointments.

_____ School district's collection site contact person.

_____ Procedures when a driver has no photo identification.

_____ Procedures for receiving alcohol test results.

_____ Procedures for transporting drivers with an alcohol test result of 0.02 alcohol concentration or greater.

Section II. Records keeping.

_____ Ensure drug and alcohol testing related records are retained in limited access secure storage files separate and apart from the drivers' general personnel records.

_____ Verify/create individual driver drug and alcohol testing file to contain:

_____ Policy sign off sheet. (403.9E2)

_____ Agreement to participate in the program. (403.9E2)

_____ Pre-employment drug and alcohol testing related information. (*Applicable only to drivers hired after Jan. 1, 1996*). (403.9E5)

_____ Pre-employment release of prior employer drug and alcohol testing related information. (*Applicable only to drivers hired after Jan. 1, 1996*). (403.9E3)

_____ Pre-employment drug test authorization. (*Applicable only to drivers hired after Jan. 1, 1996*). (403.9E7)

_____ Copy of Drug/Alcohol Test Notification form. (403.9E4)

_____ Copy of drug test chain of custody form.

_____ Copy of alcohol test form.

- _____ Refusal to test.
- _____ Substance abuse professional evaluation and treatment records, (if any)
- _____ Other information pertinent to the driver.
- _____ Supervisor and/or driver training sign-off sheets.

- _____ Verify/create files for other drug and alcohol testing related information.
 - _____ Accident information.
 - _____ Random selection lists.
 - _____ Positive drug test results.
 - _____ Positive alcohol test results.
 - _____ Negative drug tests results.
 - _____ Negative alcohol tests results.
 - _____ Change list of all drivers adds/deletes from the drug and alcohol testing program. (403.9E8)
 - _____ Miscellaneous drug and alcohol testing related information.
 - _____ Reasonable suspicion training certificates.

- _____ Records related to the calibration of the evidentiary breath testing devices, training of the collection site personnel and other related information kept by (IDATP/service provider) is available from (IDATP/service provider) within two working days.

- _____ Records related to saliva alcohol testing devices.

- _____ Records related to the school district serving as a saliva alcohol testing or urine specimen collection site.

Section III. Release or Drug and Alcohol Testing Related Records.

- _____ Generally, a driver's drug and alcohol testing records are released only with the permission of the driver.
- _____ Driver may have prompt access to and copies of their drug and alcohol testing records.
 - _____ Request for access must be in writing.
 - _____ Copying fees for the records must be in accordance with board policy.
- _____ Drug and alcohol testing records are available to subsequent employers with the driver's written authorization.
- _____ Without the driver's written permission, the driver's drug and alcohol test records are made available to a decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the driver and arising from the results of a drug or alcohol test under the federal regulations or from the school district's determination that the driver violated the federal regulations.

Section IV. Pre-employment testing.

- _____ Include the requirement of a drug test in any advertising, posting or other notice of the driver position.
- _____ Applicant completes the Pre-employment Drug Test Acknowledgement form. (403.9E7)
- _____ Applicant completes the Consent for Release Information form. (403.9E3)
- _____ Applicant completes Certification of Previous Employers Requiring a Commercial Driver's License. (403.9E5)

- _____ Applicant completes the Drug/Alcohol Test Notification Form. (403.9E4)
- _____ Obtain information required on the Consent for Release of Information form. (403.9E3)
 - _____ Received prior to the applicant performing a safety-sensitive function.
 - _____ Received no later than fourteen days of the applicant performing a safety-sensitive function.
(Recommended only when absolutely necessary.)
- _____ Applicant obtains the pre-employment drug test.
- _____ Receive pre-employment drug test results.
 - _____ Negative drug test allows the applicant to being to perform a safety-sensitive function.
 - _____ Positive drug test removes the applicant from further consideration for the driver position.
- _____ Forward the pre-employment drug test results to the applicant upon the applicant's request.
- _____ File all documentation
 - _____ If not hired, file with the applicant's application.
 - _____ If hired, file with the applicant's drug and alcohol related personnel file.

Section V: Alcohol Test Results.

- _____ Receive alcohol test results from collection site person.
 - _____ By telephone using a password system with written results to follow by mail (or other means).
 - _____ By a secure electronic means.
 - _____ By secure fax.
- _____ Alcohol test result is less than 0.02 alcohol concentration.
 - _____ Driver may continue to perform a safety-sensitive function.
- _____ Alcohol test result is 0.02 to 0.0399 alcohol concentration.
 - _____ School district transport drier to home or other location.
 - _____ Driver may not perform a safety-sensitive function for twenty-four hours.
 - _____ Make arrangements for substitute, if necessary.
 - _____ No action may be taken against the driver under the federal regulations.
 - _____ Repeated offenses must be reported to superintendent for action.
 - _____ Document incident and file.
- _____ Alcohol test result is 0.04 or greater alcohol concentration.
 - _____ School district transport driver to home or other location.
 - _____ Driver may not perform a safety-sensitive function.
 - _____ Make arrangements for substitute, if necessary.
 - _____ Place driver on leave.
 - _____ Take necessary steps after consulting with the school attorney to terminate the driver.
 - _____ Driver may not perform a safety-sensitive function until evaluated by a substance abuse professional and completed the recommended substance abuse treatment program, if any.

Section VI: Drug Test Results.

- _____ Receive drug test results from the medial review officer.
 - _____ By telephone using a password system with written results to follow by mail (or other means).

_____ By a secure electronic means.

_____ By secure fax.

_____ Drug test result is negative.

_____ Driver may continue to perform a safety-sensitive function.

_____ Drug test result is positive.

_____ Driver may not perform a safety-sensitive function until evaluated by a substance abuse professional and completed the recommended substance abuse treatment program, if any.

Section VII: Random Drug and Alcohol Testing.

_____ Receive the random selection list from IDATP.

_____ Determine the date and time a driver or the random selection list will be notified and make appointments at the collection site.

_____ Notify selected drivers.

_____ Notify the required number of drivers on the random selection list prior to the end of the quarter.

_____ Vary notification each quarter, including day, week, and time of day to ensure drivers do not know the random testing is completed for the quarter and now they are free to misuse alcohol or use drugs until the next quarter.

_____ Notified drivers sign the Drug/Alcohol Test Notification form. (403.9E4)

_____ Driver proceeds to collection site.

_____ Document, if necessary, reasons why any driver on the random selection list was not notified and attach documentation to the random selection list.

_____ Go to Section V, Alcohol Test Results, or Section VI, Drug Test Results, for appropriate action based on test results.

Section VIII: Reasonable Suspicion Testing.

_____ Driver supervisors who have received reasonable suspicion training document specific, contemporaneous, articulable observations of the driver's behavior, speech, or body odors on the Reasonable Suspicion Observation form. (403.9E6)

_____ A second reasonable suspicion trained employee, if at all possible, documents specific, contemporaneous, articulable observations of the driver's behavior, speech or body odors on the Reasonable Suspicion Observation form. (403.9E6)

_____ Driver is removed from performing a safety-sensitive function pending the drug and/or alcohol test results.

_____ Driver completes Drug/Alcohol Testing Notification form. (403.9E4)

_____ Driver is transported to the collection site.

_____ Complete and file documentation of Reasonable Suspicion Observation form immediately and no later than within twenty-four hours or prior to receiving the test results. (403.9E6)

Section IX: Post-Accident Testing.

_____ Instruct driver on procedures to follow in the event of an accident.

_____ Place summary of instructions in each school vehicle with the Iowa Pupil Transportation Association's Transportation Assistance Manual for reference by a driver in the event of an accident. (403.9E10)

_____ Receive notice of accident from driver.

_____ Determine whether post-accident testing must be done.

_____ A fatality, other than the driver, occurred.

_____ The driver was cited, **and** bodily injury occurred to a person who, as a result of the injury, required immediate medical treatment away from the scene of the accident.

_____ The driver was cited, **and** one or more motor vehicles incurred disabling damage as a result of the accident, requiring a motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

_____ Remind the driver of the requirement to remain available for drug and alcohol testing and to **not** consume alcohol for eight hours after the accident.

_____ Contact the nearest school district transportation director for the location of their collection site using the Iowa Pupil Transportation Association's Transportation Emergency Assistance Manual.

_____ Make arrangements for the driver to be tested for alcohol within two hours and no later than eight hours after the accident must be documented and filed.

_____ The reason for failing to have an alcohol test after two hours but prior to eight hours after the accident must be documented and filed.

_____ The reason for failing to have an alcohol test prior to eight hours after the accident must be documented and filed.

_____ Make arrangements for the driver to be drug tested as soon as possible and no later than thirty-two hours after the accident.

_____ The reason for failing to have a drug test after thirty-two hours after the accident must be documented and filed.

_____ Medical attention to the driver is not denied in order to conduct the drug and alcohol tests.

_____ Alcohol and drug test results conducted by law enforcement in accordance with the federal regulations may be used to meet the post-accident drug and alcohol testing requirements if the school district received a copy of the test results.

_____ Notify insurance company of all accidents, whether post-accident drug and alcohol testing was required and ask the insurance company to maintain a list of **all** accidents reported so a list of all accidents may be easily compiled in the event of a U.S. DOT audit.

Section X: Return to Duty and Follow-up Testing.

- _____ Driver has completed the substance abuse professional's evaluation and recommended substance abuse treatment program, if any.
- _____ Driver must provide in accordance with the substance abuse professional's instructions a negative drug test result and/or alcohol test result of less than 0.02 alcohol concentration.
- _____ Meeting this requirement allows the driver to return to work to perform a safety-sensitive function.
- _____ Failure of the driver to meet this requirement is reported to the superintendent for discipline up to and including termination.
- _____ In accordance with the substance abuse professional's instructions, the driver is subject to a minimum of six unannounced drug and/or alcohol tests during the next twelve months and may be subject to an unannounced drug and/or alcohol tests during the next twelve months.
- _____ The substance abuse professional notifies the school district when the drug and/or alcohol testing is to take place.
- _____ Make an appointment at the collection site for the appropriate collection.
- _____ Notified driver signs the Drug/Alcohol Test Notification form. (403.9E4)
- _____ Driver proceeds to collection site.
- _____ A positive drug test result or an alcohol test result of greater than 0.02 alcohol concentration is reported to the superintendent for discipline up to and including termination.

404 EMPLOYEE CONDUCT AND APPEARANCE

Employees are role models for the students who come in contact with them during and after school hours. The board recognizes the positive effect employees can have on students in this capacity. To this end, the board strongly suggests and encourages employees to dress themselves, groom themselves and conduct themselves in a manner appropriate to the educational environment.

Employees will conduct themselves in a professional manner. Employees will dress in attire appropriate for their position. Clothing should be neat, clean, and in good taste. Discretion and common-sense call for an avoidance of extremes which would interfere with or have an effect on the educational process.

Licensed employees of the school district, including administrators, will follow the code of ethics for their profession as established by the Iowa Board of Educational Examiners.

Legal Reference: Iowa Code § 279.8.
282 I.A.C. 25; 26.

Cross Reference: 104 Anti-bullying/Harassment
307 Administrator Code of Ethics
401.11 Employee Orientation
403.5 Substance-Free Workplace
407 Licensed Employee Termination of Employment
413 Classified Employee Termination of Employment

404.R1 CODE OF PROFESSIONAL CONDUCT AND ETHICS REGULATION

CHAPTER 25

282—25.1(272) Scope of standards. This code of professional conduct and ethics constitutes mandatory minimum standards of practice for all licensed practitioners as defined in Iowa Code chapter [272](#). The adherence to certain professional and ethical standards is essential to maintaining the integrity of the education profession.

282—25.2(272) Definitions. Except where otherwise specifically defined by law:

“Administrative and supervisory personnel” means any licensed employee such as superintendent, associate superintendent, assistant superintendent, principal, associate principal, assistant principal, or other person who does not have as a primary duty the instruction of pupils in the schools.

“Board” means the Iowa board of educational examiners.

“Discipline” means the process of sanctioning a license, certificate or authorization issued by the board.

“Ethics” means a set of principles governing the conduct of all persons governed by these rules.

“Fraud” means knowingly providing false information or representations on an application for licensure or employment, or knowingly providing false information or representations made in connection with the discharge of duties.

“License” means any license, certificate, or authorization granted by the board.

“Licensee” means any person holding a license, certificate, or authorization granted by the board.

“Practitioner” means an administrator, teacher, or other licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

“Responsibility” means a duty for which a person is accountable by virtue of licensure.

“Right” means a power, privilege, or immunity secured to a person by law.

“Student” means a person, regardless of age, enrolled in a prekindergarten through grade 12 school, who is receiving direct or indirect assistance from a person licensed by the board.

“Teacher” means any person engaged in the instructional program for prekindergarten through grade 12 children, including a person engaged in teaching, administration, and supervision, and who is required by law to be licensed for the position held.

[[ARC 7979B](#), IAB 7/29/09, effective 9/2/09]

282—25.3(272) Standards of professional conduct and ethics. Licensees are required to abide by all federal, state, and local laws applicable to the fulfillment of professional obligations. Violation of federal, state, or local laws in the fulfillment of professional obligations constitutes unprofessional and unethical conduct which can result in disciplinary action by the board. In addition, it is hereby deemed unprofessional and unethical for any licensee to violate any of the following standards of professional conduct and ethics:

25.3(1) Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse. Violation of this standard includes:

- *Fraud.* Fraud means the same as defined in rule [282—25.2\(272\)](#).
- *Criminal convictions.* The commission of or conviction for a criminal offense as defined by Iowa law provided that the offense is relevant to or affects teaching or administrative performance.
 - Disqualifying criminal convictions. The board shall deny an application for licensure and shall revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:
 - Any of the following forcible felonies included in Iowa Code section [702.11](#): child endangerment, assault, murder, sexual abuse, or kidnapping;

- Any of the following criminal sexual offenses, as provided in Iowa Code chapter [709](#), involving a child:
 - First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
 - Lascivious acts with a child;
 - Assault with intent to commit sexual abuse;
 - Indecent contact with a child;
 - Sexual exploitation by a counselor;
 - Lascivious conduct with a minor;
 - Sexual exploitation by a school employee;
 - Enticing a minor under Iowa Code section [710.10](#); or
 - Human trafficking under Iowa Code section [710A.2](#);
- Incest involving a child as prohibited by Iowa Code section [726.2](#);
- Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section [728.2](#);
- Telephone dissemination of obscene material to minors as prohibited by Iowa Code section [728.15](#);
- Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) “b”(1); or
- Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) “b”(1).
- Other criminal convictions and founded child abuse. In determining whether a person should be denied a license or whether a licensee should be disciplined based upon any other criminal conviction, including a conviction for an offense listed in [25.3\(1\) “b”\(1\)](#) which occurred before July 1, 2002, or a founded report of abuse of a child, the board shall consider:
 - The nature and seriousness of the crime or founded abuse in relation to the position sought;
 - The time elapsed since the crime or founded abuse was committed;
 - The degree of rehabilitation which has taken place since the crime or founded abuse was committed;
 - The likelihood that the person will commit the same crime or abuse again;
 - The number of criminal convictions or founded abuses committed; and
 - Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.
- *Sexual involvement or indecent contact with a student.* Sexual involvement includes, but is not limited to, the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus or breasts of a student; permitting or causing to fondle or touch the practitioner’s inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section [702.17](#).
- *Sexual exploitation of a minor.* The commission of or any conviction for an offense prohibited by Iowa Code section [728.12](#), Iowa Code chapter [709](#) or 18 U.S.C. Section 2252A(a)(5)(B).
- *Student abuse.* Licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:
 - Committing any act of physical abuse of a student;
 - Committing any act of dependent adult abuse on a dependent adult student;

- Committing or soliciting any sexual or otherwise indecent act with a student or any minor;
- Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student;
- Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee;
- Failing to report any suspected act of child or dependent adult abuse as required by state law; or
- Committing or soliciting any sexual conduct as defined in Iowa Code section [709.15\(3\)](#) “b” or soliciting, encouraging, or consummating a romantic relationship with any person who was a student within 90 days prior to any conduct alleged in the complaint, if that person was taught by the practitioner or was supervised by the practitioner in any school activity when that person was a student.

25.3(2) Standard II—alcohol or drug abuse. Violation of this standard includes:

- Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal or unauthorized drugs or abusing legal drugs.
- Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol.

25.3(3) Standard III—misrepresentation, falsification of information. Violation of this standard includes:

1. Falsifying or deliberately misrepresenting or omitting material information regarding professional qualifications, criminal history, college credit, staff development credit, degrees, academic award, or employment history when applying for employment or licensure.
2. Falsifying or deliberately misrepresenting or omitting material information regarding compliance reports submitted to federal, state, and other governmental agencies.
3. Falsifying or deliberately misrepresenting or omitting material information submitted in the course of an official inquiry or investigation.
4. Falsifying any records or information submitted to the board in compliance with the license renewal requirements imposed under [282—Chapter 20](#).
5. Falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying, or teaching identified test items, or using inappropriate accommodations or modifications for such tests.

25.3(4) Standard IV—misuse of public funds and property. Violation of this standard includes:

- a. Failing to account properly for funds collected that were entrusted to the practitioner in an educational context.
- b. Converting public property or funds to the personal use of the practitioner.
- c. Submitting fraudulent requests for reimbursement of expenses or for pay.
- d. Combining public or school-related funds with personal funds.
- e. Failing to use time or funds granted for the purpose for which they were intended.

25.3(5) Standard V—violations of contractual obligations.

(1) Violation of this standard includes:

1. Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract, unless the practitioner provided notice to the practitioner’s employing board as set forth in subparagraph 25.3(5) “b”(2).
2. Abandoning a written professional employment contract without prior unconditional release by the employer.
3. As an employer, executing a written professional employment contract with a practitioner which requires the performance of duties that the practitioner is not legally qualified to perform.
4. As a practitioner, executing a written professional employment contract which requires the performance of duties that the practitioner is not legally qualified to perform.

(2) In addressing complaints based upon contractual obligations, the board shall consider factors beyond the practitioner’s control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:

- The practitioner obtained a release from the employing board before discontinuing services under the contract; or
- The practitioner provided notice to the employing board no later than the latest of the following dates:
 1. The practitioner's last workday of the school year;
 2. The date set for return of the contract as specified in statute; or
 3. June 30.

25.3(6) Standard VI—unethical practice toward other members of the profession, parents, students, and the community. Violation of this standard includes:

- Denying the student, without just cause, access to varying points of view.
- Deliberately suppressing or distorting subject matter for which the educator bears responsibility.
- Failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning.
- Conducting professional business in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.
- Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program on the grounds of race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.
- Soliciting students or parents of students to purchase equipment, supplies, or services from the practitioner for the practitioner's personal advantage.
- Accepting gifts from vendors or potential vendors where there may be the appearance of or an actual conflict of interest.
- Intentionally disclosing confidential information including, but not limited to, unauthorized sharing of information concerning student academic or disciplinary records, health and medical information, assessment or testing results, or family income. Licensees shall comply with state and federal laws and local school board policies relating to the confidentiality of student records unless disclosure is required or permitted by law.
- Refusing to participate in a professional inquiry when requested by the board.
- Aiding, assisting, or abetting an unlicensed person in the completion of acts for which licensure is required.
- Failing to self-report to the board within 60 days any founded child abuse report, or any conviction for a criminal offense listed in [25.3\(1\) "b"\(1\)](#) which requires revocation of the practitioner's license.
- Delegating tasks to unqualified personnel.
- Failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations.
- Allowing another person to use one's practitioner license for any purpose.
- Performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license.
- Falsifying, forging, or altering a license issued by the board.
- Failure of the practitioner holding a contract under Iowa Code section [279.13](#) to disclose to the school official responsible for determining assignments a teaching assignment for which the practitioner is not properly licensed.
- Failure of a school official responsible for assigning licensed practitioners holding contracts under Iowa Code section [279.13](#) to adjust an assignment if the practitioner discloses to the official that the practitioner is not properly licensed for an assignment.

