

Whitley County Consolidated Schools
Board Policies
3000/4000 – PROFESSIONAL/SUPPORT STAFF

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3111/4111 - CREATING A POSITION

The School Board recognizes the need to establish positions which, when filled by competent, qualified professional staff members, will assist the Corporation in achieving the education goals set by the Board. The Corporation employs only U.S. citizens and others lawfully authorized to work in the United States.

The Superintendent shall verify all new full-time and part-time employees' right to work in the United States according to the Federal Immigration Reform and Control Act of 1986.

The Board reserves the right to fix the compensation and prescribe the duties to be performed by all support staff; to create new positions; and to specify the number of persons within each job category.

I.C. 20-26-5-4

Federal Immigration Reform and Control Act of 1986, 8 U.S.C. 1255a

3112/4112 - BOARD-STAFF COMMUNICATIONS

The School Board desires to maintain open channels of communication between itself and the staff. The basic line of communication, will, however, be through the Superintendent.

- A. Staff Communications to the Board
All communications from staff members to the Board or its committees shall be submitted through the Superintendent.
- B. Board Communications to Staff
All official communications, policies, and directives of the Board of staff interest and concern to the staff will be communicated through the Superintendent, who shall also keep staff members fully informed of the Board's problems, concerns, and actions.
- C. Social Interaction
Both staff and Board members share a keen interest in the schools and in education generally, and it is to be expected that when they meet at social affairs and other functions, they will informally discuss such matters as educational trends, issues, and innovations, and general activities of the Corporation. However, since individual Board members have no special authority except when they are convened at a legal meeting of the Board or vested with special authority by Board action, discussions between staff and Board members of personalities or personnel grievances will be considered to be unethical conduct.

3113 - CONFLICT OF INTEREST

- A. The maintenance of unusually high standards of honesty, integrity, impartiality, and professional conduct by School Corporation employees, officers (that is, all members of the School Board), and agents is essential to ensure the proper performance of school business as well as to earn and keep public confidence in the Corporation

To accomplish this, the School Board has adopted the following guidelines which apply to all Corporation employees, officers (that is, all members of the Board), and agents, to assure that conflicts of interest do not occur. These guidelines are not intended to be all inclusive; nor are they intended to substitute for good judgment.

An employee, officer (that is, any member of the Board), or agent of the Corporation making a recommendation to the Board on a matter to be considered by the Board shall not accept a gift or gratuity from a person or entity having a substantial personal or pecuniary interest in the Board's decision on the matter in accordance with the restrictions and provisions of I.C. 35-44.1-1-4.

1. No employee, officer (that is, any member of the Board), or agent shall engage in or have a financial or other interest in, directly or indirectly, any activity that conflicts or raises a reasonable question of conflict with his/her Corporation responsibilities.
2. Employees, officers (that is, all members of the Board), and agents shall not engage in business, private practice of their profession, the rendering of services, or the sale of goods of any type where advantage is taken of any professional relationship they may have with any student, client, or parents of such students or clients in the course of their employment or professional relationship with the Corporation.

Included, by way of illustration rather than limitation are the following:

- a. the provision of any private lessons or services for a fee
 - b. the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the employee's employment or professional relationship with the Corporation through his/her access to Corporation records
 - c. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
 - d. the requirement of students or clients to purchase any private goods or services provided by an employee, officer (that is, any member of the Board), or agent or any business or professional practitioner with whom any employee, officer (that is, any member of the Board), or agent has a financial relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
3. Employees, officers (that is, all members of the Board), or agents shall not make use of materials, equipment, or facilities of the Corporation in private practice. Examples would be the use of facilities before, during, or after regular business hours for service to private practice clients, or the checking out of items from an instructional materials center for private practice.
 4. Employees, officers (that is, all members of the Board), and agents shall not solicit gifts, travel packages, and other incentives from prospective contractors.
 5. Employees, officers (that is, all members of the Board), and agents shall not participate in the selection, award and administration of any contract to an entity in which they have a pecuniary interest or from which they derive a profit or in which a dependent of the employee, officer (that is, any member of the Board), or agent has a pecuniary interest or from which the dependent derives a profit. "Dependent" includes the employee's spouse; unemancipated child, stepchild or adopted child under the age of eighteen (18); or individual for whom the employee, officer (that is, any member of the Board), or agent provides more than one-half (1/2) of the individual's support during a year. A "pecuniary interest" means an interest in a contract or purchase that will result or is intended to result in an ascertainable increase in the income or net worth of the employee, officer (that is, any member of the Board), or agent or the employee's, officer's