25.3(7) Standard VII—compliance with state law governing obligations to state or local governments, child support obligations, and board orders. Violation of this standard includes:

- a. Failing to comply with [282—Chapter 8](#) concerning payment of debts to state or local governments.
- b. Failing to comply with [282—Chapter 10](#) concerning child support obligations.
- c. Failing to comply with a board order.

25.3(8) Standard VIII—incompetence. Violation of this standard includes, but is not limited to:

- (1) Willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and

- (2) prevailing educational practice in the state of Iowa.
- (3) Willfully or repeatedly failing to practice with reasonable skill and safety.

404.R2 CODE OF RIGHTS AND RESPONSIBILITIES REGULATION

CHAPTER 26

282—26.1 (272) Purpose. The code of professional conduct and ethics in 282—Chapter 25 defines unprofessional and unethical conduct justifying disciplinary sanction. The board acknowledges that the discharge of professional obligations should occur in recognition of certain fundamental rights and responsibilities. Accordingly, the board recognizes the following rights and responsibilities of all educators licensed under IOWA CODE chapter 272 and agrees that the exercise of these rights and responsibilities may present mitigating facts and circumstances in the board's evaluation of allegations of unprofessional or unethical conduct.

282—26.2 (272) Rights. Educators licensed under IOWA CODE chapter 272 have the following rights:

1. The educator has a right to be licensed and endorsed under professional standards established and enforced by the board.
2. The educator has a right to refuse assignments for which the educator is not legally authorized, in terms of holding a valid Iowa license with the appropriate endorsement(s) or approval(s).
3. The educator has a right, subject to board and administrator authority, to exercise professional judgment in the evaluation, selection, and use of teaching methods and instructional materials appropriate to the needs, abilities, and background of each student.

282—26.3 (272) Responsibilities. Educators licensed under IOWA CODE chapter 272 have the following responsibilities:

1. The educator has a responsibility to maintain and improve the educator's professional competence.
2. The educator has a responsibility to accept only those assignments for which the educator is legally authorized.
3. The educator has a responsibility to provide conditions that are conducive to teaching and student learning.
4. The educator shall protect students from conditions harmful to learning or to health or safety.
5. The educator shall not, without just cause, restrain a student from independent action in the pursuit of learning and shall not, without just cause, deny a student access to varying points of view.
6. The educator shall not use professional relationships with students for personal advantage.
7. The educator shall not discriminate against any student on the grounds of race, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.
8. The educator shall accord just and equitable treatment to all members of the profession.
9. The educator shall keep in confidence personally identifiable information regarding a student or the student's family members that has been obtained in the course of professional service unless disclosure is required by law or is necessary for the personal safety of the student or others.
10. The educator who has reasonable basis to believe that a student has been abused, as defined by law, shall make all reports required by law and the IOWA ADMINISTRATIVE CODE and which are necessary to ensure the safety and well-being of the student.
11. In the administration of discipline, the educator shall treat all students with respect and in compliance with all policies of the school district served by the educator.
12. The educator shall provide accurate, truthful, and complete information to the board and to the local education system concerning all licensure transactions.
13. The educator shall not refuse to participate in a professional inquiry, when requested by the board.
14. The educator shall not require or direct another educator to violate any provisions of the code of professional conduct and ethics or any rights of a student, parent, educator, or citizen.
15. The educator shall not delegate assigned tasks to unqualified personnel.

405.1 LICENSED EMPLOYEE DEFINED

Licensed employees, including administrators, are those employees required to hold an appropriate license from the Iowa Department of Education for their position as required by the Board of Educational Examiners or others with professional licenses. Licenses required for a position will be considered met if the employee meets the requirements established by the Iowa Department of Education.

It is the responsibility of the superintendent to establish job specifications and job descriptions for licensed employees' positions, other than the position of the superintendent. Job descriptions may be approved by the board.

Licensed employees must present evidence of current license to the board secretary prior to payment of salary each year.

Legal Reference: Clay v. Independent School District of Cedar Falls, 187
Iowa 89, 174 N.W. 47 (1919).
Iowa Code §§ 256.7(3); 272; 279.8.
282 I.A.C. 14.
281 I.A.C. 12.4.

Cross Reference: 405.2 Licensed Employee Qualifications, Recruitment Selection
 410.1 Substitute Teachers
 411.1 Classified Employee Qualifications, Recruitment Selection

405.2 LICENSED EMPLOYEE QUALIFICATIONS, RECRUITMENT, SELECTION

Persons interested in a licensed position, other than administrative positions which will be employed in accordance with board policies in Series 300, "Administration," will have an opportunity to apply and qualify for licensed positions in the school district in accordance with applicable laws and school district policies regarding equal employment. Job applicants for licensed positions will be considered on the basis of the following:

- Training, experience, and skill;
- Nature of the occupation;
- Demonstrated competence; and
- Possession of, or ability to obtain, state license if required for the position.

All job openings shall be submitted to the Iowa Department of Education for posting on TeachIowa, the online state job posting system. Additional announcements of the position may occur in a manner which the superintendent believes will inform potential applicants about the position. Whenever possible, the preliminary screening of applicants will be conducted by the administrator who will be directly supervising and overseeing the person being hired.

The board will employ licensed employees after receiving a recommendation from the superintendent. However, the superintendent will have the authority to employ a licensed employee on a temporary basis until a recommendation can be made and action can be taken by the board on the position.

Legal Reference: 29 U.S.C. §§ 621-634.
 42 U.S.C. §§ 2000e, 12101 *et seq.*
 Iowa Code §§ 20; 35C; 216; 279.13.
 281 I.A.C. 12.
 282 I.A.C. 14.

Cross Reference: 401.2 Equal Employment Opportunity
 405 Licensed Employee General
 410.1 Substitute Teachers

405.3 LICENSED EMPLOYEE INDIVIDUAL CONTRACTS

The board will enter into a written contract with licensed employees, other than administrators, employed on a regular basis. Each contract will be for a period of one year.

It is the responsibility of the superintendent to complete the contracts for licensed employees and present them to the board for approval. The contracts, after being signed by the board president, are returned to the superintendent. The superintendent will obtain the employee's signature. After being signed, the contract is filed with the board secretary.

Legal Reference: Harris v. Manning Independent School District of Manning, 245 Iowa 1295, 66 N.W.2d 438 (1954).
 Shackelford v. District Township of Beaver, Polk County, 203 Iowa 243, 212 N.W. 467 (1927).
 Burkhead v. Independent School District of Independence, 107 Iowa 29, 77 N.W. 491 (1898).
 Iowa Code chs. 20; 279.

Cross Reference: 405.2 Licensed Employee Qualifications, Recruitment, Selection
 405.4 Licensed Employee Continuing Contracts
 407 Licensed Employee Termination of Employment
 411.2 Classified Employee Qualifications, Recruitment, Selection

405.4 LICENSED EMPLOYEE CONTINUING CONTRACTS

Contracts entered into with licensed employees, other than an administrator, will continue from year to year except as modified or terminated as provided by law. The board may issue temporary and nonrenewable contracts in accordance with law.

Licensed employees whose contracts will be recommended for termination by the board will receive due process as required by law. The superintendent will make a recommendation to the board for the termination of the licensed employee's contract.

Licensed employees who wish to resign, to be released from a contract, or to retire must comply with applicable law and board policies.

Legal Reference: Ar-We-Va Community School District v. Long and Henkenius, 292 N.W.2d 402 (Iowa 1980).
Bruton v. Ames Community School District, 291 N.W.2d 351 (Iowa 1980).
Hartman v. Merged Area VI Community College, 270 N.W.2d 822 (Iowa 1978).
Keith v. Community School District of Wilton in the Counties of Cedar and Muscatine, 262 N.W.2d 249 (Iowa 1978).
 Iowa Code §§ 272; 279.

Cross Reference: 405.3 Licensed Employee Individual Contracts
 405.9 Licensed Employee Probationary Status
 407 Licensed Employee Termination of Employment

405.5 LICENSED EMPLOYEE WORKDAY

The workday for licensed employees will begin each day of the school year at a time established by the superintendent. Licensed employees who are employed only during the academic year will have the same workday as other licensed employees. "Day" is defined as one workday regardless of full-time or part-time status of an employee.

Licensed employees are to be in their assigned school building during the workday. Advance approval to be absent from the school building must be obtained from the principal whenever the licensed employees must leave the school building during the workday.

The building principal is authorized to make changes in the workday in order to facilitate the education program. These changes are reported to the superintendent.

The workday outlined in this policy is a minimum workday. Nothing in this policy prohibits licensed employees from working additional hours outside the workday.

Legal Reference: Iowa Code §§ 20; 279.8.

Cross Reference: 200.3 Powers of the Board of Directors

405.6 LICENSED EMPLOYEE ASSIGNMENT

Determining the assignment of each licensed employee is the responsibility of and within the sole discretion of the board. In making such assignments the board will consider the qualifications of each licensed employee and the needs of the school district.

It is the responsibility of the superintendent to make recommendations to the board regarding the assignment of licensed employees.

Legal Reference: Iowa Code §§ 279.8.

Cross Reference: 200.3 Powers of the Board of Directors

405.7 LICENSED EMPLOYEE TRANSFERS

Determining the location where an employee's assignment will be carried out is the responsibility and within the sole discretion of the board. In making such assignments the board will consider the qualifications of each licensed employee and the needs of the school district.

A transfer may be initiated by the employee, the principal, or the superintendent.

It is the responsibility of the superintendent to make recommendations to the board regarding the transfer of licensed employees.

Legal Reference: Iowa Code §§ 216.14; 279.8.

Cross Reference: 405.2 Licensed Employee Qualifications, Recruitment, Selection
405.6 Licensed Employee Assignment

405.8 LICENSED EMPLOYEE EVALUATION

Evaluation of licensed employees on their skills, abilities, and competence is an ongoing process supervised by the building principals and conducted by approved evaluators. The goal of the formal evaluation of licensed employees, other than administrators, but including extracurricular employees, is to improve the education program, to maintain licensed employees who meet or exceed the board's standards of performance, to clarify the licensed employee's role, to ascertain the areas in need of improvement, to clarify the immediate priorities of the board, and to develop a working relationship between the administrators and other employees.

The formal evaluation criteria is in writing and approved by the board. The formal evaluation will provide an opportunity for the evaluator and the licensed employee to discuss performance and the future areas of growth. The formal evaluation is completed by the evaluator, signed by the licensed employee, and filed in the licensed employee's personnel file. This policy supports and does not preclude the ongoing informal evaluation of the licensed employee's skills, abilities, and competence.

Licensed employees will be required to:

- a. Demonstrate the ability to enhance academic performance and support for and implementation of the school district's student achievement goals.
- b. Demonstrate competency in content knowledge appropriate to the teaching position.
- c. Demonstrate competency in planning and preparation for instructions.
- d. Use a variety of methods to monitor student learning.
- e. Demonstrate competence in classroom management.
- f. Engage in professional growth.
- g. Fulfill professional responsibilities established by the school district.

It is the responsibility of the superintendent to ensure licensed employees are evaluated. New and probationary licensed employees are evaluated at least twice each year.

Legal Reference: Aplington Community School District v. PERB, 392 N.W.2d 495 (Iowa 1986).
Saydel Education Association v. PERB, 333 N.W.2d 486 (Iowa 1983).
 Iowa Code §§ 20.9; 279, 284, 294.
 281 I.A.C. 83; 12.3.

Cross Reference: 405.9 Licensed Employee Probationary Status
 405.2 Licensed Employee Qualifications, Recruitment, Selection

405.9 LICENSED EMPLOYEE PROBATIONARY STATUS

The first three consecutive years of a licensed employee's contract is a probationary period unless the employee has already successfully completed the probationary period. New employees who have successfully completed a probationary period in a previous Iowa school district will serve a two-year probationary period. For purposes of this policy, an employee will have met the requirements for successfully completing a probationary period in another Iowa school district if, at the teacher's most recent performance evaluation, the teacher received at least a satisfactory or better evaluation and the individual has not engaged in conduct which would disqualify the teacher for a continuing contract.

Only the board, in its discretion, may waive the probationary period. The board may extend the probationary period for one additional year with the consent of the licensed employee. The board will make the decision to extend or waive a licensed employee's probationary status based upon the superintendent's recommendation. During this probationary period the board may terminate the licensed employee's contract at year-end without cause or immediately discharge the employee consistent with applicable law and board policies.

Legal Reference: Iowa Code §§ 279.

Cross Reference: 405.4 Licensed Employee Continuing Contracts
405.8 Licensed Employee Evaluation

405.10 LICENSED EMPLOYEE ORGANIZATION AFFILIATION

Licensed employees who qualify may join the Shenandoah Education Association and participate in its activities as long as the participation does not, in any way, interfere with the delivery of and the provision of the education program and school district operations.

The superintendent shall have sole discretion to determine whether association activities interfere with the education program and school district operations. Association members must follow the board policy on public use of school property.

The board shall not interfere with the rights of an employee to organize or form, join or assist any employee organization.

Legal Reference: Iowa Code §§ 20.1, 08., .10; 279.8 (2009).

Cross Reference: 408 Licensed Employee Professional Growth

406.1 LICENSED EMPLOYEE COMPENSATION

The board will establish compensation for licensed employees' positions keeping in mind the financial condition of the school district, the education and experience of the licensed employee, the educational philosophy of the school district, and other factors deemed relevant by the board.

It is the responsibility of the superintendent to make a recommendation to the board annually regarding the licensed employee compensation. The base wage of licensed employees are subject to review and modification through the collective bargaining process.

Legal Reference: Iowa Code §§ 20.1, .4, .7, .9; 279.8.

Cross Reference:

405	Licensed Employee
405.4	Licensed Employee Continuing Contract
405.8	Licensed Employee Evaluation
405.9	Licensed Employee Probationary Status
406.2	Licensed Employee Compensation Advancement

406.2 LICENSED EMPLOYEE COMPENSATION ADVANCEMENT

The board will determine if licensed employees will advance in compensation for their licensed employees' positions, keeping in mind the financial condition of the school district, the education and experience of the licensed employee, the educational philosophy of the school district, and other considerations as determined by the board.

It is the responsibility of the superintendent to make a recommendation to the board for the advancement of licensed employees.

Legal Reference: Iowa Code §§ 20.1, .4, .7, .9; 279.8.

Cross Reference: 405 Licensed Employee – General
406 Licensed Employee Compensation

406.3 LICENSED EMPLOYEE CONTINUED EDUCATION CREDIT

Continued education on the part of licensed employees may entitle them to advancement in compensation. Licensed employees who have completed additional hours may be considered for advancement. The board may determine which licensed employees will advance in compensation for continued education keeping in mind the financial condition of the school district, the education and experience of the licensed employee, the educational philosophy of the school district, and any other items deemed relevant by the board.

Licensed employees who wish to obtain additional education for advancement must notify their supervisor by March 1st of the school year preceding the actual year when advancement occurs. The superintendent has the discretion to approve credit outside the employee's area of endorsement or responsibility.

It is the responsibility of the superintendent to make a recommendation to the board for the advancement of a licensed employee.

Legal Reference: Iowa Code §§ 20.1, .4, .7, .9; 279.8.

Cross Reference: 405 Licensed Employee - General
406.1 Licensed Employee Compensation and Benefits

406.3R1 LANE ADVANCEMENT

The following will serve as a guide for lane advancement on the salary schedule.

All graduate hours or credits must be approved by the superintendent for lane advancement or horizontal movement on the salary schedule. Graduate school programs for a Master's Degree, Specialist's Degree, Doctorate, or any graduate degree must be approved by the superintendent for salary schedule lane movement consideration.

- Graduate credits/hours are the only credits/hours acceptable for consideration. Six hours of graduate credit for National Board Certification will be awarded, by the district, toward lane advancement. Undergraduate or renewable for certification units are not acceptable for lane advancement.
- No employee shall move more than one vertical step per year.
- Graduate credits/hours must be from an accredited institute and must be in the employee's area of instruction or in a closely related area as determined by the superintendent. The courses must have prior approval by the superintendent before being considered for lane advancement.
- Advanced degree programs such as, but no limited to, Master's, Specialist's, or Doctorate, must be submitted to the superintendent for approval for lane advancement prior to admission of candidacy for such program.
- Graduate credits/hours approved and earned prior to the granting of the advanced degree are ineligible for consideration for lane advancement on the salary schedule beyond the Master's Degree lane. Graduate credits/hours for lane advancement beyond the Master's Degree lane must be earned after receiving the Master's Degree. Prior credits/hours are not eligible.
- Once eligibility and satisfactory completion of the approved courses and programs is achieved or accomplished, a written request and official transcripts must be submitted to the superintendent before September 1st. Once approved, the salary increase will be reflected in the employee's next pay period.
- The superintendent will prescribe the appropriate forms and procedures to be used by the employees in making salary lane advancement requests.

406.4 LICENSED EMPLOYEE COMPENSATION FOR EXTRA DUTY

A licensed employee may volunteer or be required to take on extra duty, with the extra duty being secondary to the major responsibility of the licensed employee. The board may, in its sole discretion, establish compensation for extra duty licensed employee positions, keeping in mind the financial condition of the school district, the education and experience of the licensed employee, the educational philosophy of the school district, and other considerations as determined by the board.

Vacant extra duty positions, for which extra compensation will be earned, will be posted to allow qualified licensed employees to volunteer for the extra duty. If no licensed employee volunteers for extra duty, the superintendent will assign the extra duty positions to qualified licensed employees. The licensed employee will receive compensation for the extra duty required to be performed.

It is the responsibility of the superintendent to make a recommendation to the board annually as to which licensed employees will have the extra duty, and the compensation for extra duty, for the board's review.

Legal Reference: Iowa Code §§ 279.8, .13-.15, .19A-B.

Cross Reference: 405 Licensed Employees - General
406 Licensed Employee Compensation and Benefits

406.5 LICENSED EMPLOYEE GROUP BENEFITS

Licensed employees are eligible for group benefits as determined by the board and required by law. The board will select the group benefit program(s) and the insurance company or third-party administrator which will provide or administer the program.

In accordance with the Patient Protection and Affordable Care Act (ACA), the board will offer licensed employees who work an average of at least thirty (30) hours per week or one hundred thirty (130) hours per month, based on the measurement method adopted by the board, with minimum essential coverage that is both affordable and provides minimum value. The board will have the authority and right to change or eliminate group benefit programs, other than the group health plan, for its licensed employees.

Licensed employees who work an average of at least thirty (30) hours per week or one hundred thirty (130) hours per month, based on the measurement method adopted by the board, are eligible to participate in the group health plan. Licensed employees who work thirty (30) hours per week are eligible to participate in the health and major medical, life, and long-term disability group insurance plans. Employers should maintain documents regarding eligible employees acceptance and rejection of coverage.

Regular part-time employees (i.e., employees who work less than 30 hours per week or 130 hours per month for health benefit purposes or employees who work less than 30 hours per week for benefits other than health) who wish to purchase coverage may participate in group benefit programs by meeting the requirements of the applicable plan. Full-time and regular part-time licensed employees who wish to purchase insurance coverage for their spouse or dependents may do so by meeting the requirements of the applicable plan.

Licensed employees and their spouse and dependents may be allowed to continue coverage of the school district's group health program if they cease employment with the school district by meeting the requirements of the plan.

Legal Reference: Iowa Code §§ 20.9; 85; 85B; 279.12, .27; 509; 509A; 509B.
Internal Revenue Code § 4980H(c)(4); Treas. Reg. § 54.4980H-1(a)(21)(ii).
Shared Responsibility for Employers Regarding Health Coverage, 26 CFR Parts 1, 54 and 310, 78 Fed. Reg. 217, (Jan 2, 2013)
Shared Responsibility for Employers Regarding Health Coverage, 26 CFR Parts 1, 54 and 301, 78 Fed. Reg. 8543 (Feb. 12, 2014).

Cross Reference: 405.1 Licensed Employee Defined
706.2 Payroll Deductions

406.6 LICENSED EMPLOYEE TAX SHELTER PROGRAMS

Employees may elect to have amounts withheld from their pay for items authorized by law, subject to agreement of the district. The board may authorize the administration to make a payroll deduction for licensed employees' tax-sheltered annuity premiums purchased from a company or program if chosen by the board.

Licensed employees wishing to have payroll deductions for tax sheltered annuities will make a written request to the superintendent/school business official.

Legal Reference: Iowa Code §§ 260C; 273; 294.16.
1988 Op. Att'y Gen. 38.
1976 Op. Att'y Gen. 462, 602.
1966 Op. Att'y Gen. 211, 220.

Cross Reference: 706 Payroll Procedures

407.1 LICENSED EMPLOYEE RESIGNATION

A licensed employee who wishes to resign must notify the superintendent in writing within the time period set by the board for return of the contract. This applies to regular contracts for the licensed employee's regular duties and for an extracurricular contract for extra duty. Resignations of this nature will be accepted by the board.

The board may require an individual who has resigned from an extracurricular contract to accept the resigned position for only the subsequent school year when the board has made a good faith effort to find a replacement and the licensed employee is continuing to be employed by the school district.

Legal Reference: Iowa Code §§ 91A.2, .3, .5; 279.13, .19A.

Cross Reference: 405.3 Licensed Employee Individual Contracts
405.4 Licensed Employee Continuing Contracts
1. Licensed Employee Termination of Employment

407.2 LICENSED EMPLOYEE CONTRACT RELEASE

Licensed employees who wish to be released from an executed contract must give at least twenty-one days' notice to the superintendent. Licensed employees may be released at the discretion of the board. Only in unusual and extreme circumstances will the board release a licensed employee from a contract. The board will have sole discretion to determine what constitutes unusual and extreme circumstances.

Release from a contract will be contingent upon finding a suitable replacement. Licensed employees requesting release from a contract after it has been signed and before it expires may be required to pay the board the cost of advertising incurred to locate and hire a suitable replacement. Upon written mutual agreement between the employee and the superintendent, the costs may be deducted from the employee's salary. Payment of these costs is a condition for release from the contract at the discretion of the board. Failure of the licensed employee to pay these expenses may result in a cause of action being filed in small claims court.

The superintendent is required to file a complaint with the Iowa Board of Educational Examiners against a licensed employee who leaves without proper release from the board.

Legal Reference: Iowa Code §§ 216; 272; 279.13, .19A, ..

Cross Reference: 405.3 Licensed Employee Individual Contracts
405.4 Licensed Employee Continuing Contracts
407.3 Licensed Employee Retirement

407.3 LICENSED EMPLOYEE RETIREMENT

Licensed employees who will complete their current contract with the board may apply for retirement. No licensed employee will be required to retire at a specific age.

Application for retirement will be considered made when the licensed employee states in writing to the superintendent, no later than the date set by the board for the return of the employee's contract to the board, the intent of the employee to retire. The letter must state the employee's desire to retire and be witnessed by another party other than the principal or the superintendent. Applications made after the date set by the board for the return of the employee's contract to the board may be considered by the board if special circumstances exist. It is within the discretion of the board to determine whether special circumstances exist.

Board action to approve a licensed employee's application for retirement is final and such action constitutes nonrenewal of the employee's contract for the next school year.

Licensed employees who retire under this policy may qualify for retirement benefits through the Iowa Public Employees Retirement System.

Licensed employees and their spouse and dependents are allowed to continue coverage in the school district's group health insurance program at their own expense by meeting the requirements of the insurer.

Legal Reference: Iowa Code §§ 97B; 216; 279.46.
281 I.A.C. 21.

Cross Reference: 407.6 Licensed Employee Early Retirement

407.4 LICENSED EMPLOYEE EARLY RETIREMENT

The school district offers an early retirement plan for full-time licensed employees. Full-time licensed employees are licensed employees who are regularly scheduled to work 30 hours per week and who are currently performing their assigned duties within the school district. A licensed employee is eligible under the early retirement plan when the licensed employee:

- Is at least fifty-eight (58) prior to the start of the next school year;
- Completes a total of ten (10) years of service as a full-time licensed employee to the school district;
- Submits an application to the superintendent for participation in the plan on or before February 15 of the year in which the licensed employee wishes to retire. Applications submitted after February 15 may be considered at the discretion of the board depending on the circumstances for the late application;
- Submits a written resignation. The resignation may be contingent upon approval by the board of participation in the voluntary early retirement plan; and,
- Receives board approval of the licensed employee's application for participation in the early retirement plan, of the licensed employee's resignation and of the disbursement of early retirement incentive to the licensed employee.

Approval by the board of the licensed employee's early retirement application shall constitute a voluntary resignation. Approval by the board of the licensed employee's early retirement application will also make the licensed employee eligible for disbursement of the early retirement incentive the sooner of July 1 following the licensed employee's approval for early retirement, or a date mutually agreed upon by the school district and the licensed employee. Failure of the board to approve the licensed employee's early retirement application will make the licensed employee's current contract with the board continue in full force and effect.

Cash Benefit Options

Option 1 – Lump Sum Amount Based on Compensation

The early retirement incentive for each eligible licensed employee approved by the board will be based on the licensed employee compensation in effect the last year of the licensed employee's employment with the school district. The difference between the compensation base and the licensed employee's current salary less supplemental pay or extended contract pay is the lump sum amount of early retirement incentive the licensed employee will receive upon retirement.

Option 2 – Lump Sum Amount

The early retirement incentive for each eligible licensed employee approved by the board will be \$10,000.

Option 3 – Percentage of Pay

The early retirement incentive for each eligible licensed employee approved by the board will be based on the licensed employee compensation in effect the last year of the licensed employee's employment with the school district. The employee will receive _____ percent of the current year's salary less supplemental pay or extended contract pay. That amount is the lump sum amount of early retirement incentive the licensed employee will receive.

Option 4 – Lump Sum Amount and Percentage of Pay

The early retirement incentive for each eligible licensed employee approved by the board will be a lump sum

Continuation of Insurance Benefits

Option 1 – At Employee's Expense

Upon retirement, the licensed employee is eligible to continue participation in the school district's group insurance plan at the licensed employee's expense by meeting the requirements of the insurer. The employees must pay the monthly premium amount in full to the board secretary prior to the due date of the school district's premium payment to the insurance carrier.

This insurance coverage will cease when the licensed employee/retiree reaches age sixty-five, secures other employment in which the employer provides insurance coverage, or dies. If dependent insurance coverage is carried, that coverage may continue beyond the employee's/retiree's sixty-fifth birthday for a period of up to five years or until the dependent reaches age sixty-five.

Option 2 – At School District's Expense

Upon retirement, the licensed employee is eligible to continue participation in the school district's group insurance plan at the school district's expense by meeting the requirements of the insurer.

This insurance coverage will cease when the licensed employee/retiree reaches age sixty-five, secures other employment in which the employer provides insurance coverage, or dies. If dependent insurance coverage is carried, that coverage may continue beyond the employee's/retiree's sixty-fifth birthday for a period of up to five years or until the dependent reaches age sixty-five.

Option 3 – At School District and Employee's Expense

Upon retirement, the licensed employee is eligible to continue participation in the school district's group insurance plan by meeting the requirements of the insurer. The school district will pay the cost of the single premium at the level it was when the employee retired. The employee is responsible for paying any increase in premium costs. The employee must pay the employee's share of the premium by paying the monthly premium amount of _____ and an additional amount based on the licensed employee compensation in effect the last year of the licensed employee's employment with the school district. As an additional benefit, the employee will receive _____ percent of the current year's salary less supplemental pay or extended contract pay.

Continuation of Insurance Benefits (continued)

amount in full to the board secretary prior to the due date of the school district's premium payment to the insurance carrier.

This insurance coverage will cease when the licensed employee/retiree reaches age sixty-five, secures other employment in which the employer provides insurance coverage, or dies. If dependent insurance coverage is carried, that coverage may continue beyond the employee's/retiree's sixty-fifth birthday for a period of up to five years or until the dependent reaches age sixty-five.

Beneficiary Option

In the event of the death of the licensed employee prior to payment of the early retirement incentive but after the licensed employee's retirement has begun, the early retirement incentive will be paid to the designated beneficiary in one lump sum payment. In the event no beneficiary is designated, the incentive will be paid to the licensed employee's estate in one lump sum payment.

The board has complete discretion to offer or not to offer an early retirement plan for licensed employees. The board may discontinue the school district's early retirement plan at any time. Upon adoption of this early retirement plan, licensed employees age fifty-five or older will have ____ years or until age sixty, whichever is longer, to utilize this early retirement plan.

Legal Reference: 29 U.S.C. §§ 621 *et seq.*
Iowa Code §§ 97B; 216; 279.46; 509A.13.
1978 Op. Att'y Gen. 247.
1974 Op. Att'y Gen. 11, 322.

Cross Reference: 407.3 Licensed Employee Retirement
413.3 Classified Employee Early Retirement

407.4E1 LICENSED EMPLOYEE EARLY RETIREMENT ACKNOWLEDGEMENT OF RECEIPT

The undersigned licensed employee acknowledges receipt of the early retirement plan documents stated below, for the licensed employee's consideration:

1. early retirement policy (plan description);
2. early retirement insurance options; and
3. early retirement application.

The undersigned licensed employee acknowledges that the application and participation in the early retirement plan is entirely voluntary.

The undersigned licensed employee acknowledges that the school district recommends the licensed employee contact legal counsel and the employee's personal accountant regarding participation in the early retirement plan.

Licensed Employee

Date

407.4E2 LICENSED EMPLOYEE EARLY RETIREMENT INSURANCE OPTIONS

Board policy 407.4, Licensed Employee Early Retirement, allows the employee to continue to participate in the school district's group health insurance plan until age 65 by meeting the requirements of the insurer.

Option 1 – *The school district will continue to pay the costs of the individual health insurance premium expense.*

Option 2 – *The school district and the licensed employee will both be responsible for the cost of the health insurance premium. The expense of the school district will not exceed the premium amount paid by the school district for a single health insurance premium at the date of early retirement of the licensed employee. The licensed employee is responsible for any increase in premium costs and for dependent insurance and must pay the employee's share of the monthly premium amount in full to the board secretary prior to the due date of the school district's premium payment to the insurance carrier.*

Option 3 – *The licensed employee is responsible for the cost of the health insurance premium. The licensed employee must pay the employee's share of the premium by paying the monthly premium amount in full to the board secretary prior to the due date of the school district's premium payment to the insurance carrier.*

The undersigned licensed employee _____ (does, does not) wish to continue to participate in the school district's group health insurance plan.

Licensed Employee

Date

407.4E3 LICENSED EMPLOYEE EARLY RETIREMENT APPLICATION

The undersigned licensed employee is applying for early retirement pursuant to board policy 407.4, Licensed Employee Early Retirement. Please complete the following information:

Full Legal Name of Licensed Employee

Social Security Number

Current Job Title

Date of Birth

Years of Service

Please specify the date desired for payment of the early retirement benefit and the reason for the date if a date other than _____ of the year in which the undersigned licensed employee retires is desired.

Date

Reason for the date requested

Please attach a letter of resignation effective June thirtieth of the year in which the undersigned licensed employee intends to retire.

The undersigned licensed employee acknowledges that application and participation in the early retirement plan is entirely voluntary.

The undersigned licensed employee acknowledges that the school district recommends that the licensed employee contact legal counsel and the employee's own personal accountant regarding participation in the early retirement plan.

Should the licensed employee die prior to full payment of an early retirement benefit, the licensed employee designates either the following individual as beneficiary or the licensed employee's estate.

_____ Beneficiary

_____ Estate

Beneficiary

Beneficiary Address

Licensed Employee Signature

Date

Witness Signature

Date

407.5 LICENSED EMPLOYEE SUSPENSION

Licensed employees will perform their assigned job, respect, and follow board policy and obey the law. The superintendent is authorized to suspend a licensed employee pending board action on a discharge, for investigation of charges against the employee, and for disciplinary purposes. It is within the discretion of the superintendent to suspend a licensed employee with or without pay.

In the event of a suspension, appropriate due process will be followed.

Legal Reference: Northeast Community Education Association v. Northeast Community School District, 402 N.W.2d 765, 769 (Iowa 1987).
 McFarland v. Board of Education of Norwalk Community School District, 277 N.W.2d 901 (Iowa 1979).
 Iowa Code §§ 20.7, .24; 279.13, .15-.19, .27.

Cross Reference: 404 Employee Conduct and Appearance
 407 Licensed Employee Termination of Employment

407.6 LICENSED EMPLOYEE REDUCTION IN FORCE

The board has the exclusive authority to determine the appropriate number of licensed employees. A reduction of licensed employees may occur as a result of, but not be limited to, changes in the education program, staff realignment, changes in the size or nature of the student population, financial situation considerations, and other reasons deemed relevant by the board.

The reduction in licensed employees, other than administrators, will be done through normal attrition if possible. If normal attrition does not meet the necessary reduction in force required, the board may terminate licensed employees.

It is the responsibility of the superintendent to make a recommendation for termination to the board. The process for reduction in force shall be as follows:

- Endorsements and educational preparation within the grade level and subject areas in which the employee is now performing;
- Relative skills, ability and demonstrated performance;
- Qualifications for co-curricular programs; and
- Number of continuous years of service to the school district. This will be considered only when the foregoing factors are relatively equal between licensed employees.

Due process for terminations due to a reduction in force will be followed.

Legal Reference: Iowa Code §§ 20; 279.

Cross Reference: 407.5 Licensed Employee Suspension
 413.5 Classified Employee Reduction in Force
 703 Budget

408.1 LICENSED EMPLOYEE PROFESSIONAL DEVELOPMENT

The board encourages licensed employees to attend and participate in professional development activities to maintain, develop, and extend their skills. The board will maintain and support an in-service program for licensed employees. Professional development activities will include activities that promote and/or teach about compliance with applicable Iowa laws.

For all professional development programs the district requires employees to take, the district will provide to the employee notice indicating the section of the law, or rules adopted by the state board of education or board of educational examiners that the district determines requires the employee to participate in the professional development program.

Requests for attendance or participation in a development program, other than those development programs sponsored by the school district, are made to the superintendent. Approval by the superintendent must be obtained prior to attendance by a licensed employee in a professional development program when the attendance would result in the licensed employee being excused from their duties or when the school district pays the expenses for the program.

The superintendent will have sole discretion to allow or disallow licensed employees to attend or participate in the requested event. When making this determination, the superintendent will consider the value of the program for the licensed employee and the school district, the effect of the licensed employee's absence on the education program and school district operations and the school district's financial situation as well as other factors deemed relevant in the judgment of the superintendent. Requests that involve unusual expenses or overnight travel must also be approved by the board.

Legal Reference

Iowa Code § 279.8; .74 281 I.A.C. 12.7; 83.6

I.C. Iowa Code

Iowa Code § 279.8

Iowa Code 279.74

Description

[Directors - General Rules - Bonds of Employees](#)

[Powers and Duties - Specific Defined Concepts](#)

I.A.C. Iowa Administrative Code

281 I.A.C. 12.7

281 I.A.C. 83.6

Description

[Professional Development](#)

[General Accreditation Standards - Teacher Professional Development](#)

Cross References

Code

414

Description

Classified Employee Professional Purposes Leave

408.2 LICENSED EMPLOYEE PUBLICATION OR CREATION OF MATERIALS

Materials created by licensed employees and the financial gain there from are the property of the school district if school materials and time were used in their creation and/or such materials were created in the scope of the licensed employee's employment. The licensed employee must seek prior written approval of the superintendent concerning such activities.

Legal Reference: Iowa Code § 279.8.
17 U.S.C. Sec. 101 *et. al.*

Cross Reference: 401.3 Employee Conflict of Interest
606.5 Student Production of Materials and Services

408.3 LICENSED EMPLOYEE TUTORING

Every effort will be made by the licensed employees to help students with learning problems before recommending that the parents engage a tutor. Since there are exceptional cases when tutoring will help students overcome learning deficiencies, tutoring by licensed employees may be approved by the superintendent.

Licensed employees may only tutor students other than those for whom the teacher is currently exercising teaching, administrative or supervisory responsibility unless approved by the superintendent.

Tutoring for a fee may not take place within school facilities or during regular school hours unless approved by the superintendent.

Legal Reference: Iowa Code §§ 20.7; 279.8.

Cross Reference: 401.3 Employee Conflict of Interest
402.7 Employee Outside Employment

408.4 DISTRICT LANDLINE AND CELLULAR TELEPHONE USAGE

The District provides telephones to employees because communication is essential for the performance of their duties, especially in times of emergency or when addressing safety issues.

The landline telephones provided by the district to employees are to be used primarily for school business. Employees may use land line telephones for personal business, provided such personal use is limited in frequency and duration and does not interfere with the performance of an employee's job. Landline telephones are provided at district expense. Employees are not charged for local calls but are charged for all personal long-distance toll calls.

Certain employees are required to perform work outside of their offices or assigned workspaces, outside of the Shenandoah Community School District, or outside of the district's regular business hours. It is important to the mission of the district to provide for communication with these employees when they are not in their offices.

The billing for cellular telephone service includes a charge for all calls that are transmitted or received by the cellular telephone, including unsolicited and misdirected calls, and local and long-distance calls. Itemized bills are prepared for all cellular telephones listing all calls made or received by a cellular telephone within a billing cycle by date, time, location, and duration. Roaming charges are listed by date, time, location, duration, and roaming service provider. The district's policy concerning cellular telephones is as follows:

The district will issue cellular telephones for personal calls subject to the same restrictions that are imposed on landline telephones.