(that is, any member of the Board), or agent's dependent who is under the direct or indirect administrative control of the employee, officer, or agent or who receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the employee, officer (that is, any member of the Board), or agent.

- B. No conflict of interest will be deemed to be present if the Corporation employee's, officer's (that is, any member of the Board), or agent's interest in the contract or purchase and all other contracts and purchases made by the Corporation during the twelve (12) months before the date of the contract or purchase was \$250 or less.
- C. Should exceptions to this policy be necessary in order to provide mandatory services to students or clients of the Corporation, all such exceptions will be made known to the employee's supervisor, or to the School Board if there is no supervisor, and will be disclosed to the Superintendent before entering into any private relationship.
- D. To the extent that the Corporation has a parent, affiliate or subsidiary organization that is not a State, local government or Indian tribe, the Corporation may not conduct a procurement action involving the parent, affiliate or subsidiary organization if the Corporation is unable, or appears to be unable, to be impartial.
- E. Employees, officers and agents must disclose any potential conflict of interest which may lead to a violation of this policy to the Corporation. Upon discovery of any potential conflict of interest, the Corporation will disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity

The Corporation also will disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

- F. Employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action up to and including termination, as permitted by applicable Board policy.

I.C. 20-26-3-4

I.C. 20-26-5-4

I.C. 35-44.1-1-1, 35-44.1-1-2, 35-44.1-1-4, 35-44.1-1-5

2 C.F.R. 200.112, 200.113, 200.318

7 C.F.R. 3016.36(b)(3) and 3019.42

Revised 10/17/16

3120 - EMPLOYMENT OF PROFESSIONAL STAFF

The School Board recognizes that it is vital to the successful operation of the Corporation that positions created by the Board be filled with highly qualified and competent personnel.

The Board shall approve the employment, and also, when not covered by the terms of a negotiated agreement, fix the compensation and establish the term of employment for each professional staff member employed by this Corporation.

Individuals employed in the following categories shall be considered members of the professional staff:

- A. Assistant Superintendent

- B. Building Principals
- C. Teachers
- D. Directors
- E. Assistant Directors
- F. Media Services
- G. Assistant Building Principals
- H. Guidance Counselors
- I. School Psychologists
- J. Speech Language Pathologists
- K. Speech Language Therapists

All applications for employment shall be referred to the Business Office Specialist - Personnel and Benefits.

Relatives of Board members may be employed by the Board, provided the member of the Board involved does not participate in any way in the discussion or vote on the employment

Relatives of staff members may be employed by the Board provided the staff member being employed is not placed in a position in which she would be supervised directly by the relative staff member.

Any professional staff member's intentional misstatement of fact or omission material to qualifications for employment or the determination of salary shall be considered by this Board to constitute grounds for dismissal.

The employment of professional staff members prior to approval by the Board is authorized when their employment is required to maintain continuity in the educational program. Employment shall be recommended to the Board at the next regular meeting.

Wherever possible, positions shall be filled by properly-licensed professionals.

No candidate for employment as a professional staff member shall receive recommendation for such employment without having proffered visual evidence of his/her certification or pending application for certification. Such certification must indicate all of the areas in which the candidate has been certified. No deletions are acceptable.

The Superintendent shall prepare administrative guidelines for the recruitment and selection of all professional staff.