If the number of minutes charged to a cellular telephone exceeds the monthly time allotted for the service plan, the employee must reimburse the district for personal calls that exceed the monthly time allotted. Cellular telephone users must send a check to the Business Office made payable to the Shenandoah Community School District for any additional personal charges (roaming and excess time). Payment is due upon receipt of the cellular telephone statement.

If a cellular telephone assigned to an employee is lost, damaged or is malfunctioning, the Business Office must be notified immediately. Employees who fail to notify the Business Office immediately of a lost telephone may be responsible for all unauthorized calls made from their assigned cellular telephone.

The district will not reimburse employees for business use of their own cellular telephones. Employees are encouraged to use their office telephone for business telephone calls. Employees who have a personal cellular telephone are not expected to use that telephone for district business.

The Superintendent or his/her designee is authorized to review the use of district-issued cellular telephones by employees and to revoke the privilege of using a district-issued cellular telephone if it is determined that the cellular telephone is being used primarily for personal business or is being used in any other manner which is contrary to district policy.

409.1 LICENSED EMPLOYEE VACATION - HOLIDAYS - PERSONAL LEAVE

The board will determine the amount of vacation, holidays, and personal leave that will be allowed on an annual basis for licensed employees.

It is the responsibility of the superintendent to make a recommendation to the board annually on vacations, holidays, and personal leave for licensed employees.

Legal Reference: Iowa Code §§ 1C.1-.2; 4.1(34); 20.9 (2009).

Cross Reference: 414.1 Classified Employee Vacations - Holidays - Personal Leave
601.1 School Calendar

409.2 LICENSED EMPLOYEE PERSONAL ILLNESS LEAVE

Licensed employees will be granted fifteen days of sick leave each year. "Day" is defined as one workday regardless of full-time or part-time status of the employee. A new employee will report for work at least one full workday prior to receiving sick leave benefits. A returning employee will be granted the appropriate number of days at the beginning of each fiscal year.

Sick leave may be accumulated up to a maximum of 120 days for licensed employees.

Should the personal illness occur after or extend beyond the sick leave accumulated allowance, the employee may apply for disability benefits under the group insurance plan. If the employee does not qualify for disability benefits, the employee may request a leave of absence without pay.

Evidence may be required regarding the mental or physical health of the employee when the administration has a concern about the employee's health. Evidence may also be required to confirm the employee's illness, the need for the illness leave, the employee's ability to return to work, and the employee's capability to perform the duties of the employee's position. It is within the discretion of the board or the superintendent to determine the type and amount of evidence necessary. When an illness leave will be greater than three consecutive days, the employee will comply with the board policy regarding family and medical leave.

Legal Reference: Whitney v. Rural Ind. School District, 232 Iowa 61, 4 N.W.2d 394 (1942).
 29 C.F.R. Pt. 825.
 Iowa Code §§ 20; 85.

Cross Reference: 403.2 Employee Injury on the Job
 409.3 Licensed Employee Family and Medical Leave
 409.8 Licensed Employee Unpaid Leave

409.3 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE

Unpaid family and medical leave will be granted up to 12 weeks per year to assist employees in balancing family and work life. For purposes of this policy, year is defined as fiscal year. Requests for family and medical leave will be made to the superintendent.

Employees may be allowed to substitute paid leave for unpaid family and medical leave by meeting the requirements set out in the family and medical leave administrative rules. Employees eligible for family and medical leave must comply with the family and medical leave administrative rules prior to starting family and medical leave. It is the responsibility of the superintendent to develop administrative rules to implement this policy.

Links: <https://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>
[WH-380-E Certification of Health Care Provider for Employee's Serious Health Condition \(PDF\)](#) [WH-380-F Certification of Health Care Provider for Family Member's Serious Health Condition \(PDF\)](#)
[WH-381 Notice of Eligibility and Rights & Responsibilities \(PDF\)](#) [WH-382 Designation Notice \(PDF\)](#)
[WH-384 Certification of Qualifying Exigency For Military Family Leave \(PDF\)](#)
[WH-385 Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave \(PDF\)](#)

Legal Reference: Whitney v. Rural Ind. School. District, 232 Iowa 61, 4 N.W.2d 394 (1942).
 29 U.S.C. §§ 2601 *et seq.*
 29 C.F.R. § 825.
 Iowa Code §§ 20; 85; 216; 279.40.

Cross Reference: 409.2 Licensed Employee Personal Illness Leave
 409.8 Licensed Employee Unpaid Leave
 414.3 Classified Employee Family and Medical Leave

409.3E1 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE NOTICE TO EMPLOYEES

YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

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

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

MILITARY FAMILY LEAVE ENTITLEMENTS

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

BENEFITS AND PROTECTION

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

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

JOB ELIGIBILITY REQUIREMENTS

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

DEFINITION OF SERIOUS HEALTH CONDITION

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

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

regimen of continuing treatment or incapacity due to pregnancy, or incapacity due to a chronic condition. Other may meet the definition of continuing treatment.

USE OF LEAVE

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

SUBSTITUTION OF PAID LEAVE FOR UNPAID LEAVE

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

EMPLOYEE RESPONSIBILITIES

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

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

EMPLOYER RESPONSIBILITIES

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

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

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- 410 Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- 411 Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

If you have access to the Internet visit FLMA's website: <http://www.dol.gov/esa/whd/fmla>.

To locate your nearest Wage-Hour Office, phone our toll-free information at 1-866-487-9243 or to the Web site

at: <http://www.wagehour.dol.gov>.

For a listing of records that must be kept by employers to comply with FMLA visit the U.S. Dept. of Labor's website: http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_825/29CFR825.500.htm

US Dept. of Labor – Revised July, 2009

409.3E2 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE REQUEST FORM

Date: _____

I, _____, request family and medical leave for the following reason:

(check all that apply)

- ☐ for the birth of my child;
☐ for the placement of a child for adoption or foster care;
☐ to care for my child who has a serious health condition;
☐ to care for my parent who has a serious health condition;
☐ to care for my spouse who has a serious health condition; or
☐ because I am seriously ill and unable to perform the essential functions of my position.
☐ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
☐ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

I acknowledge my obligation to provide medical certification of my serious health condition or that of a family member in order to be eligible for family and medical leave within 15 days of the request for certification.

I acknowledge receipt of information regarding my obligations under the family and medical leave policy of the school district.

I request that my family and medical leave begin on _____ and I request leave as follows: (check one)

☐ continuous

I anticipate that I will be able to return to work on _____.

☐ intermittent leave for the:

- ☐ birth of my child or adoption or foster care placement subject to agreement by the district;
☐ serious health condition of myself, spouse, parent, or child when medically necessary;
☐ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
☐ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

Details of the needed intermittent leave: _____

I anticipate returning to work at my regular schedule on _____.

☐ reduced work schedule for the:

- ☐ birth of my child or adoption or foster care placement subject to agreement by the district;
☐ serious health condition of myself, spouse, parent, or child when medically necessary;

_____ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.

_____ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

Details of needed reduction in work schedule as follows: _____

I anticipate returning to work at my regular schedule on _____.

I realize I may be moved to an alternative position during the period of the family and medical intermittent or reduced work schedule leave. I also realize that with foreseeable intermittent or reduced work schedule leave, subject to the requirements of my health care provider, I may be required to schedule the leave to minimize interruptions to school district operations.

While on family and medical leave, I agree to pay my regular contributions to employer sponsored benefit plans. My contributions will be deducted from moneys owed me during the leave period. If no monies are owed me, I will reimburse the school district by personal check or cash for my contributions. I understand that I may be dropped from the employer-sponsored benefit plans for failure to pay my contribution.

I agree to reimburse the school district for any payment of my contributions with deductions from future monies owed to me or the school district may seek reimbursement of payments of my contributions in court.

I acknowledge that the above information is true to the best of my knowledge.

Signed _____ Date _____

If the employee requesting leave is unable to meet the above criteria, the employee is not eligible for family and medical leave.

409.3E3 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE CERTIFICATION FORM

- a. Employee's Name _____
- b. Patient's Name (if different from employee) _____
- c. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition for which the employee is taking FMLA leave, qualify under any of the categories described? If so, please check the applicable category.
 (1) _____ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____ or none of the above _____
- d. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories: _____

- e. a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity, i.e. inability to work, attend school or perform other regular activities due to the serious health condition, treatment therefor, or recovery therefrom, if different): _____
- a. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _____ If yes, give the probable duration: _____
- b. If the condition is chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity: _____

- f. a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments: _____ If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if know, and period required for recovery if any: _____
- (1) If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments: _____

- (2) If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g. prescription drugs, physical therapy requiring special equipment): _____

1. a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____
- a. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about

the essential job functions)? _____ If yes, please list the essential functions the employee is unable to perform. _____

b. _____
If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

a. a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

405 If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

406 If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need: _____

Signature of Health Care Provider

Type of Practice

Address

Telephone Number

To be completed by the employee needing family leave to care for a family member.

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: ____

Employee Signature

Date

A serious health condition means an illness, injury impairment, or physical or mental condition that involves one of the following:

- b. Hospital Care – In patient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- c. Absence Plus Treatment – A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services (e.g. physical therapist) under the orders of, or on referral by, a health care provider; or
 - treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- d. Pregnancy – Any period of incapacity due to pregnancy or for prenatal care.
- e. Chronic Conditions Requiring Treatments – A chronic condition which:
 - requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - may cause episodic rather than a period of incapacity (e.g. asthma, diabetes, epilepsy, etc.).
- Permanent/Long-term Conditions Requiring Supervision – A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- Multiple Treatments (Non-chronic Conditions) – Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment such as cancer (chemotherapy), radiation, etc.), severe arthritis (physical therapy) and kidney disease (dialysis).

409.3E4 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE REQUEST WORK SHEET

Complete this work sheet upon receiving a request for family and medical leave that may qualify under the Family Medical Leave Act. Be sure to note the requirements relating to family and medical leave in the school district's policy/collective bargaining agreement prior to relying on this work sheet as the sole source of the school district's obligations. Also be sure to note the definitions in Regulation 409.3R2.

Section I: Eligible Employee. *(Please check all that apply.)*

- ☐ Covered by a policy/collective bargaining agreement. *(If checked, please move to Section II.)*
- ☐ The employee must meet all criteria below to move to Section II.
- ☐ 50 or more employees are on the payroll of or under contract to the school district.
- ☐ Worked 52 weeks in the school district (consecutive or nonconsecutive). **OR**
- ☐ Worked 12 months in the school district (consecutive or nonconsecutive).
- ☐ Worked 1250 hours for the school district in 12 months prior to the request. Full-time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hours required.

Section II: Family and Medical Leave Purpose. *(One must be checked to move to Section III.)*

- ☐ Birth and care of newborn prior to first anniversary of child's birth.
- ☐ Care of adopted child or foster care child prior to first anniversary of placement.
- ☐ Care for serious health condition of spouse, child, child for which employee is "in loco parentis" and for any of these if they are over eighteen and have a disability which prevents the child from caring for himself or herself.
- ☐ Requested medical certification for family and medical leave due to a serious health condition of the spouse, parent, or child on _____.
- ☐ Received medical certification within 15 days of the request on _____.
- ☐ Serious health condition of the employee.
- ☐ Requested medical certification for family and medical leave due to a serious health condition of the employee on _____.
- ☐ Received medical certification within 15 days of the request on _____.
- ☐ Other purposes contained in a policy/collective bargaining agreement.

Section III: Timing of Family and Medical Leave Request.

- ☐ Date of family and medical leave request _____.
- ☐ Date family and medical leave to begin _____.

_____ Provide FMLA leave information to employee at time of request _____.

(If one is checked, please move to Section IV.)

_____ Leave request for foreseeable family and medical leave is 30 days prior to date family and medical leave begins.

_____ Leave request for foreseeable family and medical leave is in compliance with policy/collective bargaining agreement.

_____ Leave request for foreseeable family and medical leave was made as soon as practicable, and no later than one business day, prior to date family and medical leave begins.

_____ Leave request for unforeseeable family and medical leave was made in accordance with the policy/collective bargaining agreement timelines.

Section IV: Calculation of Available Family and Medical Leave.

Beginning date for 12-month entitlement period: *(Check the method adopted by the school district.)*

_____ July 1 (fiscal year) _____ January 1 (calendar year) _____ September 1 (school year) _____ First day of rolling forward 12-month entitlement period _____ First day of rolling backward 12-month entitlement period

_____ Collective bargaining agreement year _____ Other: _____

Total family and medical leave for the 12-month entitlement period _____

Leave taken to date in the entitlement period _____

Leave available for the entitlement period _____

If sufficient family and medical leave is available and the employee qualifies for family and medical leave, the family and medical leave will be granted in accordance with the policy/collective bargaining agreement.

The employee must be informed that the actual family and medical leave taken will be credited to the employee's 12-week entitlement.

If both spouses are employed by the school district, they may only take a combined total of 12 weeks during the entitlement period for the birth, adoption, or foster care placement prior to the first anniversary of the child's birth or placement and for the care of a parent with a serious health condition.

If sufficient family and medical leave is available, the school district may award only the family and medical leave available or award the family and medical leave in accordance with other provisions of the policy/collective bargaining agreement.

Section V: Types of Family and Medical Leave. (Please check all that apply.)

_____ Continuous leave for purposes listed in Section II.

_____ Intermittent leave for birth, adoption, or foster care placement prior to first anniversary of child's birth or placement with school district approval in accordance with other provisions of the policy/collective bargaining agreement.

_____ Reduced work schedule leave for birth, adoption, or foster care placement prior to first anniversary of

child's birth or placement with school district approval in accordance with other provisions of the policy/collective bargaining agreement.

_____ Intermittent leave if medically necessary for serious health condition of employee or family member and arranged as much as possible to not disrupt the school district's operation.

_____ Reduced work schedule leave if medically necessary for serious health condition of employee or family member and arranged as much as possible to not disrupt the school district's operation.

_____ Others contained in a policy/collective bargaining agreement. (Please specify.) _____

Section VI: Instructional Employee Intermittent or Reduced Schedule Leave.

_____ A policy/collective bargaining agreement extends this rule to non-instructional employees.

_____ A policy/collective bargaining agreement eliminates this rule for instructional employees.

_____ Instructional employees' intermittent or reduced schedule leave for greater than 20 percent of the work days in the family and medical leave period.

Total number of days during leave period	_____
20 percent of leave days	X 0.20
Days of leave requested	_____

If the number of days requested exceeds 20 percent of the family and medical leave days, the school district may require the instructional employee to take family and medical leave for the entire leave period OR transfer the instructional employee to an alternate position with equivalent pay and benefits. The employee must be informed that the actual family and medical leave taken will be credited to the employee's 12-week entitlement.

Section VII: Instructional Employees Family and Medical Leave Special Rules.

_____ Instructional employee.

_____ A policy/collective bargaining agreement extends one or all of these rules to noninstructional employees.

_____ A policy/collective bargaining agreement eliminates one or all of these rules for instructional employees.

_____ The school district can require the employee to remain on family and medical leave until end of the semester if each of the following apply:

- _____ Leave begins prior to five weeks before end of semester;
- _____ Leave is for three weeks or more; **and**
- _____ Employee will return during last three weeks of semester.

Last workday of the semester	_____
Date of fifth week before end of the semester	_____
Date of third week before end of the semester	_____
Date of requested leave	_____
Length of requested leave	_____

Date of return from leave _____

_____ The school district can require employee to remain on family and medical leave for leave other than an employee's serious health condition until end of semester if each of the following apply:

_____ Leave begins during last five weeks before end of semester;

_____ Leave is greater than two weeks; **and**

_____ Employee will return during last two weeks of semester.

Last workday of the semester _____

Date of fifth week before end of the semester _____

Date of second week before end of the semester _____

Date of requested leave _____

Length of requested leave _____

Date of return from leave _____

_____ The school district can require the employee to remain on family and medical leave for purpose other than an employee's serious health condition until the end of the semester if each of the following apply:

_____ Leave begins during last three weeks before end of the semester; **and**

_____ Leave is greater than five working days.

Last workday of the semester _____

Date of third week before end of the semester _____

Date of requested leave _____

Length of requested leave _____

The employee must be informed that the actual family and medical leave taken under these rules will be credited to the employee's 12-week entitlement.

Section VIII: Paid or Unpaid Family and Medical Leave.

_____ Provide employee notice whether the family and medical leave is paid or unpaid leave after completing the work sheet in accordance with the policy/collective bargaining agreement.

_____ Policy/collective bargaining agreement allows substitution of paid leave for family and medical leave.

_____ Family and medical leave is unpaid leave.

Section IX: Employee Progress Report.

_____ Arrangements are made with the employee to report to the school district on a regular basis during the family and medical leave (*please specify*). _____

_____ Requested medical recertification for family and medical leave due to a serious health condition of the spouse, parent, or child on _____.

_____ Received medical recertification within 15 days of the request on _____.

Section X: Employee Benefits During Family and Medical Leave.

The employee's health insurance coverage must be continued during the period of family and medical leave. The school district may choose to continue other employee benefits to ensure their restoration along with the health insurance upon the employee's return to work. The employee will pay the employee's share of health insurance and other benefits during the leave period.

_____ Arrangements have been made with the employee to continue the employee's share of health insurance premiums while on family and medical leave:

_____ From monies due to the employee

_____ By the first of each month from the employee

_____ Other (please specify) _____

_____ Arrangements have been made with the employee to continue the employee's share of the employee's other benefits while on family and medical leave:

_____ From monies due to the employee

_____ By the first of each month from the employee

_____ Other (please specify) _____

_____ The employee has chosen to discontinue all employee benefits while on family and medical leave.

_____ Employees who fail to provide payment of the employee's share of benefits premium during the period of family and medical leave have 15 days following notice to pay the employee's share.

_____ Employees who fail to pay within 15 days after receiving notice of payment due may have employee benefits discontinued.

_____ The school district will deduct unpaid employee portion of benefits from monies due to the employee upon return to work, and the employee has signed a written statement authorizing the deduction.

_____ The school district will seek recovery of unpaid employee portion of benefits through small claims court or other appropriate recovery process.

Even if the employee chooses to discontinue employee benefits during the period of family and medical leave, the school district should exercise great care before discontinuing employee benefits. The school district is required to restore the employee to full benefits when the employee returns to work, including group health insurance, without any qualifying period, physical examination, exclusion of pre-existing conditions and other similar requirements.

_____ The school district may discontinue the employee's benefits upon receipt of written notice of the employee's intent not to return to work.

Section XI: Key Employees.

_____ Salaried employees among the highest paid ten percent of a school district's employees are considered key employees of the school district.

Year-to-date earnings for employee

Total weeks of work and paid leave

Highest pay for employee

/ _____

= _____

- _____ Provide notice to key employees stating they are a key employee, and they may not be reinstated at end of the family and medical leave period if substantial and grievous economic injury exists.
- _____ Compile data to justify substantial and grievous economic injury. Substantial and grievous economic injury does not include minor inconvenience and costs typical to the normal operation of the school district.
- _____ The key employee is entitled to benefits during the family and medical leave in the same manner as other employees.

Section XII: Employee's Return to Work.