VOLUNTEER FIREFIGHTERS

If a staff member is a volunteer firefighter and has notified the School Corporation in writing that he is a volunteer firefighter, the School Corporation may not discipline the staff member for:

- A. being absent from duty by reason of responding to a fire or emergency call that was received prior to the time the staff member was to report to duty;
- B. leaving his/her duty station to respond to a fire or an emergency call if s/he has prior authorization from his/her supervisor to leave duty in response to a call received after s/he has reported to work.

However, when an emergency call is received while the staff member is on duty, the staff member should notify the principal before leaving so coverage for his/her class can be arranged;

- C. an injury or being absent from work because of an injury that occurs while the staff member is engaged in emergency firefighting or other emergency response, provided the staff member's absence from work due to each instance of emergency firefighting activity or other emergency response does not exceed six (6) months from the date of injury.

The Corporation shall require that the staff member who was injured while engaged in emergency firefighting or other emergency response provide evidence from a physician or other medical authority showing treatment for the injury at the time of his/her absence and a connection between the injury and the employee's emergency response activities. Any such evidence shall be retained in a separate medical file created for the staff member and treated as a confidential medical record.

I.C. 20-26-5-4, 35-44.1-1-4, 36-8-12-10.5
20 U.S.C. 6319 & 7801

Revised 10/19/15

3120.04 - EMPLOYMENT OF SUBSTITUTES - PROFESSIONAL STAFF

The Board recognizes the need to procure the services of substitute teachers in order to continue the operation of the schools as a result of the absence of regular personnel.

The Superintendent shall employ substitute teachers as services are required to replace temporarily-absent regular staff members. Such assignment of substitute teachers may be terminated when their services are no longer required.

In order to obtain proper licensure for substitute teaching, the Superintendent shall submit, on a yearly basis, to the Indiana Department of Education a substitute plan consisting of the following elements, at a minimum:

- A. the Corporation's requirements for a substitute permit;
- B. the minimum of a high school diploma earned from an accredited school;
- C. a plan for reciprocity with other Indiana corporations providing for their utilization of substitute teachers who were licensed by the Corporation submitting the plan, if applicable;
- D. training and mentoring procedures for first year substitute teachers; and
- E. any additional documentation, as may be required by the Indiana Department of Education.

Any changes to the substitute plan shall be submitted to the Indiana Department of Education at least thirty (30) days prior to the implementation of any changes to the plan. The Superintendent shall sign and submit a completed application form for a substitute teacher permit approved by the Indiana Department of Education and a nonrefundable fee in the form of a cashier's check, certified check, or money order in the amount required under 515 IAC 9-1-31 to the Indiana Department of Education for each substitute teacher not otherwise licensed as provided herein.

This licensure requirement applies to all substitute teachers. Provided, however, that any person who holds a valid Indiana initial practitioner, proficient practitioner, or accomplished practitioner license, emergency permit, visiting teacher permit, or transition to teaching permit may serve as a substitute teacher without first obtaining a substitute permit/license.

Substitute teachers will be paid according to the Board adopted pay schedule and any revisions thereto.

An individual who holds a professional license, provisional license, limited license, or an equivalent license issued by the Indiana Department of Education and serves as an occasional substitute teacher shall be compensated on the Corporation's substitute teacher pay schedule. Provided, however, that an individual who holds a professional license or provisional license and serves as a substitute teacher in the same teaching position for more than fifteen (15) consecutive school days shall be compensated on the regular pay schedule for Corporation teachers.

A substitute teacher may be employed without a written contract.

I.C. 20-18-2-22, 20-28-5-2, 20-28-5-3, 20-28-9-6,

I.C. 20-28-9-7, 20-28-9-8

515 I.A.C. 5-1-1, 515 I.A.C. 5-1-2, 515 I.A.C. 5-1-3, 515 I.A.C. 5-1-4

Revised 10/19/15

4120.04 - EMPLOYMENT OF SUBSTITUTES - SUPPORT STAFF

The School Board recognizes its responsibility to procure the services of substitute support staff in order to prevent the interruption of the operation of the schools.

The names of potential substitute staff and the positions in which they may substitute shall be maintained by the Director of Personnel.

Relatives of Board members may be employed by the Board, provided the member of the Board involved does not participate in any way in the discussion or vote.

The employment of substitute support staff is authorized when their employment is required to maintain continuity of services in the Corporation.

I.C. 20-27-5-20

3120.05 - EMPLOYMENT OF PERSONNEL IN SUMMER SCHOOL AND ADULT EDUCATION PROGRAMS

The School Board recognizes that the success of the summer school and adult education programs depends in large measure upon the employment of qualified and competent personnel.

Unless already provided by the terms of a negotiated agreement, the Board shall fix the compensation and set the term of employment for each person employed in the subject programs established for this Corporation. The Board will employ only those candidates recommended by the Superintendent.

A candidate's intentional misstatement of fact material to his/her qualifications for employment or the determination of his/her salary will be considered by the Board to constitute grounds for dismissal.

Wherever possible, positions shall be filled by holders of professional, or provisional certificates. When a worthy candidate holding professional or provisional certification cannot be found, the Board may employ the holder of a limited certificate.

28-5-2.1-4-8

3120.06 - SELECTING STUDENT TEACHERS/ADMINISTRATIVE INTERNS

The School Board encourages cooperation with State approved colleges and universities in the training of student teachers and administrative interns, because the public school offers an essential ingredient - direct experience with students and teachers at work in the classroom, but certain safeguards have been found to be necessary for the best interests of all concerned.

Colleges and universities should first make contact with the Superintendent regarding placement of a student teacher or administrative intern.

The Superintendent shall make the final placement of student teachers or administrative interns.

The supervising staff member shall hold no less than a standard certificate and shall have had no less than three (3) years of successful teaching experience in the area of assignment, unless approved by the Superintendent.

Professional staff members who agree to serve as supervisors of student teachers or administrative interns may accept honoraria or stipends directly from the college/university for those services rendered outside the regular school day and above and beyond the duties and responsibilities specified in their contract.

The following conditions shall also be met:

- A. The institution making the assignment shall provide adequate follow-up supervision.
- B. The institution making the assignment shall provide the School Corporation with a criminal background check on the candidate prior to the placement of the student teacher/administrative intern with the School Corporation.
- C. The supervising teacher or administrator must agree to work effectively with both the student teacher or administrative intern and the institutional supervisor.
- D. If at any time the quality of teaching or administrative internship is judged to be inferior or s/he is disruptive to the on-going program, the Superintendent may request withdrawal of that person from the program.

The Board also authorizes the Superintendent to provide, in cooperation with appropriate colleges and universities, a "field experience" program in order for selected interns to gain first-hand knowledge of and experience in a school environment.

The Superintendent may terminate a teaching program if one or more aspects of the program are not of high quality or meeting Corporation needs or expectations.

I.C. 20-26-5-23
515 IAC 1-2-16
Revised 10/19/04

3120.08 - EMPLOYMENT OF PERSONNEL FOR EXTRA-CURRICULAR ACTIVITIES

The School Board may find it necessary to employ members of the professional staff as coaches or activity sponsors.

The Board authorizes the Superintendent to recommend candidates for employment by the Board.

The Board requires that:

- A. Prior to coaching football to students who are less than twenty (20) years of age, all head and assistant football coaches shall complete a certified coaching education course approved by the Indiana Department of Education not less than once during a two (2)-year period that:
1. is sport specific;
 2. contains player safety content, including content on concussion awareness, equipment fitting, heat emergency preparedness, and proper technique
 3. requires a coach to complete a test demonstrating comprehension of the content of the course; and
 4. awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the School Corporation that new information has been added to the course before the end of the two (2)-year period, the coach must complete instruction and successfully complete a test concerning the new information.

- B. After June 30, 2017, prior to coaching students in grades 5 - 12, all head and assistant coaches of interscholastic sports other than football, including cheerleading, shall complete a certified coaching education course approved by the Indiana Department of Education at least once during a two (2)-year period that:
1. contains player safety content on concussion awareness;
 2. requires a coach to complete a test demonstrating comprehension of the content of the course; and
 3. awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the Corporation that new information has been added to the course before the end of the two (2)-year period, the coach must complete instruction and successfully complete a test concerning the new information.