- _____ Employee is fully restored the same or an equivalent position with:
 - _____ Pay and benefits
 - _____ Health insurance
 - _____ Life insurance
 - _____ Other benefits or requirements in a policy/collective bargaining agreement

409.3R1 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE REGULATION

A. School district notice.

1. The school district will post the notice in Exhibit 409.3E1 regarding family and medical leave.
2. Information on the Family and Medical Leave Act and the board policy on family and medical leave, including leave provisions and employee obligations will be provided annually. The information will be in the employee handbook.
3. When an employee requests family and medical leave, the school district will provide the employee with information listing the employee's obligations and requirements. Such information will include:
 - a. a statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement or 26 week entitlement depending on the purpose of the leave;
 - b. a reminder that employees requesting family and medical leave for their serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so or proof of call to active duty in the case of military family and medical leave;
 - c. an explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution; and
 - d. a statement notifying employees that they must pay and must make arrangements for paying any premium or other payments to maintain health or other benefits.

B. Eligible employees.

Employees are eligible for family and medical leave if three criteria are met.

1. The school district has more than 50 employees on the payroll at the time leave is requested;
2. The employee has worked for the school district for at least twelve months or 52 weeks (the months and weeks need not be consecutive); and
3. The employee has worked at least 1,250 hours within the previous year. Full-time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement.

If the employee requesting leave is unable to meet the above criteria, then the employee is not eligible for family and medical leave.

C. Employee requesting leave -- two types of leave.

1. Foreseeable family and medical leave.
 - a. Definition - leave is foreseeable for the birth or placement of an adopted or foster child with the employee or for planned medical treatment.
 - b. Employee must give at least thirty days notice for foreseeable leave. Failure to give the notice may result in the leave beginning thirty days after notice was received. For those taking leave due to military family and medical leave, notice should be given as soon as possible.
 - c. Employees must consult with the school district prior to scheduling planned medical treatment leave to minimize disruption to the school district. The scheduling is subject to the approval of the health care provider.
2. Unforeseeable family and medical leave.
 - a. Definition – leave is unforeseeable in such situations as emergency medical treatment or premature birth.
 - b. Employee must give notice as soon as possible but no later than one to two workdays after learning that leave will be necessary.
 - c. A spouse or family member may give the notice if the employee is unable to personally give notice.

D. Eligible family and medical leave determination. The school district may require the employee giving notice

of the need for leave to provide reasonable documentation or a statement of family relationship.

1. Six purposes.
 - a. The birth of a son or daughter of the employee and in order to care for that son or daughter prior to the first anniversary of the child's birth;
 - b. The placement of a son or daughter with the employee for adoption or foster care and in order to care for that son or daughter prior to the first anniversary of the child's placement;
 - c. To care for the spouse, son, daughter, or parent of the employee if the spouse, son, daughter, or parent has a serious health condition; or
 - d. Employee's serious health condition that makes the employee unable to perform the essential functions of the employee's position.
 - e. Because of qualifying exigency arising out of the fact that an employee's ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
 - f. Because the employee is the spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.
2. Medical certification.
 - a. When required:
 - Employees shall be required to present medical certification of the employee's serious health condition and inability to perform the essential functions of the job.
 - Employees shall be required to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.
 - Employees shall be required to present certification of the call to active duty when taking military family and medical leave.
 - b. Employee's medical certification responsibilities:
 - The employee must obtain the certification from the health care provider who is treating the individual with the serious health condition.
 - The school district may require the employee to obtain a second certification by a health care provider chosen by and paid for by the school district if the school district has reason to doubt the validity of the certification an employee submits. The second health care provider cannot, however, be employed by the school district on a regular basis.
 - If the second health care provider disagrees with the first health care provider, then the school district may require a third health care provider to certify the serious health condition. This health care provider must be mutually agreed upon by the employee and the school district and paid for by the school district. This certification or lack of certification is binding upon both the employee and the school district.
 - c. Medical certification will be required fifteen days after family and medical leave begins unless it is impractical to do so. The school district may request recertification every thirty days. Recertification must be submitted within fifteen days of the school district's request.
 - d. Employees taking military caregiver family and medical leave to care for a family service member cannot be required to obtain a second opinion or to provide recertification.

Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification will be denied until such certification is provided.

E. Entitlement.

1. Employees are entitled to twelve weeks unpaid family and medical leave per year. Employees taking military caregiver family and medical leave to care for a family service member are entitled to 26 weeks of unpaid family and medical leave but only in a single 12-month period.
2. Year is defined as: Fiscal year
3. If insufficient leave is available, the school district may:

- a. Deny the leave if entitlement is exhausted
- b. Award leave available

F. Type of Leave Requested.

1. Continuous - employee will not report to work for set number of days or weeks.
2. Intermittent - employee requests family and medical leave for separate periods of time.
 - a. Intermittent leave is available for:
 - (1) Birth, adoption, or foster care placement subject to agreement by the district;
 - (2) Serious health condition of the myself, spouse, parent, or child when medically necessary;
 - (3) Because of a qualifying exigency arising out of the fact that my ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves;
 - (4) Because I am the ___ spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.
 - b. In the case of foreseeable intermittent leave, the employee must schedule the leave to minimize disruption to the school district operation.
 - c. During the period of foreseeable intermittent leave, the school district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see G below.)*
3. Reduced work schedule - employee requests a reduction in the employee's regular work schedule.
 - a. Reduced work schedule family and medical leave is available for:
 - (1) Birth, adoption, or foster care placement subject to the school district's agreement.
 - (2) Serious health condition of myself, spouse, parent, or child when medically necessary;
 - (3) Because of a qualifying exigency arising out of the fact that my ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves;
 - (4) Because I am the ___ spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.
 - b. In the case of foreseeable reduce work schedule leave, the employee must schedule the leave to minimize disruption to the school district operation.
 - c. During the period of foreseeable reduced work schedule leave, the school district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see G below.)*

G. Special Rules for Instructional Employees.

1. Definition – an instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors and special education assistants.
2. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule family and medical leave greater than twenty percent of the workdays in the leave period may be required to:
 - a. Take leave for the entire period or periods of the planned medical treatment; or
 - b. Move to an available alternative position, with equivalent pay and benefits, but not necessarily equivalent duties, for which the employee is qualified.
3. Instructional employees who request continuous family and medical leave near the end of a semester may be required to extend the family and medical leave through the end of the semester. The number of weeks remaining before the end of a semester do not include scheduled school breaks, such as summer, winter or spring break.
 - a. If an instructional employee begins family and medical leave for any purpose more than five weeks before the end of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last at least three weeks and the employee would return to work during the last three weeks of the semester if the leave was not continued.
 - b. If the employee begins family and medical leave for a purpose other than the employee's own serious

health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks and the employee would return to work during the last two weeks of the semester.

- c. If the employee begins family and medical leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, the school district may require the employee to continue taking leave until the end of the semester.
4. The entire period of leave taken under the special rules is credited as family and medical leave. The school district will continue to fulfill the school district's family and medical leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits, if an instructional employee's family and medical leave entitlement ends before the involuntary leave period expires.

H. Employee responsibilities while on family and medical leave.

1. Employee must continue to pay health care benefit contributions or other benefit contributions regularly paid by the employee unless employee elects not to continue the benefits.
2. The employee contribution payments will be deducted from any money owed to the employee or the employee will reimburse the school district at a time set by the superintendent.
3. An employee who fails to make the health care contribution payments within thirty days after they are due will be notified that their coverage may be canceled if payment is not received within an additional 15 days.
4. An employee may be asked to re-certify the medical necessity of family and medical leave for the serious medical condition of an employee or family member once every thirty days and return the certification within fifteen days of the request.
5. The employee must notify the school district of the employee's intent to return to work at least once each month during their leave and at least two weeks prior to the conclusion of the family and medical leave.
6. If an employee intends not to return to work, the employee must immediately notify the school district, in writing, of the employee's intent not to return. The school district will cease benefits upon receipt of this notification.

I. Use of paid leave for family and medical leave.

An employee may substitute unpaid family and medical leave with appropriate paid leave available to the employee under board policy, individual contracts, or the collective bargaining agreement. Paid leave includes, but is not limited to, sick leave, family illness leaves, vacation, personal leave, bereavement leave and professional leave. When the school district determines that paid leave is being taken for an FMLA reason, the school district will notify the employee within two business days that the paid leave will be counted as FMLA leave.

409.3R2 LICENSED EMPLOYEE FAMILY AND MEDICAL LEAVE DEFINITIONS

Active Duty – duty under a call or order to active duty under a provision of law referring to in section 101(a)(12) of title 10, U.S. Code.

Common law marriage – according to Iowa law, common law marriages exist when there is a present intent by the two parties to be married, continuous cohabitation, and a public declaration that the parties are husband and wife. There is no time factor that needs to be met in order for there to be a common law marriage.

Contingency Operation – has the same meaning given such term in section 101(a)(12) of title 10, U.S. Code.

Continuing treatment – a serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

- A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from) of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or in referral by, a health care provider; or
 - treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider.
- Any period of incapacity due to pregnancy or for prenatal care.
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.
- Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Covered Servicemember – a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

Eligible Employee – the district has more than 50 employees on the payroll at the time leave is requested. The employee has worked for the district for at least twelve months and has worked at least 1250 hours within the previous year.

Essential Functions of the Job – those functions which are fundamental to the performance of the job. It does not

include marginal functions.

Employment benefits – all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan."

Family Member – individuals who meet the definition of son, daughter, spouse, or parent.

Group health plan – any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

Health care provider -

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law; and
- Nurse practitioners and nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law; and
- Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts;
- Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;
- A health care provider as defined above who practices in a country other than the United States who is licensed to practice in accordance with the laws and regulations of that country.

In loco parentis – individuals who had or have day-to-day responsibilities for the care and financial support of a child not their biological child or who had the responsibility for an employee when the employee was a child.

Incapable of self-care – that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" or "ADLs." Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee – an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Intermittent leave – leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave or periods from an hour or more to several weeks.

Medically Necessary – certification for medical necessity is the same as certification for serious health condition.

"Needed to Care For" – the medical certification that an employee is "needed to care for" a family member encompasses both physical and psychological care. For example, where, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety or is unable to transport himself or herself to medical treatment. It also includes situations where the employee may be needed to fill in for others who are caring for the family member or to make arrangements for changes in care.

Next of Kin – an individual's nearest blood relative.

Outpatient Status – the status of a member of the Armed Forces assigned to –

- Either a military medical treatment facility as an outpatient; or,
- A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Parent – a biological parent or an individual who stands in loco parentis to a child or stood in loco parentis to an employee when the employee was a child. Parent does not include parent-in-law.

Physical or mental disability – a physical or mental impairment that substantially limits one or more of the major life activities of an individual.

Reduced leave schedule – a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Serious health condition

- An illness, injury, impairment, or physical or mental condition that involves:
 - Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from), or any subsequent treatment in connection with such inpatient care; or
 - Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:
 - A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders or, or on referral by, a health care provider; or
 - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
 - Any period of incapacity due to pregnancy or for prenatal care.
 - Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.
 - A chronic serious health condition is one which:
 - Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
 - A period of incapacity which is permanent or long-term due to a condition for which treatment

may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's a severe stroke or the terminal stages of a disease.

- Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).
- Treatment for purposes of this definition includes, but is not limited to, examinations to determine if a serious health condition exists and evaluation of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations. Under this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.
- Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.
- Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.
- Absence attributable to incapacity under this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Serious Injury or Illness – an injury or illness incurred by a member of the Armed forces, including the National Guard or Reserves in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Son or daughter – a biological child, adopted child, foster child, stepchild, legal ward, or a child of a person standing in loco parentis. The child must be under age 18 or, if over 18, incapable of self-care because of a mental or physical disability.

Spouse – a husband or wife recognized by Iowa law including common law marriages.

409.4 LICENSED EMPLOYEE EMERGENCY LEAVE

An employee will be granted a maximum of seven days leave per year for illness or death in the immediate family, which is defined as spouse, parents, grandparents, children, grandchildren, father/mother/son/daughter- in-law, brother, sister, brother/sister-in-law.

Up to two days leave of the seven maximum allowed may be used for the funeral of a family member not listed above or a close friend.

In extenuating circumstances, the superintendent may extend the seven days fully paid leave. The superintendent's decision is final and non-grievable.

Legal Reference: Iowa Code §§ 20.9; 279.8 (2009).

Cross Reference: 409 Licensed Employee Vacations and Leaves of Absence
414 Classified Employee Vacation and Leaves of Absence

409.5 LICENSED EMPLOYEE POLITICAL LEAVE

The board will provide a leave of absence to licensed employees to run for elective public office. The superintendent will grant a licensed employee a leave of absence to campaign as a candidate for an elective public office as unpaid leave.

The licensed employee will be entitled to one period of leave to run for the elective public office, and the leave may commence within thirty days of a contested primary, special, or general election and continue until the day following the election.

The request for leave must be in writing to the superintendent of schools at least thirty days prior to the starting date of the requested leave.

Legal Reference: Iowa Code ch. 55.

Cross Reference: 401.15 Employee Political Activity
409 Licensed Employee Vacations and Leaves of Absence

409.6 LICENSED EMPLOYEE JURY DUTY LEAVE

The board will allow licensed employees to be excused for jury duty unless extraordinary circumstances exist. The superintendent has the discretion to determine when extraordinary circumstances exist.

Employees who are called for jury service will notify the direct supervisor within twenty-four hours after notice of call to jury duty and suitable proof of jury service pay must be presented to the school district. The employee will report to work within one hour on any day when the employee is excused from jury duty during regular working hours.

Licensed employees will receive their regular salary. Any payment for jury duty will be paid to the school district.

Legal Reference: Iowa Code §§ 20.9; 607A.

Cross Reference: 409 Licensed Employee Vacations and Leaves of Absence

409.7 LICENSED EMPLOYEE MILITARY SERVICE LEAVE

The board recognizes licensed employees may be called to participate in the armed forces, including the National Guard. If a licensed employee is called to serve in the armed forces, the employee will have a leave of absence for military service until the military service is completed.

The leave is without loss of status or efficiency rating, and without loss of pay during the first thirty calendar days of the leave.

Legal Reference: Bewley v. Villisca Community School District, 299 N.W. 2d 904 (Iowa 1980).
Iowa Code §§ 20; 29A.28.

Cross Reference: 409 Licensed Employee Vacations and Leaves of Absence

409.8 LICENSED EMPLOYEE UNPAID LEAVE

Unpaid leave may be used to excuse an involuntary absence not provided for in other leave policies of the board. Unpaid leave for licensed employees must be authorized by the superintendent.

The superintendent will have complete discretion to grant or deny the requested unpaid leave. In making this determination, the superintendent will consider the effect of the employee's absence on the education program and school district operations, length of service, previous record of absence, the financial condition of the school district, the reason for the requested absence and other factors the superintendent believes are relevant to making this determination.

If unpaid leave is granted, the duration of the leave period will be coordinated with the scheduling of the education program whenever possible to minimize the disruption of the education program and school district operations.

Whenever possible, licensed employees will make a written request for unpaid leave 3 days prior to the beginning date of the requested leave. If the leave is granted, the deductions in salary are made unless they are waived specifically by the superintendent.

Legal Reference: Iowa Code §§ 20; 85; 85A; 85B; 279.12; 509; 509A; 509B.

Cross Reference: 409 Licensed Employee Vacations and Leaves of Absence

410.1 SUBSTITUTE TEACHERS

The board recognizes the need for substitute teachers. Substitute teachers shall be licensed to teach in Iowa.

It shall be the responsibility of the building principal to maintain a list of substitute teachers who may be called upon to replace regular contract licensed employees. Individuals whose names do not appear on this list will not be employed as a substitute without specific approval of the superintendent. It shall be the responsibility of the building principal to fill absences with substitute teachers immediately.

Substitute teachers will be paid a per diem rate. Substitutes employed for ten (10) or more consecutive days in the same position shall be paid based upon qualifications and experience, [*and will be retroactive to the first day of the substitute period*]. Substitute licensed employees are expected to perform the same duties as the licensed employees.

Legal Reference: Iowa Association of School Boards v. PERB, 400 N.W.2d 571 (Iowa 1987).
Iowa Code §§ 20.1, .4(5), .9; Ch. 272.
281 I.A.C. 12.4.

Cross Reference: 405.1 Licensed Employee Defined
405.2 Licensed Employee Qualifications, Recruitment, Selection

410.2 SHARED LICENSED EMPLOYEES

The board may make arrangements for sharing employees with neighboring school districts in order to expand the opportunities available in the education program and the operation of the school district. It shall be within the discretion of the board to determine when and with which school district sharing agreements will be made.

It shall be the responsibility of the superintendent to bring to the board's attention opportunities for sharing employees with neighboring school districts.

Legal Reference: Iowa Code §§ 28E; 256.11, .11A, .13; 257.11; 280.15; 282.7 (1) (2009).

Cross Reference:

410.3 SUMMER SCHOOL LICENSED EMPLOYEES

The Shenandoah Community School District shall offer summer school options in accordance with law and may, in its discretion offer additional programming during the summer recess. Licensed employees who volunteer or who are appointed to deliver the summer education program are compensated in addition to their regular duties during the school academic year unless such arrangements are made prior to determining the employee's compensation for the year.

Licensed employees will be given the opportunity to volunteer for the positions available. If the board determines a course must be offered and no licensed employee volunteers for the position, the board will make the necessary arrangements to fill the position. The board will consider applications from volunteers of current licensed employees in conjunction with other applications.

It is the responsibility of the superintendent to make a recommendation to the board regarding the need for and the delivery of the summer education program.

Legal Reference: Iowa Code §§ 279.8, .68; 280.14 (2015).

Cross Reference: 603.2 Summer School Instruction
505.2 Student Promotion – Retention – Acceleration

410.4 STUDENT TEACHERS – INTERNSHIPS

The board will cooperate with post-secondary educational institutions to assist in the practical preparation of teachers and other licensed employee positions. Student teachers and other student interns may be assigned duties in the school district.

Licensed employees shall not be required to utilize student teachers or student interns. Experienced teachers and teachers in good standing shall be allowed to have student teachers or student interns.

It shall be the responsibility of the superintendent to make arrangements with the post-secondary educational institutions for student teachers and student internships. Such arrangements shall safeguard the interest of the student teachers and student interns, the post-secondary educational institution, and the school district.

It shall be the responsibility of the post-secondary educational institution to provide sufficient supervision over the work of these student teachers to make their presence profitable.

Legal Reference: Iowa Code § 272.27 (2009).
281 I.A.C. 77.
1974 Op. Att’y Gen. 6.
1936 Op. Att’y Gen. 462.

Cross Reference: 906 Other Intradistrict Relations

410.5 TRUANCY OFFICER

The board will appoint a license employee from each school building to serve as the district's truancy officers.

The principal will notify the truancy officer when a student is truant. The truancy officer will investigate the cause of a student's truancy and attempt to ensure the student's attendance. The truancy officer may take the student into custody. A student taken into custody will be placed in the custody of the principal. The truancy officer will attempt to contact the student's parents when the student is taken into custody.

Legal Reference: Iowa Code §§ 299.10-.11, .15.

Cross Reference: 501.10 Truancy - Unexcused Absences

410.6 EDUCATION ASSOCIATE

The board may employ education associates or other instructional support personnel to assist licensed personnel in non-teaching duties, including, but not limited to:

- managing and maintaining records, materials and equipment;
- attending to the physical needs of children; and
- performing other limited services to support teaching duties when such duties are determined and directed by the teacher.