- C. A head or assistant coach of an intramural sport other than football who is coaching students in grades 5 - 12 may elect to complete the above-referenced certified coaching education course. If compliance with I.C. 20-34-7 is required by the coaching certification requirements for the intramural sport that the head or assistant coach is coaching, the coach shall complete the above-referenced certified coaching education course.

Additionally, the Board requires that:

- D. All head and assistant coaches of students of any age participating in interscholastic or intramural sports other than football, including the cheerleading, shall complete a certified coaching education course approved by the State Department of Education at least once during a two (2)-year period that:
1. contains player safety content on concussion awareness;
 2. requires a coach to complete a test demonstrating comprehension of the content of the course; and
 3. awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the Corporation that new information has been added to the course before the end of the two (2)-year period, the coach must complete instruction and successfully complete a test concerning the new information.

All coaches and athletic activity sponsors of interscholastic or intramural sports for students of any age shall receive training about concussions and sudden cardiac arrest at least once during a two (2)-year period.

All coaches and athletic activity sponsors, other than football coaches, shall be required to complete a coaching education course that contains player safety content on concussion awareness, equipment fitting, heat emergency preparedness, and proper technique. The course must be completed prior to coaching or serving as an athletic activity sponsor. Each coach and athletic activity sponsor must complete a course not less than once during a two (2)-year period.

The Superintendent shall require that each person employed as a coach or athletic activity sponsor is qualified, has cleared a background check required by State law and Policy 3121 or Policy 8120, and has received the training required by State law and this policy.

I.C. 20-34-7; I.C. 20-34-8

4120.08 - EMPLOYMENT OF PERSONNEL FOR EXTRACURRICULAR ACTIVITIES

The School Board may find it necessary to employ on a part-time basis, coaches or activity sponsors who are not members of the professional staff. Such part-time employees may be members of the Corporation's classified staff, support staff, or individuals from the community or nearby areas.

The Board authorizes the Superintendent to recommend candidates for employment by the Board.

All part-time employees selected as coaches or activity sponsors who are not members of the professional staff are "at-will" employees. Their employment can be terminated with or without cause at any time. No other representative of the Corporation has the authority to enter into any agreement for employment for any specified period of time with such an employee.

The Board requires that prior to coaching football to students who are less than twenty (20) years of age, all head and assistant football coaches shall complete a certified coaching education course approved by the Indiana Department of Education not less than once during a two (2) year period that is sport specific; contains player safety content on concussion awareness, equipment fitting, heat emergency preparedness, and proper technique; requires a coach to complete a test demonstrating comprehension of the content of the course; and awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the School Corporation that new information has been added to the course before the end of the two (2) year period, the coach must complete instruction and successfully complete a test concerning the new information.

After June 20, 2017, prior to coaching students in grades 5 - 12, all head and assistant coaches of interscholastic sports other than football, including cheerleading, shall complete a certified coaching education course approved by the Indiana Department of Education at least once during a two (2) year period that contains players safety content on concussion awareness, requires a coach to complete a test demonstrating comprehension of the content of the course, and awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the Corporation that new information has been added to the course before the end of the two (2) year period, the coach must complete instruction and successfully complete a test concerning the new information.

A head or assistant coach of an intramural sport other than football who is coaching students in grades 5-12 may elect to complete the above-referenced certified coaching education course. If compliance with I.C. 20-34-7 is required by the coaching certification requirements for the intramural sport that the head or assistant coach is coaching, the coach shall complete the above-referenced certified coaching education course.

Additionally, the Board requires that all head and assistant coaches of students of any age participating in interscholastic or intramural sports other than football, including the cheerleading, shall complete a certified coaching education course approved by the State Department of Education at least once during a two (2) year period that contains player safety content on concussion awareness; requires a coach to complete a test demonstrating comprehension of the content of the course; and awards a certificate of completion to a coach who successfully completes the course.