Education associates who hold a teaching certificate are compensated at the rate of pay established for their position as an education associate. It is the responsibility of the principal to supervise education associates.

Legal Reference: Iowa Code §§ 279.8; 280.3, .14.
281 I.A.C. 12.4(9); .5(9).

Cross Reference: 411.2 Classified Employee Qualifications, Recruitment, Selection

411.1 CLASSIFIED EMPLOYEE DEFINED

Classified employees are employees who are not administrators or employees in positions which require an Iowa Department of Education teaching license and who are employed to fulfill the duties listed on their job description on a monthly or hourly basis. Classified employees will include, but not be limited to, teacher and classroom aides, custodial and maintenance employees, clerical employees, food service employees, bus drivers, and temporary help for summer or other maintenance. The position may be full-time or part-time.

It is the responsibility of the superintendent to establish job specifications and job descriptions for classified employee positions. Job descriptions may be approved by the board.

Classified employees required to hold a license for their position must present evidence of their current license to the board secretary prior to payment of wages each year.

Legal Reference: Iowa Code §§ 20; 279.8 (2009).

Cross Reference: 405.1 Licensed Employee Defined
411.2 Classified Employee Qualifications, Recruitment, Selection
412.3 Classified Employee Group Insurance Benefits

411.2 CLASSIFIED EMPLOYEE - QUALIFICATIONS, RECRUITMENT, SELECTION

Persons interested in a classified employee position will have an opportunity to apply and qualify for classified employee positions in the school district in accordance with applicable laws and school district policies regarding equal employment. Job applicants for classified employee positions will be considered on the basis of the following:

- Training, experience, and skill;
- Nature of the occupation;
- Demonstrated competence; and
- Possession of, or ability to obtain, state or other license or certificate, if required, for the position.

All job openings shall be submitted to the Iowa Department of Education for posting on TeachIowa, the online state job posting system. Additional announcements of the position may occur through means the superintendent believes will inform potential applicants about the position. Whenever possible, the preliminary screening of applicants will be conducted by the administrator who directly supervises and oversees the position.

The superintendent will recommend employment of classified employees to the board for approval.

Legal Reference: 29 U.S.C. §§ 621-634.
 42 U.S.C. §§ 2000e; 12101 *et seq.*
 Iowa Code §§ 20; 35C; 216; 256.27; 279.8; 279.20.

Cross Reference: 401.2 Equal Employment Opportunity
 411 Classified Employees - General

411.3 CLASSIFIED EMPLOYEE CONTRACTS

The board may enter into written contracts with classified employees employed on a regular basis. The contract will state the terms of employment.

Each contract will include a thirty-day cancellation clause. Either the employee or the board must give notice of the intent to cancel the contract at the end of thirty days. This notice will not be required when the employee is terminated during a probationary period or for cause.

Classified employees will receive a job description stating the specific performance responsibilities of their position.

It is the responsibility of the superintendent to draw up and process the classified employee contracts and present them to the board for approval. The contracts, after being signed by the board president, are filed with the board secretary.

Legal Reference: Iowa Code §§ 20; 279.7A; 285.5(9).

Cross Reference: 411 Classified Employees - General
412.1 Classified Employee Compensation
412.2 Classified Employee Wage and Overtime Compensation
413 Classified Employee Termination of Employment

411.4 CLASSIFIED EMPLOYEE LICENSING/CERTIFICATION

Classified employees who require a special license or other certification will keep them current at their own expense. Licensing requirements needed for a position will be considered met if the employee meets the requirements established by law for the position.

Legal Reference: Iowa Code §§ 272.6; 285.5(9) (2009).
281 I.A.C. 12.4(10); 36; 43.12-.24.

Cross Reference: 411.2 Classified Employee Qualifications, Recruitment, Selection

411.5 CLASSIFIED EMPLOYEE ASSIGNMENT

Determining the assignment of each classified employee is the responsibility of the superintendent and within the sole discretion of the board. In making such assignments each year the superintendent will consider the qualifications of each classified employee and the needs of the school district.

It is the responsibility of the superintendent to assign classified employees and report such assignments to the board.

Legal Reference: Iowa Code §§ 20; 279.8.

Cross Reference: 200.3 Powers of the Board of Directors
411.6 Classified Employee Transfers

411.6 CLASSIFIED EMPLOYEE TRANSFERS

Determining the location where a classified employee's assignment will be performed is the responsibility of the superintendent and within the sole discretion of the board. In making such assignments each year the superintendent will consider the qualifications of each classified employee and the needs of the school district.

A transfer may be initiated by the employee, the principal, or the superintendent.

It is the responsibility of the superintendent to transfer classified employees and report such transfers to the board.

Legal Reference: 29 U.S.C. §§ 621-634.
42 U.S.C. §§ 2000e *et seq.*
42 U.S.C. §§ 12101 *et seq.*
Iowa Code §§ 20.9; 35C; 216; 279.8; 294.1.

Cross Reference: 411.2 Classified Employee Qualifications, Recruitment, Selection
411.5 Classified Employment Assignment

411.7 CLASSIFIED EMPLOYEE EVALUATION

Evaluation of classified employees on their skills, abilities, and competence is an ongoing process supervised by the superintendent. The goal of the formal evaluation of classified employees is to maintain classified employees who meet or exceed the board's standards of performance, to clarify each classified employee's role, to ascertain the areas in need of improvement, to clarify the immediate priorities of the board, and to develop a working relationship between the administrators and other employees.

It is the responsibility of the superintendent to ensure classified employees are formally evaluated annually. New and probationary classified employees are formally evaluated twice a year.

Legal Reference: Aplington Community School District v. PERB, 392 N.W.2d 495 (Iowa 1986).
 Saydel Education Association v. PERB, 333 N.W.2d 486 (Iowa 1983).
 Iowa Code §§ 20.9; 279.14.
 281 I.A.C. 12.3(3).

Cross Reference: 411.2 Classified Employee Qualifications, Recruitment, Selection
 411.8 Classified Employee Probationary Status

411.8 CLASSIFIED EMPLOYEE PROBATIONARY STATUS

The first sixty (60) days of a newly employed classified employee's contract is a probationary period. "Day" is defined as one workday regardless of full-time or part-time status of the employee. New employees, regardless of experience, are subject to this probationary period.

"New" employees includes individuals who are being hired for the first time by the school district and those who may have been employed by the school district in the past, but have not been employed by the board during the school year prior to the one for which contracts are being issued.

Only the board, in its discretion, may waive the probationary period.

Legal Reference: Iowa Code §§ 20; 279.8.

Cross Reference: 411.3 Classified Employee Contracts
411.7 Classified Employee Evaluation

412.1 CLASSIFIED EMPLOYEE COMPENSATION

The board will determine the compensation to be paid for the classified employees' positions, keeping in mind the education and experience of the classified employee, the educational philosophy of the school district, the financial condition of the school district and any other considerations as deemed relevant by the board.

It is the responsibility of the superintendent to make a recommendation to the board annually regarding the compensation of classified employees.

Legal Reference: Iowa Code §§ 20.1, .4, .7, .9; 279.8.

Cross Reference: 411.3 Classified Employee Contracts
412.2 Classified Employee Wage and Overtime Compensation

412.2 CLASSIFIED EMPLOYEE WAGE AND OVERTIME COMPENSATION

Each non-exempt employee compensated on an hour-by-hour basis, whether full-or part-time, permanent, or temporary, will be paid no less than the prevailing minimum wage. Whenever a non-exempt employee must work more than forty hours in a given work week, the employee is compensated at one and one-half times their regular hourly wage rate. This compensation is in the form of overtime pay or compensatory time. Overtime will not be permitted without prior authorization of the superintendent.

Each non-exempt employee paid on an hour-by-hour basis must complete, sign, and turn in a daily time record showing the actual number of hours worked. Failure of the employee to maintain, or falsification of, a daily time record will be grounds for disciplinary action.

It is the responsibility of the board secretary to maintain wage records.

Legal Reference: Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985).
29 U.S.C. §§ 206 *et seq.*

Cross Reference: 411.3 Classified Employee Contracts
412.1 Classified Employee Compensation

412.3 CLASSIFIED EMPLOYEE GROUP INSURANCE BENEFITS

Classified employees may be eligible for group insurance benefits as determined by the board and required by law. The board will select the group benefit program(s) and the insurance company or third-party administrator which will provide the program.

In accordance with the Patient Protection and Affordable Care Act (ACA), the board will offer classified employees, who work an average of at least thirty (30) hours per week or one hundred thirty (130) hours per month, based on the measurement method adopted by the board, with minimum essential coverage that is both affordable and provides minimum value. The board will have the authority and right to change or eliminate group benefit programs, other than the group health plan, for its licensed employees.

Classified employees, who work an average of at least 30 hours per week or one hundred thirty (130) hours per month, based on the measurement method adopted by the board, are eligible to participate in the group health plan. Classified employees who work 30 per week are eligible to participate in benefits other than health benefits the district offers (e.g., life or long-term disability group insurance plans. Employers should maintain documents regarding eligible employees' acceptance and rejection of coverage.

Regular part-time classified employees (i.e., employees who work less than 30 hours per week or 130 hours per month for health benefit purposes or employees who work less than 30 per week for benefits other than health) who wish to purchase coverage may participate in group insurance programs by meeting the requirements of the applicable plan. Full-time and regular part-time classified employees who wish to purchase coverage for their spouse or dependents may do so by meeting the requirements of the applicable plan.

Legal Reference: Iowa Code §§ 20.9; 85; 85B; 279.12; 509; 509A; 509B.
Internal Revenue Code § 4980H(c)(4); Treas. Reg. § 54.4980H-1(a)(21)(ii).
Shared Responsibility for Employers Regarding Health Coverage, 26 CFR Parts 1, 54 and 301, 78 Fed. Reg. 217, (Jan 2, 2013).
Shared Responsibility for Employers Regarding Health Coverage, 26 CFR Parts 1, 54 and 301, 79 Fed. Reg. 8543 (Feb. 12, 2014).

Cross Reference: 411.1 Classified Employee Defined

412.4 CLASSIFIED EMPLOYEE TAX SHELTER PROGRAMS

Employees may elect to have amounts withheld from their pay for items authorized by law, subject to agreement of the district. The board may authorize the administration to make a payroll deduction for classified employee's tax-sheltered annuity premiums purchased from a company or program if chosen by the board.

Classified employees wishing to have payroll deductions for tax-sheltered annuities shall make a written request to the superintendent.

Legal Reference: Small Business Job Protection Act of 1996, Section 1450(a), repealing portions of IRS REG § 1.403(b)-1(b)(3).
Iowa Code §§ 273; 294.16.

Cross Reference: 706 Payroll Procedures

413.1 CLASSIFIED EMPLOYEE RESIGNATION

Classified employees who wish to resign during the school year will give the board notice of their intent to resign and final date of employment and cancel their contract 30 days prior to their last working day.

Notice of the intent to resign will be in writing to the superintendent.

Legal Reference: Iowa Code §§ 91A.2, .3, .5; 279.19A; 285.5(9).

Cross Reference: 411.3 Classified Employee Contracts
413 Classified Employee Termination of Employment

413.2 CLASSIFIED EMPLOYEE RETIREMENT

Classified employees who will complete their current contract with the board may apply for retirement. No classified employee will be required to retire at any specific age.

Application for retirement will be considered made when the classified employee states in writing to the superintendent, no later than the date set by the board for the return of the employee's contract to the board if applicable, the employee's intent to retire. The letter must state the employee's desire to retire and be witnessed by another party other than the principal or the superintendent.

Board action to approve a classified employee's application for retirement is final, and such action constitutes termination of the employee's contract effective the day of the employee's retirement.

Classified employees and their spouse and dependents who have group insurance coverage through the school district may be allowed to continue coverage of the school district's group health insurance program, at their own expense, by meeting the requirements of the insurer.

Legal Reference: 29 U.S.C. §§ 621 *et seq.*
Iowa Code §§ 91A.2, .3, .5; 97B; 216; 279.19A, .46.

Cross Reference: 412 Classified Employee Compensation and Benefits
413 Classified Employee Termination of Employment

413.4 CLASSIFIED EMPLOYEE SUSPENSION

Classified employees will perform their assigned job, respect, and follow board policy and obey the law. The superintendent is authorized to suspend a classified employee with or without pay pending board action on a discharge or during investigation of charges against the employee or for disciplinary purposes. It is within the discretion of the superintendent to suspend a classified employee with or without pay.

In the event of a suspension, due process will be followed.

Legal Reference: Northeast Community Education Association v. Northeast Community School District, 402 N.W.2d 765, 769 (Iowa 1987).
McFarland v. Board of Education of Norwalk Community School District, 277 N.W.2d 901 (Iowa 1979).
Iowa Code §§ 20.7, .24.

Cross Reference:	404	Employee Conduct and Appearance
	413	Classified Employee Termination of Employment

413.5 CLASSIFIED EMPLOYEE DISMISSAL

The board believes classified employees should perform their jobs, respect board policy, and obey the law.

A classified employee may be dismissed upon thirty days' notice or immediately for cause. Due process procedures will be followed.

It is the responsibility of the superintendent to make a recommendation for dismissal to the board. A classified employee may be dismissed for any reason, including, but not limited to, incompetence, willful neglect of duty, reduction in force, willful violation of board policy or administrative regulations, or a violation of the law.

Legal Reference: Iowa Code §§ 20.7, .24.

Cross Reference: 404 Employee Conduct and Appearance
413.4 Classified Employee Suspension
413.6 Classified Employee Reduction in Force

413.6 CLASSIFIED EMPLOYEE REDUCTION IN FORCE

It is the exclusive power of the board to determine when a reduction in classified employees is necessary. Employees who are terminated due to a reduction in force will be given thirty days' notice. Due process will be followed for terminations due to a reduction in force.

It is the responsibility of the superintendent to make a recommendation for termination to the board. The superintendent will consider the relative qualifications, skills, ability and demonstrated performance through evaluation procedures in making the recommendations.

Legal Reference: Iowa Code §§ 20.7, .24.

Cross Reference: 407.6 Licensed Employee Reduction in Force
413.4 Classified Employee Suspension
413.5 Classified Employee Dismissal
703 Budget

414.1 CLASSIFIED EMPLOYEE VACATIONS - HOLIDAYS - PERSONAL LEAVE

The board will determine the amount of vacation, holidays and personal leave that will be allowed on an annual basis for classified employees.

Classified employees who work twelve months a year will be allowed six paid holidays if the holidays fall on a regular working day. The six holidays are New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day. Classified employees, whether full-time or part-time, will have time off in concert with the school calendar.

Classified employees will be paid only for the hours they would have been scheduled for the day. Vacation will not be accrued from year to year without a prior arrangement with the superintendent.

It is the responsibility of the superintendent to make a recommendation to the board annually on vacation and personal leave for classified employees.

Legal Reference: Iowa Code §§ 1C; 4.1(34); 20.9.

Cross Reference: 409.1 Licensed Employee Vacations - Holidays - Personal Leave
601.1 School Calendar

414.2 CLASSIFIED EMPLOYEE PERSONAL ILLNESS LEAVE

Classified employees are granted ten days of sick leave in their first year of employment. Each year thereafter, one additional day of sick leave will be granted to the employees up to a maximum of fifteen days. "Day" is defined as one workday regardless of full-time or part-time status of the employee. A new employee will report for work at least one full workday prior to receiving sick leave benefits. A returning employee will be granted the appropriate number of days at the beginning of each fiscal year. Sick leave may be accumulated up to a maximum of 120 days for classified employees.

Should the personal illness occur after or extend beyond the accumulated sick leave, the employee may apply for disability benefits under the group insurance plan. If the employee does not qualify for disability benefits, the employee may request a leave of absence without pay.

Evidence may be required regarding the mental or physical health of the employee including, but not limited to, confirmation of the following: the employee's illness, the need for the illness leave, the employee's ability to return to work, and the employee's capability to perform the duties of the employee's position. It is within the discretion of the board and the superintendent to determine the type and amount of evidence necessary. When an illness leave will be greater than three consecutive days, the employee will comply with board policy regarding family and medical leave.

If an employee is eligible to receive workers' compensation benefits, the employee will contact the board secretary to implement these benefits.

Legal Reference: Whitney v. Rural Ind. School District, 232 Iowa 61, 4 N.W.2d 394 (1942).
 26 U.S.C. §§ 2601 *et seq.*
 29 C.F.R. Pt. 825.
 Iowa Code §§ 20; 85.33, .34, .38(3); 279.40.

Cross Reference: 403.2 Employee Injury on the Job
 414.3 Classified Employee Family and Medical Leave
 414.8 Classified Employee Unpaid Leave

414.3 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE

Unpaid family and medical leave will be granted up to 12 weeks per year to assist employees in balancing family and work life. For purposes of this policy, year is defined as a fiscal year. Requests for family and medical leave will be made to the superintendent.

Employees may be allowed to substitute paid leave for unpaid family and medical leave by meeting the requirements set out in the family and medical leave administrative rules. Employees eligible for family and medical leave must comply with the family and medical leave administrative rules prior to starting family and medical leave. It is the responsibility of the superintendent to develop administrative rules to implement this policy.

Links: [WH-380-E Certification of Health Care Provider for Employee's Serious Health Condition \(PDF\)](#)
[WH-380-F Certification of Health Care Provider for Family Member's Serious Health Condition \(PDF\)](#)
[WH-381 Notice of Eligibility and Rights & Responsibilities \(PDF\)](#)
[WH-382 Designation Notice \(PDF\)](#)
[WH-384 Certification of Qualifying Exigency For Military Family Leave \(PDF\)](#)
[WH-385 Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave \(PDF\)](#)

Legal Reference: Whitney v. Rural Ind. School. District, 232 Iowa 61, 4 N.W.2d 394 (1942).
 29 U.S.C. §§ 2601 *et seq.*
 29 C.F.R. Pt. 825.
 Iowa Code §§ 20; 85.33, .34, .38(3); 216; 279.40.

Cross Reference: 409.3 Licensed Employee Family and Medical Leave
 409 Licensed Employee Personal Illness Leave
 409.8 Licensed Employee Unpaid Leave

414.3A SERIOUS ILLNESS IN THE IMMEDIATE FAMILY

Classified employees shall be granted leave of absence at full pay for an illness in the immediate family (spouse, children, mother, father, brother, sister, grandparent, or others of close familial relationship who, with approval of the Superintendent, because of a more unusual family or household arrangement, present a problem of immediate dependence prior to and at the time of said illness, not to exceed a total of five (5) days per year. If needed, one of these days may be used for a circumstance, in the immediate family, that cannot be accomplished outside of the working day. Such days are non-cumulative. An employee may request an additional unpaid leave of absence for up to one year, such request subject to the approval of the Board.

The requirements stated in the Master Contract between employees in the certified collective bargaining unit and the board regarding serious illness leave of such employees will be followed.

414.3E1 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE NOTICE TO EMPLOYEES

YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

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

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

MILITARY FAMILY LEAVE ENTITLEMENTS

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

BENEFITS AND PROTECTION

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

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

JOB ELIGIBILITY REQUIREMENTS

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

DEFINITION OF SERIOUS HEALTH CONDITION

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

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

conditions may meet the definition of continuing treatment.