If the coach receives notice from the Corporation that new information has been added to the course before the end of the two (2) year period, the coach must complete instruction and successfully complete a test concerning the new information.

All coaches and athletic activity sponsors of interscholastic or intramural sports for students of any age shall receive training about concussions and sudden cardiac arrest at least once during a two (2) year period.

All coaches and athletic activity sponsors, other than football coaches, shall be required to complete a coaching education course that contains player safety content on concussion awareness, equipment fitting, heat emergency preparedness, and proper technique. The course must be completed prior to coaching or serving as an athletic activity sponsor. Each coach and athletic activity sponsor must complete a course not less than once during a two (2) year period.

The Superintendent shall require that each person employed as a coach or athletic activity sponsor is qualified, has cleared a background check required by State law and Policy 4121 or Policy 8120, and has received the training required by State law and this policy.

I.C. 20-34-7; I.C. 20-34-8

3121/4121 - PERSONAL BACKGROUND CHECKS AND MANDATORY REPORTING OF CONVICTIONS AND SUBSTANTIATED CHILD ABUSE ARRESTS

To protect students and staff members, the School Board requires an inquiry into the personal background of each applicant the Superintendent recommends for employment on the Corporation's staff.

Such an inquiry shall also be made for substitutes.

The Superintendent shall establish the necessary procedures for obtaining personal background information on each applicant recommended for employment as a staff member which shall include the following:

- A. an expanded national criminal history check as defined by I.C. 20-26-2-1.5
- B. an expanded child protection index check as defined by I.C. 20-26-2-1.3
- C. a search of the national sex offender registry maintained by the United States Department of Justice
- D. beginning July 1, 2017, a search of the State child abuse registry
- E. telephone inquiry with former employer(s)

- F. explanations of any employment gaps to ensure the candidate has not omitted an employer where an offense occurred
- G. verification of the applicant's eligibility to work using the E-Verify database maintained by the Federal government as required by I.C. 12-32-1
- H. an Indiana Bureau of Motor Vehicles driver history if the position involves driving

The Board requires that an expanded criminal history check be conducted for each applicant for employment who is likely to have direct, ongoing contact with children within the scope of his/her employment before or not later than thirty (30) days after the start of the applicant's employment by the Corporation.

The Board requires that an expanded child protection index check be conducted for each applicant for employment who is likely to have direct, ongoing contact with children within the scope of his/her employment before or not later than sixty (60) days after the start of the applicant's employment by the Corporation. An expanded child protection index check shall include inquiries to each state in which information necessary to complete the expanded child protection index check is available.

The Board requires that all references and, if applicable, the most recent employers provided by an applicant be contacted before the Corporation may hire the applicant.

The Board shall deny employment to an applicant who is convicted of an offense requiring license revocation per I.C. 20-28-5-8(c), unless the conviction has been reversed, vacated, or set aside on appeal.

The Board may deny employment to an applicant who is the subject of a substantiated report of abuse or neglect.

Each applicant shall certify under penalty of perjury his/her eligibility to be employed by the Board as a United States citizen or a qualified alien.

Should it be necessary to employ a person in order to maintain continuity of the program prior to receipt of the report, the Superintendent may provide for a substitute or employ the applicant as a substitute.

The procedures shall provide that information and records obtained from pre-employment inquiries under this policy are confidential and shall not be released except as necessary to implement this policy or defend a decision made pursuant to this policy, or comply with I.C. 20-26-5-11.5 when responding to a request for an employment reference from another school for a current or former employee.

Any costs associated with obtaining the expanded criminal history check and the expanded child protection index check are to be borne by the applicant.

The Board requires that an expanded criminal history check or an expanded child protection index check at any time if the Corporation has reason to believe that the applicant or employee:

- A. Is the subject of a substantiated report of child abuse or neglect or
- B. Has been charged with or convicted of one (1) of the following crimes:
 - 1. Murder (IC 35-42-1-1)
 - 2. Causing suicide (IC 35-42-1-2)
 - 3. Assisting suicide (IC 35-42-1-2.5)
 - 4. Voluntary manslaughter (IC 35-42-1-3)

5. Reckless homicide (IC 35-42-1-5)
6. Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
7. Aggravated battery (IC 35-42-2-1.5)
8. Kidnapping (IC 35-42-3-2)
9. Criminal Confinement (IC 35-42-3-3)
10. A sex offense under IC 35-42-4
11. Carjacking (IC 35-42-5-2)
12. Arson (IC 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
13. Incest (IC 35-46-1-3)
14. Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (IC 35-46-1-4(b)(2) and (3)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, which is later.
15. Child selling (IC 35-46-1-4 (d))
16. Contributing to the delinquency of a minor (IC 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
17. An offense involving a weapon under IC 35-47 or IC 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
18. An offense relating to controlled substances under IC 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
19. An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
20. An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
21. Domestic battery (IC 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later
22. An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

During the course of his/her employment with the School Corporation, each employee and substitute teacher shall be required to report the arrest or the filing of criminal charges against the employee; and conviction of the employee for a crime; and substantiated report of child abuse or neglect of which the employee is the subject to the Superintendent within two (2) business days of the occurrence. The Superintendent shall obtain a review of each reported conviction or substantiated report of child abuse or neglect and shall recommend appropriate action to the Board considering the risk to members of the school community presented by the continued employment of the employee who was convicted or the subject of a substantiated report of child abuse or neglect.

I.C. 5-2-22; I.C. 10-13-3; I.C. 20-26-2-1.3; I.C. 20-26-2-1.5; I.C. 20-26-5-10, -11, and -11.5; I.C. 20-28-5-8

3122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The School Board does not discriminate on the basis of the Protected Classes of race, color, national origin, sex (including transgender status, sexual orientation and gender identity), disability, age, religion, military status, ancestry, or genetic information which are classes protected by Federal and/or State law (collectively, "Protected Classes") occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment.

The Superintendent shall appoint and publicize the name of the Compliance Officer(s) who is/are responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The Compliance Officer(s) also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act is provided to staff members and the general public. Any sections of the Corporation's collectively bargained contracts dealing with hiring, promotion, and tenure should contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender specific terms should be eliminated from such contracts.

Compliance Officer(s)

The following person(s) is/are designated as the Corporation's Compliance Officer(s) and, as such, shall handle inquiries regarding the nondiscrimination policies of the Corporation and address any complaint of discrimination:

Dr. Patricia O'Connor
Superintendent
107 North Walnut Street
Columbia City, IN 46725
260-244-5771
occonnorpc@wccsonline.com

Todd Fleetwood
Director of Business and Operations
107 North Walnut Street
Columbia City, IN 46725
260-244-5771
fleetwoodta@wccsonline.com

Reports and Complaints of Unlawful Discrimination and Retaliation

Employees are encouraged to promptly report incidents of unlawful discrimination and/or retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment to an administrator, supervisor, or other Corporation-level official so that the Board may address the conduct. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with a Compliance Officer within five business days.

Employees who believe they have been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment are entitled

to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, in the Corporation and/or a concurrent criminal complaint will not adversely affect the complaining individual's employment status or opportunity. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. The Compliance Officer(s) shall accept complaints of unlawful discrimination/retaliation directly from any member of the Corporation community or a visitor to the Corporation, and receive complaints that are initially filed with a school building administrator, supervisor or other Corporation-level official. Upon receipt of a complaint, either directly or through a school building administrator, supervisor or other Corporation-level official, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or designate a specific individual to conduct such a process.

The Compliance Officer will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Corporation community must report incidents of discrimination/retaliation that are reported to them to the Compliance Officer within five business days of learning of the incident/conduct.

Any Corporation employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one (1) of the Compliance Officers within two (2) business days. Additionally, any Corporation employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Corporation employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the Compliance Officer or designee must contact the employee within two (2) business days to advise him/her of the Corporation's intent to investigate the wrongdoing.