USE OF LEAVE

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

SUBSTITUTION OF PAID LEAVE FOR UNPAID LEAVE

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

EMPLOYEE RESPONSIBILITIES

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

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

EMPLOYER RESPONSIBILITIES

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility. Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- H Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- I Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

NOTE: FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

If you have access to the Internet visit FLMA's website: <http://www.dol.gov/esa/whd/fmla>.

To locate your nearest Wage-Hour Office, phone our toll-free information at 1-866-487-9243 or to the Web site

at: <http://www.wagehour.dol.gov>.

For a listing of records that must be kept by employers to comply with FMLA visit the U.S. Dept. of Labor's website: http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_825/29CFR825.500.htm

US Dept. of Labor – Revised July, 2009

414.3E2 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE REQUEST FORM

Date: _____

I, _____, request family and medical leave for the following reason:

(check all that apply)

- ☐ for the birth of my child;
☐ for the placement of a child for adoption or foster care;
☐ to care for my child who has a serious health condition;
☐ to care for my parent who has a serious health condition;
☐ to care for my spouse who has a serious health condition; or
☐ because I am seriously ill and unable to perform the essential functions of my position.
☐ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
☐ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

I acknowledge my obligation to provide medical certification of my serious health condition or that of a family member in order to be eligible for family and medical leave within 15 days of the request for certification.

I acknowledge receipt of information regarding my obligations under the family and medical leave policy of the school district.

I request that my family and medical leave begin on _____ and I request leave as follows: (check one)

☐ continuous

I anticipate that I will be able to return to work on _____.

☐ intermittent leave for the:

- ☐ birth of my child or adoption or foster care placement subject to agreement by the district;
☐ serious health condition of myself, spouse, parent, or child when medically necessary;
☐ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
☐ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

Details of the needed intermittent leave: _____

I anticipate returning to work at my regular schedule on _____.

☐ reduced work schedule for the:

- ☐ birth of my child or adoption or foster care placement subject to agreement by the district;
☐ serious health condition of myself, spouse, parent, or child when medically necessary;

_____ because of a qualifying exigency arising out of the fact that my _____ spouse; _____ son or daughter; _____ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
_____ because I am the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered service member with a serious injury or illness.

Details of needed reduction in work schedule as follows: _____

I anticipate returning to work at my regular schedule on _____.

I realize I may be moved to an alternative position during the period of the family and medical intermittent or reduced work schedule leave. I also realize that with foreseeable intermittent or reduced work schedule leave, subject to the requirements of my health care provider, I may be required to schedule the leave to minimize interruptions to school district operations.

While on family and medical leave, I agree to pay my regular contributions to employer sponsored benefit plans. My contributions will be deducted from moneys owed me during the leave period. If no monies are owed me, I will reimburse the school district by personal check or cash for my contributions. I understand that I may be dropped from the employer-sponsored benefit plans for failure to pay my contribution.

I agree to reimburse the school district for any payment of my contributions with deductions from future monies owed to me or the school district may seek reimbursement of payments of my contributions in court.

I acknowledge that the above information is true to the best of my knowledge.

Signed _____ Date _____

If the employee requesting leave is unable to meet the above criteria, the employee is not eligible for family and medical leave.

414.3E3 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE CERTIFICATION FORM

1. Employee's Name _____
2. Patient's Name (if different from employee) _____
3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition for which the employee is taking FMLA leave, qualify under any of the categories described? If so, please check the applicable category.
 (1) _____ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____ or none of the above _____
4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:
5. a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity, i.e. inability to work, attend school or perform other regular activities due to the serious health condition, treatment therefor, or recovery therefrom, if different): _____
- b. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _____ If yes, give the probable duration: _____
- c. If the condition is chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity: _____
6. a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments: _____ If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if know, and period required for recovery if any: _____
- b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments: _____

- c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g. prescription drugs, physical therapy requiring special equipment): _____

7. a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____
- b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _____ If yes, please list the essential functions the employee is

unable to perform. _____

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

8. a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need: _____

Signature of Health Care Provider

Type of Practice

Address

Telephone Number

To be completed by the employee needing family leave to care for a family member.

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: ____

Employee Signature

Date

A serious health condition means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care – In patient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
2. Absence Plus Treatment – A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - a. treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services (e.g. physical therapist) under the orders of, or on referral by, a health care provider; or
 - b. treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Pregnancy – Any period of incapacity due to pregnancy or for prenatal care.
4. Chronic Conditions Requiring Treatments – A chronic condition which:
 - a. requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - b. continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. may cause episodic rather than a period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
5. Permanent/Long-term Conditions Requiring Supervision – A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. Multiple Treatments (Non-chronic Conditions) – Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment such as cancer (chemotherapy), radiation, etc.), severe arthritis (physical therapy) and kidney disease (dialysis).

414.3E4 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE REQUEST WORK SHEET

Complete this work sheet upon receiving a request for family and medical leave that may qualify under the Family Medical Leave Act. Be sure to note the requirements relating to family and medical leave in the school district's policy/collective bargaining agreement prior to relying on this work sheet as the sole source of the school district's obligations. Also be sure to note the definitions in Regulation 409.3R2.

Section I: Eligible Employee. *(Please check all that apply.)*

_____ Covered by a policy/collective bargaining agreement. *(If checked, please move to Section II.)*

_____ The employee must meet all criteria below to move to Section II.

_____ 50 or more employees are on the payroll of or under contract to the school district.

_____ Worked 52 weeks in the school district (consecutive or nonconsecutive). **OR**

_____ Worked 12 months in the school district (consecutive or nonconsecutive).

_____ Worked 1250 hours for the school district in 12 months prior to the request. Full-time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hours required.

Section II: Family and Medical Leave Purpose. *(One must be checked to move to Section III.)*

_____ Birth and care of newborn prior to first anniversary of child's birth.

_____ Care of adopted child or foster care child prior to first anniversary of placement.

_____ Care for serious health condition of spouse, child, child for which employee is "in loco parentis" and for any of these if they are over eighteen and have a disability which prevents the child from caring for himself or herself.

_____ Requested medical certification for family and medical leave due to a serious health condition of the spouse, parent or child on _____.

_____ Received medical certification within 15 days of the request on _____.

_____ Serious health condition of the employee.

_____ Requested medical certification for family and medical leave due to a serious health condition of the employee on _____.

_____ Received medical certification within 15 days of the request on _____.

_____ Other purposes contained in a policy/collective bargaining agreement.

Section III: Timing of Family and Medical Leave Request.

_____ Date of family and medical leave request _____.

_____ Date family and medical leave to begin _____.

_____ Provide FMLA leave information to employee at time of request _____.

(If one is checked, please move to Section IV.)

_____ Leave request for foreseeable family and medical leave is 30 days prior to date family and medical leave begins.

_____ Leave request for foreseeable family and medical leave is in compliance with policy/collective bargaining agreement.

_____ Leave request for foreseeable family and medical leave was made as soon as practicable, and no later than one business day, prior to date family and medical leave begins.

_____ Leave request for unforeseeable family and medical leave was made in accordance with the policy/collective bargaining agreement timelines.

Section IV: Calculation of Available Family and Medical Leave.

Beginning date for 12-month entitlement period: *(Check the method adopted by the school district.)*

_____ July 1 (fiscal year) _____ January 1 (calendar year) _____ September 1 (school year) _____ First day of rolling forward 12-month entitlement period _____ First day of rolling backward 12-month entitlement period

_____ Collective bargaining agreement year _____ Other: _____

Total family and medical leave for the 12-month entitlement period _____

Leave taken to date in the entitlement period _____

Leave available for the entitlement period _____

If sufficient family and medical leave is available and the employee qualifies for family and medical leave, the family and medical leave will be granted in accordance with the policy/collective bargaining agreement.

The employee must be informed that the actual family and medical leave taken will be credited to the employee's 12-week entitlement.

If both spouses are employed by the school district, they may only take a combined total of 12 weeks during the entitlement period for the birth, adoption, or foster care placement prior to the first anniversary of the child's birth or placement and for the care of a parent with a serious health condition.

If sufficient family and medical leave is available, the school district may award only the family and medical leave available or award the family and medical leave in accordance with other provisions of the policy/collective bargaining agreement.

Section V: Types of Family and Medical Leave. (Please check all that apply.)

_____ Continuous leave for purposes listed in Section II.

_____ Intermittent leave for birth, adoption, or foster care placement prior to first anniversary of child's birth or placement with school district approval in accordance with other provisions of the policy/collective

bargaining agreement.

_____ Reduced work schedule leave for birth, adoption, or foster care placement prior to first anniversary of child's birth or placement with school district approval in accordance with other provisions of the policy/collective bargaining agreement.

_____ Intermittent leave if medically necessary for serious health condition of employee or family member and arranged as much as possible to not disrupt the school district's operation.

_____ Reduced work schedule leave if medically necessary for serious health condition of employee or family member and arranged as much as possible to not disrupt the school district's operation.

_____ Others contained in a policy/collective bargaining agreement. *(Please specify.)* _____

Section VI: Instructional Employee Intermittent or Reduced Schedule Leave.

_____ A policy/collective bargaining agreement extends this rule to non-instructional employees.

_____ A policy/collective bargaining agreement eliminates this rule for instructional employees.

_____ Instructional employees' intermittent or reduced schedule leave for greater than 20 percent of the work days in the family and medical leave period.

Total number of days during leave period _____

20 percent of leave days X 0.20

Days of leave requested _____

If the number of days requested exceeds 20 percent of the family and medical leave days, the school district may require the instructional employee to take family and medical leave for the entire leave period OR transfer the instructional employee to an alternate position with equivalent pay and benefits. The employee must be informed that the actual family and medical leave taken will be credited to the employee's 12-week entitlement.

Section VII: Instructional Employees Family and Medical Leave Special Rules.

_____ Instructional employee.

_____ A policy/collective bargaining agreement extends one or all of these rules to noninstructional employees.

_____ A policy/collective bargaining agreement eliminates one or all of these rules for instructional employees.

_____ The school district can require the employee to remain on family and medical leave until end of the semester if each of the following apply:

_____ Leave begins prior to five weeks before end of semester;

_____ Leave is for three weeks or more; **and**

_____ Employee will return during last three weeks of semester.

Last workday of the semester _____

Date of fifth week before end of the semester _____

Date of third week before end of the semester _____
 Date of requested leave _____
 Length of requested leave _____
 Date of return from leave _____

_____ The school district can require employee to remain on family and medical leave for leave other than an employee's serious health condition until end of semester if each of the following apply:

- _____ Leave begins during last five weeks before end of semester;
 _____ Leave is greater than two weeks; **and**
 _____ Employee will return during last two weeks of semester.

Last workday of the semester _____
 Date of fifth week before end of the semester _____
 Date of second week before end of the semester _____

 Date of requested leave _____
 Length of requested leave _____
 Date of return from leave _____

_____ The school district can require the employee to remain on family and medical leave for purpose other than an employee's serious health condition until the end of the semester if each of the following apply:

- _____ Leave begins during last three weeks before end of the semester; **and**
 _____ Leave is greater than five working days.

Last workday of the semester _____
 Date of third week before end of the semester _____

 Date of requested leave _____
 Length of requested leave _____

The employee must be informed that the actual family and medical leave taken under these rules will be credited to the employee's 12-week entitlement.

Section VIII: Paid or Unpaid Family and Medical Leave.

- _____ Provide employee notice whether the family and medical leave is paid or unpaid leave after completing the work sheet in accordance with the policy/collective bargaining agreement.
 _____ Policy/collective bargaining agreement allows substitution of paid leave for family and medical leave.
 _____ Family and medical leave is unpaid leave.

Section IX: Employee Progress Report.

- _____ Arrangements are made with the employee to report to the school district on a regular basis during the family and medical leave (*please specify*). _____

- _____ Requested medical recertification for family and medical leave due to a serious health condition of the

spouse, parent, or child on _____.

_____ Received medical recertification within 15 days of the request on _____.

Section X: Employee Benefits During Family and Medical Leave.

The employee's health insurance coverage must be continued during the period of family and medical leave. The school district may choose to continue other employee benefits to ensure their restoration along with the health insurance upon the employee's return to work. The employee will pay the employee's share of health insurance and other benefits during the leave period.

_____ Arrangements have been made with the employee to continue the employee's share of health insurance premiums while on family and medical leave:

_____ From monies due to the employee

_____ By the first of each month from the employee

_____ Other (please specify) _____

_____ Arrangements have been made with the employee to continue the employee's share of the employee's other benefits while on family and medical leave:

_____ From monies due to the employee

_____ By the first of each month from the employee

_____ Other (please specify) _____

_____ The employee has chosen to discontinue all employee benefits while on family and medical leave.

_____ Employees who fail to provide payment of the employee's share of benefits premium during the period of family and medical leave have 15 days following notice to pay the employee's share.

_____ Employees who fail to pay within 15 days after receiving notice of payment due may have employee benefits discontinued.

_____ The school district will deduct unpaid employee portion of benefits from monies due to the employee upon return to work, and the employee has signed a written statement authorizing the deduction.

_____ The school district will seek recovery of unpaid employee portion of benefits through small claims court or other appropriate recovery process.

Even if the employee chooses to discontinue employee benefits during the period of family and medical leave, the school district should exercise great care before discontinuing employee benefits. The school district is required to restore the employee to full benefits when the employee returns to work, including group health insurance, without any qualifying period, physical examination, exclusion of pre-existing conditions and other similar requirements.

_____ The school district may discontinue the employee's benefits upon receipt of written notice of the employee's intent not to return to work.

Section XI: Key Employees.

_____ Salaried employees among the highest paid ten percent of a school district's employees are considered key employees of the school district.

Year-to-date earnings for employee _____
Total weeks of work and paid leave / _____
Highest pay for employee = _____

_____ Provide notice to key employees stating they are a key employee, and they may not be reinstated at end of the family and medical leave period if substantial and grievous economic injury exists.

_____ Compile data to justify substantial and grievous economic injury. Substantial and grievous economic injury does not include minor inconvenience and costs typical to the normal operation of the school district.

_____ The key employee is entitled to benefits during the family and medical leave in the same manner as other employees.

Section XII: Employee's Return to Work.

_____ Employee is fully restored the same or an equivalent position with:

- _____ Pay and benefits
- _____ Health insurance
- _____ Life insurance
- _____ Other benefits or requirements in a policy/collective bargaining agreement

414.3R1 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE REGULATION

A. School district notice.

1. The school district will post the notice in Exhibit 409.3E1 regarding family and medical leave.
2. Information on the Family and Medical Leave Act and the board policy on family and medical leave, including leave provisions and employee obligations will be provided annually. The information will be in the employee handbook.
3. When an employee requests family and medical leave, the school district will provide the employee with information listing the employee's obligations and requirements. Such information will include:
 - a. a statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement or 26 week entitlement depending on the purpose of the leave;
 - b. a reminder that employees requesting family and medical leave for their serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so or proof of call to active duty in the case of military family and medical leave;
 - c. an explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution; and
 - d. a statement notifying employees that they must pay and must make arrangements for paying any premium or other payments to maintain health or other benefits.

B. Eligible employees.

Employees are eligible for family and medical leave if three criteria are met.

1. The school district has more than 50 employees on the payroll at the time leave is requested;
2. The employee has worked for the school district for at least twelve months or 52 weeks (the months and weeks need not be consecutive); and
3. The employee has worked at least 1,250 hours within the previous year. Full-time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement.

If the employee requesting leave is unable to meet the above criteria, then the employee is not eligible for family and medical leave.

C. Employee requesting leave -- two types of leave.

1. Foreseeable family and medical leave.
 - a. Definition - leave is foreseeable for the birth or placement of an adopted or foster child with the employee or for planned medical treatment.
 - b. Employee must give at least thirty days' notice for foreseeable leave. Failure to give the notice may result in the leave beginning thirty days after notice was received. For those taking leave due to military family and medical leave, notice should be given as soon as possible.
 - c. Employees must consult with the school district prior to scheduling planned medical treatment leave to minimize disruption to the school district. The scheduling is subject to the approval of the health care provider.
2. Unforeseeable family and medical leave.
 - a. Definition – leave is unforeseeable in such situations as emergency medical treatment or premature birth.
 - b. Employee must give notice as soon as possible but no later than one to two workdays after learning that leave will be necessary.

- c. A spouse or family member may give the notice if the employee is unable to personally give notice.

D. Eligible family and medical leave determination. The school district may require the employee giving notice of the need for leave to provide reasonable documentation or a statement of family relationship.

1. Six purposes.

- a. The birth of a son or daughter of the employee and in order to care for that son or daughter prior to the first anniversary of the child's birth;
- b. The placement of a son or daughter with the employee for adoption or foster care and in order to care for that son or daughter prior to the first anniversary of the child's placement;
- c. To care for the spouse, son, daughter, or parent of the employee if the spouse, son, daughter, or parent has a serious health condition; or
- d. Employee's serious health condition that makes the employee unable to perform the essential functions of the employee's position.
- e. Because of qualifying exigency arising out of the fact that an employee's ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves.
- f. Because the employee is the spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.

2. Medical certification.

- a. When required:
 - (1) Employees shall be required to present medical certification of the employee's serious health condition and inability to perform the essential functions of the job.
 - (2) Employees shall be required to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.
 - (3) Employees shall be required to present certification of the call to active duty when taking military family and medical leave.
- b. Employee's medical certification responsibilities:
 - (1) The employee must obtain the certification from the health care provider who is treating the individual with the serious health condition.
 - (2) The school district may require the employee to obtain a second certification by a health care provider chosen by and paid for by the school district if the school district has reason to doubt the validity of the certification an employee submits. The second health care provider cannot, however, be employed by the school district on a regular basis.
 - (3) If the second health care provider disagrees with the first health care provider, then the school district may require a third health care provider to certify the serious health condition. This health care provider must be mutually agreed upon by the employee and the school district and paid for by the school district. This certification or lack of certification is binding upon both the employee and the school district.
- c. Medical certification will be required fifteen days after family and medical leave begins unless it is impractical to do so. The school district may request recertification every thirty days. Recertification must be submitted within fifteen days of the school district's request.
- d. Employees taking military caregiver family and medical leave to care for a family service member cannot be required to obtain a second opinion or to provide recertification.

Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification will be denied until such certification is provided.

E. Entitlement.

1. Employees are entitled to twelve weeks unpaid family and medical leave per year. Employees taking military caregiver family and medical leave to care for a family service member are entitled to 26 weeks of unpaid family and medical leave but only in a single 12 month period.
2. Year is defined as: Fiscal year
3. If insufficient leave is available, the school district may:
 - a. Deny the leave if entitlement is exhausted
 - b. Award leave available

F. Type of Leave Requested.

1. Continuous - employee will not report to work for set number of days or weeks.
2. Intermittent - employee requests family and medical leave for separate periods of time.
 - a. Intermittent leave is available for:
 - (1) Birth, adoption or foster care placement subject to agreement by the district;
 - (2) Serious health condition of the myself, spouse, parent, or child when medically necessary;
 - (3) Because of a qualifying exigency arising out of the fact that my ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves;
 - (4) Because I am the ___ spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.
 - b. In the case of foreseeable intermittent leave, the employee must schedule the leave to minimize disruption to the school district operation.
 - c. During the period of foreseeable intermittent leave, the school district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see G below.)*
3. Reduced work schedule - employee requests a reduction in the employee's regular work schedule.
 - a. Reduced work schedule family and medical leave is available for:
 - (1) Birth, adoption, or foster care placement subject to the school district's agreement.
 - (2) Serious health condition of myself, spouse, parent, or child when medically necessary
 - (3) Because of a qualifying exigency arising out of the fact that my ___ spouse; ___ son or daughter; ___ parent is on active duty or call to active-duty status in support of a contingency operation as a member of the National Guard or Reserves;
 - (4) Because I am the ___ spouse; ___ son or daughter; ___ parent; ___ next of kin of a covered service member with a serious injury or illness.
 - b. In the case of foreseeable reduce work schedule leave, the employee must schedule the leave to minimize disruption to the school district operation.
 - c. During the period of foreseeable reduced work schedule leave, the school district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see G below.)*

G. Special Rules for Instructional Employees.

1. Definition – an instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors and special education assistants.
2. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule family and medical leave greater than twenty percent of the workdays in the leave period may be required to:
 - (1) Take leave for the entire period or periods of the planned medical treatment; or
 - (2) Move to an available alternative position, with equivalent pay and benefits, but not necessarily equivalent duties, for which the employee is qualified.
3. Instructional employees who request continuous family and medical leave near the end of a semester may

be required to extend the family and medical leave through the end of the semester. The number of weeks remaining before the end of a semester do not include scheduled school breaks, such as summer, winter, or spring break.

- a. If an instructional employee begins family and medical leave for any purpose more than five weeks before the end of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last at least three weeks and the employee would return to work during the last three weeks of the semester if the leave was not continued.
 - b. If the employee begins family and medical leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks and the employee would return to work during the last two weeks of the semester.
 - c. If the employee begins family and medical leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, the school district may require the employee to continue taking leave until the end of the semester.
4. The entire period of leave taken under the special rules is credited as family and medical leave. The school district will continue to fulfill the school district's family and medical leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits, if an instructional employee's family and medical leave entitlement ends before the involuntary leave period expires.

H. Employee responsibilities while on family and medical leave.

1. Employee must continue to pay health care benefit contributions or other benefit contributions regularly paid by the employee unless employee elects not to continue the benefits.
2. The employee contribution payments will be deducted from any money owed to the employee or the employee will reimburse the school district at a time set by the superintendent.
3. An employee who fails to make the health care contribution payments within thirty days after they are due will be notified that their coverage may be canceled if payment is not received within an additional 15 days.
4. An employee may be asked to re-certify the medical necessity of family and medical leave for the serious medical condition of an employee or family member once every thirty days and return the certification within fifteen days of the request.
5. The employee must notify the school district of the employee's intent to return to work at least once each month during their leave and at least two weeks prior to the conclusion of the family and medical leave.
6. If an employee intends not to return to work, the employee must immediately notify the school district, in writing, of the employee's intent not to return. The school district will cease benefits upon receipt of this notification.

I. Use of paid leave for family and medical leave.

An employee may substitute unpaid family and medical leave with appropriate paid leave available to the employee under board policy, individual contracts, or the collective bargaining agreement. Paid leave includes, but is not limited to, sick leave, family illness leaves, vacation, personal leave, bereavement leave and professional leave. When the school district determines that paid leave is being taken for an FMLA reason, the school district will notify the employee within two business days that the paid leave will be counted as FMLA leave.

414.3R2 CLASSIFIED EMPLOYEE FAMILY AND MEDICAL LEAVE DEFINITIONS

Active Duty- duty under a call or order to active duty under a provision of law referring to in section 101(a)(12) of title 10, U.S. Code.

Common law marriage— according to Iowa law, common law marriages exist when there is a present intent by the two parties to be married, continuous cohabitation, and a public declaration that the parties are husband and wife. There is no time factor that needs to be met in order for there to be a common law marriage.

Contingency Operation— has the same meaning given such term in section 101(a)(12) of title 10, U.S. Code.

Continuing treatment— a serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

- A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from) of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or in referral by, a health care provider; or
 - treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Any period of incapacity due to pregnancy or for prenatal care.
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.
- Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Covered Servicemember— a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

Eligible Employee— the district has more than 50 employees on the payroll at the time leave is requested. The employee has worked for the district for at least twelve months and has worked at least 1250 hours within the previous year.

Essential Functions of the Job— those functions which are fundamental to the performance of the job. It does not

include marginal functions.

Employment benefits – all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan."

Family Member – individuals who meet the definition of son, daughter, spouse, or parent.

Group health plan – any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

Health care provider -

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law; and
- Nurse practitioners and nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law; and
- Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts;
- Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;
- A health care provider as defined above who practices in a country other than the United States who is licensed to practice in accordance with the laws and regulations of that country.

In loco parentis – individuals who had or have day-to-day responsibilities for the care and financial support of a child not their biological child or who had the responsibility for an employee when the employee was a child.

Incapable of self-care – that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" or "ADLs." Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee – an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Intermittent leave – leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave or periods from an hour or more to several weeks.

Medically Necessary – certification for medical necessity is the same as certification for serious health condition.

"Needed to Care For" – the medical certification that an employee is "needed to care for" a family member

encompasses both physical and psychological care. For example, where, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety or is unable to transport himself or herself to medical treatment. It also includes situations where the employee may be needed to fill in for others who are caring for the family member or to make arrangements for changes in care.

Next of Kin – an individual's nearest blood relative.

Outpatient Status- the status of a member of the Armed Forces assigned to –

- Either a military medical treatment facility as an outpatient; or,
- A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Parent – a biological parent or an individual who stands in loco parentis to a child or stood in loco parentis to an employee when the employee was a child. Parent does not include parent-in-law.

Physical or mental disability – a physical or mental impairment that substantially limits one or more of the major life activities of an individual.

Reduced leave schedule – a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Serious health condition –

- An illness, injury, impairment, or physical or mental condition that involves:
- Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from), or any subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:
 - A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders or, or on referral by, a health care provider; or
 - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
 - Any period of incapacity due to pregnancy or for prenatal care.
 - Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
 - A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a

- severe stroke, or the terminal stages of a disease.
- Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).
 - Treatment for purposes of this definition includes, but is not limited to, examinations to determine if a serious health condition exists and evaluation of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations. Under this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medication such as aspirin, antihistamines, or salve; or bed rest, drinking fluids, exercise and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA Leave.
 - Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.
 - Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.
 - Absence attributable to incapacity under this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Serious Injury or Illness- an injury or illness incurred by a member of the Armed Forces, including the National Guard or Reserves in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Son or daughter – a biological child, adopted child, foster child, stepchild, legal ward, or a child of a person standing in loco parentis. The child must be under age 18 or, if over 18, incapable of self-care because of a mental or physical disability.

Spouse – a husband or wife recognized by Iowa law including common law marriages.

414.4 CLASSIFIED EMPLOYEE BEREAVEMENT LEAVE

In the event of a death of a member of a classified employee's immediate family, bereavement leave may be granted. Bereavement leave granted may be for a maximum of five days, with "day" being defined as one work day regardless of full-time or part-time status of the employee, per occurrence, for the death of a member of the immediate family. The immediate family includes child, spouse, parent, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren, or grandparent of the employee.

A maximum of two days of bereavement leave per year will be granted for the death of a close friend or other relative not listed above.

It is within the discretion of the superintendent to determine the number of bereavement leave days to be granted.

Legal Reference: Iowa Code §§ 20.9; 279.8.

Cross Reference: 414 Classified Employee Vacations and Leaves of Absence

414.5 CLASSIFIED EMPLOYEE POLITICAL LEAVE

The board will provide a leave of absence to classified employees to run for elective public office. The superintendent will grant a classified employee a leave of absence to campaign as a candidate for an elective public office as unpaid leave.

The classified employee will be entitled to one period of leave to run for the elective public office, and the leave may commence any time within thirty days of a contested primary, special, or general election and continue until the day following the election.

The request for leave must be in writing to the superintendent at least thirty days prior to the starting date of the requested leave.

Legal Reference: Iowa Code ch. 55.

Cross Reference: 401.15 Employee Political Activity
414 Classified Employee Vacations and Leaves of Absence

414.6 CLASSIFIED EMPLOYEE JURY DUTY LEAVE

The board will allow classified employees to be excused for jury duty unless extraordinary circumstances exist. The superintendent has the discretion to determine when extraordinary circumstances exist.

Employees who are called for jury service will notify the direct supervisor within twenty-four hours after notice of call to jury duty and suitable proof of jury service pay must be presented to the school district. The employee will report to work within one hour on any day when the employee is excused from jury duty during regular working hours.

Classified employees will receive their regular salary. Any payment for jury duty is turned over to the school district.

Legal Reference: Iowa Code §§ 20.9; 607A.

Cross Reference: 414 Classified Employee Vacations and Leaves of Absence

414.7 CLASSIFIED EMPLOYEE MILITARY SERVICE LEAVE

The board recognizes classified employees may be called to participate in the armed forces, including the national guard. If a classified employee is called to serve in the armed forces, the employee will have a leave of absence for military service until the military service is completed.

The leave is without loss of status or efficiency rating, and without loss of pay during the first thirty calendar days of the leave.

Legal Reference: Bewley v. Villisca Community School District, 299 N.W. 2d 904 (Iowa 1980).
Iowa Code §§ 20; 29A.28.

Cross Reference: 414 Classified Employee Vacations and Leaves of Absence

414.8 CLASSIFIED EMPLOYEE UNPAID LEAVE

Unpaid leave may be used to excuse an involuntary absence not provided for in other leave policies. Unpaid leave for classified employees must be authorized by the superintendent. Whenever possible, classified employees will make a written request for unpaid leave ten days prior to the beginning date of the requested leave. If the leave is granted, the deductions in salary are made unless they are waived specifically by the superintendent.

The superintendent will have complete discretion to grant or deny the requested unpaid leave. In making this determination, the superintendent will consider the effect of the employee's absence on the education program and school district operations, the financial condition of the school district, length of service, previous record of absence, the reason for the requested absence and other factors the superintendent believes are relevant in making this determination.

If unpaid leave is granted, the duration of the leave period is coordinated with the scheduling of the education program whenever possible, to minimize the disruption of the education program and school district operations.

Legal Reference: Iowa Code §§ 20.9; 279.8.

Cross Reference: 414 Classified Employee Vacations and Leaves of Absence

414.9 CLASSIFIED EMPLOYEE PROFESSIONAL PURPOSES LEAVE

Professional purposes leave may be granted to classified employees for the purpose of attending meetings and conferences directly related to their assignments. Application for the leave must be presented to the superintendent one week prior to the meeting or conference.

It is within the discretion of the superintendent to grant professional purposes leave. The leave may be denied on the day before or after a vacation or holiday, on special days when services are needed, when it would cause undue interruption of the education program and school district operations, or for other reasons deemed relevant by the superintendent.

Legal Reference: Iowa Code § 279.8.
281 I.A.C. 12.7.

Cross Reference: 411 Classified Employees - General
408.1 Classified Employee Professional Development

415 CLASSIFIED EMPLOYEE SUBSTITUTES

The superintendent shall employ employee substitutes and temporary classified employees. Such employment shall be subject to the board's approval at its next meeting when the superintendent shall present the names and salaries of the employees to the board.

Legal Reference: Iowa Code §§ 20.9; 279.8 (2009)

Cross Reference: 411 Classified Employee-General

416.0 SECURITY CHECK/FINGERPRINTING

PURPOSE

The following policies are intended to ensure the protection of the FBI's National Criminal History Record Information (CHRI) until it is purged or destroyed in accordance with applicable record retention rules.

The following policies were developed using the FBI's Criminal Justice Information Services (CJIS) Security Policy and guidance from the Iowa Division of Criminal Investigation (DCI). Shenandoah Community School District may complement this policy with a local policy; however, the CJIS Security Policy shall always be the minimum standard. The local policy may supplement, or increase the standards, but shall not detract from the CJIS Security Policy standards nor from requirements set forth by the Iowa DCI.

SCOPE-The scope of this policy applies to any media, physical or electronic, containing FBI national CHRI-or any reference to such CHRI-received by a Qualified Entity (QE), while being stored, accessed or physically moved to a secure location by the Shenandoah Community School District. In addition, this policy applies to any person authorized to access, store, and/or transport national CHRI, who shall be referred to as Authorized Personnel.

Criminal Justice Information (CJI) and Criminal History Record Information (CHRI)- Criminal Justice Information (CJI) is the term used to refer to all of the FBI CJIS provided data necessary for law enforcement and civil agencies to perform their missions including, but not limited to biometric, identity history, biographic, property, and case/incident history data.

The DCI uses the term CHRI, which is a subset of CJI and for the purposes of this document is considered interchangeable. Due to its comparatively sensitive nature, additional controls are required for the access, use and dissemination of CHRI. In addition to the dissemination restrictions outlined below, Title 28, Part 20, Code of Federal Regulations (CFR), defines CHRI and provides the regulatory guidance for dissemination of CHRI.

According to 28 CFR 20.33, CHRI is information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual's involvement with the criminal justice system.

In other words, CHRI refers to the FBI result received from DCI based on fingerprints submitted by the QE, whether the results indicate a positive identification of criminal history or not.

Proper Access, Use, and Dissemination of CHRI- Rules governing the access, use, and dissemination of CHRI are found in Title 28, Part 20, CFR.

Shenandoah Community School District has been approved as a Qualified Entity (QE) to receive CHRI pursuant to a specific statutory authority and shall not use such CHRI acquired pursuant to such authority for any other reason. Shenandoah Community School District is authorized to submit fingerprints to request national CHRI and review resultant CHRI as part of the screening process for applicants for employment or licensure, including current and/or prospective employees and volunteers, contractors and vendors, who have or may have unsupervised access to children, the elderly, or individuals with disabilities for whom the QE provides care for, or for other applicants as specified in the applicable statute.

Dissemination to another agency is ONLY authorized if the other agency is an Authorized Recipient of such information and is being serviced by the QE. The Iowa DCI does not allow outsourcing for administrative functions, including IT support.

Personnel Security Screening - Access to CHRI is restricted to Authorized Personnel. Authorized Personnel includes anyone who may have reason to access, view, have knowledge of, handle, and/or destroy CHRI, including anyone who may only have occasion to view CHRI incidentally in the performance of their duties. If the agency stores or transmits CHRI electronically, the agency's IT personnel must also be identified as Authorized Personnel.

Iowa does not have legislation in place that requires civil fingerprint-based background checks for personnel with access to CHRI for the purposes of licensing or employment and therefore are exempted from the fingerprint-based background check requirement until such time as appropriate legislation has been written into law.

Security Awareness Training- Security Awareness Training through CJIS Online shall be required within six months of initial assignment, and biennially thereafter, for all personnel who have access to CHRI. Authorized Personnel will receive CJIS Online credentials set up by the Agency Administrator. Both the Agency Administrator and Authorized Personnel will be responsible for taking the Training and renewing certification as needed.

A physically secure location is a facility or an area, a room, or a group of rooms within a facility with both the physical and personnel security controls sufficient to protect CHRI. CHRI will be maintained securely and will only be accessible by Authorized Personnel. Shenandoah Community School District will maintain and keep a current list of all Authorized Personnel. Authorized Personnel will take necessary steps to prevent and protect the agency from physical, logical and electronic breaches.

Media Protection- Controls shall be in place to protect physical and electronic media containing CHRI while at rest, stored, or actively being accessed. The QE shall securely store physical and electronic media within physically secure locations or controlled areas such as in a locked file cabinet or other locked receptacle. The agency shall restrict access to physical and electronic media to authorized individuals.

Physical Media- Physical media includes hardcopies, printed documents and imagery that contain CHRI.

Electronic Media - While electronic storage and/or transmission is strongly discouraged, electronic media includes memory devices in laptops and computers (hard drives) and any removable, transportable digital memory media, such as magnetic tape or disk, backup medium, optical disk, flash drives, external hard drives, or digital memory card.

If storing or transmitting CHRI electronically, the data shall be immediately protected via encryption per Section 5.10.1.2 of the CJIS Security Policy.

Controls shall be in place to protect electronic and physical media containing CHRI while in transport (physically moved from one location to another) to prevent inadvertent or inappropriate disclosure and use. The QE shall protect and control physical and electronic media during transport outside of controlled areas and restrict the activities associated with transport of such media to Authorized Personnel.

When no longer usable or needed, all physical and electronic media shall be properly disposed of in accordance with measures established by Shenandoah Community School District.

Physical media (hard copies, print-outs and other physical media) shall be disposed of by one of the following methods:

1. Shredding using Shenandoah Community School District issued shredders.
2. Placed in locked shredding bins for the district's designated secure shredding company to come on-site and shred, witnessed by Shenandoah Community School District personnel throughout the entire process.
3. Incineration using Shenandoah Community School District incinerators or witnessed by Shenandoah Community School District personnel onsite at agency.

Electronic media (hard-drives, tape cartridge, CDs, printer ribbons, flash drives, printer and copier hard-drives, and other similar items used to process, store and/or transmit CHRI) shall be disposed of by Shenandoah Community School District using one of these methods:

1. **Overwriting (at least 3 times)** - an effective method of clearing data from magnetic media. As the name implies, overwriting uses a program to write (1s, 0s, or a combination of both) onto the location of the media where the file to be sanitized is located.
2. **Degaussing** - a method to magnetically erase data from magnetic media. Two types of degaussing exist: strong magnets and electric degausses. Note that common magnets (e.g., those used to hang a picture on a wall) are fairly weak and cannot effectively degauss magnetic media.
3. **Destruction** - a method of destroying magnetic media. As the name implies, destruction of magnetic media is to physically dismantle by methods of crushing, disassembling, etc., ensuring that the platters have been physically destroyed so that no data can be pulled.

IT systems that have been used to process, store, or transmit FBI CHRI shall not be released from Shenandoah Community School District's control until the equipment has been sanitized and all stored information has been cleared using one of the above methods.

Electronic Media- The agency shall promptly report incident information to appropriate authorities to include the Iowa DCI. Information security events and weaknesses associated with information systems shall be communicated in a manner allowing timely corrective action to be taken. Formal event reporting and escalation procedures shall be in place. Wherever feasible, the agency shall employ automated mechanisms to assist in the reporting of security incidents. All Authorized Personnel shall be made aware of the procedures for reporting the different types of event and weakness that might have an impact on the security of agency assets and are required to report any information security events and weaknesses as quickly as possible to the designated point of contact.

Policy Violation/Misuse Notification- Violation of any of the requirements contained in the CJIS Security Policy or Title 28, Part 20, CFR, by any authorized personnel will result in suitable disciplinary action, up to and including loss of access privileges, civil and criminal prosecution and/or termination.

Likewise, violation of any of the requirements contained in the CJIS Security Policy or Title 28, Part 20, CFR, by any visitor can result in similar disciplinary action against the sponsoring employee, and can also result in termination of services with any associated consulting organization or prosecution in the case of criminal activity.

Legal Reference:

Iowa Code §§ 272.2(17); 279.13, .69; 235A.14; 235B.5; 321.375(2); 692A.121

Cross Reference:

401.2 Equal Opportunity Employment