Complaint Procedures

Any employee who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated at the lowest possible administrative level and in a prompt and equitable manner.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Federal and/or State law pertaining to discrimination in employment.

In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission, or the Indiana Civil Rights Commission, as well as a concurrent criminal complaint with the law enforcement agency having jurisdiction in the Corporation.

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop quickly inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee or unsuccessful applicant for employment who believes she has been unlawfully discriminated or retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting

the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint or a concurrent criminal complaint.

The informal process is available only in those circumstances where the parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Employees, or unsuccessful applicants for employment, who believe that they have been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated, and a concurrent criminal complaint shall be filed

As an initial course of action, if an individual feels that she is being unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. A/The Compliance Officer is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so.

An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint and filing a concurrent criminal complaint if he desires to do so.

In addition, with regard to certain types of unlawful discrimination, such as sexual discrimination, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes she has been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to the Compliance Officer(s); and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to the Compliance Officer(s) who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees who believe they are being unlawfully discriminated/retaliated against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of Policy 3122 Nondiscrimination as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint.

Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

The Compliance Officer will retain all materials that are generated as part of the informal complaint process in accordance with the Board's records retention policy. (See Policy 8310)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, this formal complaint process shall be implemented.

An individual who believes that s/he has been subjected to unlawful discrimination/retaliation in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment (hereinafter referred to as the "Complainant"), may file a formal complaint, either orally or in writing, with an administrator, the Compliance Officer(s), Superintendent, or other Corporation-level official, as well as file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs.

If a Complainant informs an administrator, supervisor, Superintendent, or other Corporation-level official, either orally or in writing, about any complaint of discrimination/retaliation, the employee who is informed of the complaint must report such information to the Compliance Officer within five business days.

Throughout the course of the process, the Compliance Officer should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the person who allegedly engaged in the misconduct. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions she deems appropriate in consultation with the Superintendent.

Within five business days of receiving the complaint, the Compliance Officer, or a designee, will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the Compliance Officer, or a designee, will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"), that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any

relevant policies and/or administrative guidelines, including Policy 3122 - Nondiscrimination. The Respondent also must be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer, or a designee, will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations; and,
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation. The recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used (*i.e.*, it is more likely than not that unlawful discrimination/retaliation occurred).

The Compliance Officer, or the designee, may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must delineate the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

If the Superintendent determines the Complainant was subjected to unlawful discrimination/retaliation, s/he must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Board within five (5) business days of his/her receipt of the Superintendent's decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including

testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee or unsuccessful applicant for employment alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

Privacy/Confidentiality

The Corporation will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

In accordance with the Board's records retention policy, the Compliance Officer will maintain all public records created as a part of an investigation of a complaint of discrimination/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment. (See Policy 8310 – Public Records)

Remedial Action, Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment by taking appropriate action reasonably calculated to stop and prevent further misconduct.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any.

All sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

Retaliation

Retaliation against a person who (1) makes a report or files a complaint alleging unlawful discrimination occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment, or (2) participates as a witness in an investigation, is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because she opposed any act or practice made unlawful by Federal or State nondiscrimination laws, made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

Training

The Compliance Officers also will oversee the training of Corporation employees so that all employees understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the Compliance Officers will be posted throughout the Corporation and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

I.C. 20-28-10-12; I.C. 20-28-10-13; I.C. 20-33-1-6
20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)
20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended
29 U.S.C. 6101, The Age Discrimination in Employment Act of 1975
42 U.S.C. 1983; 42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act of 2008
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended; 29 C.F.R. Part 1635

3122.01/4122.01 - DRUG-FREE WORKPLACE

The School Board believes that quality education is not possible in an environment affected by drugs. It will seek, therefore, to establish and maintain an educational setting which is free from the use of any controlled substance and alcohol.

The Board shall not permit the manufacture, possession, use, distribution, or dispensing of any controlled substance and alcohol, and any drug paraphernalia, by any member of the Corporation's professional staff at any time while on Corporation property or while involved in any Corporation-related activity or event. An employee who reports for duty or attends a Corporation-sponsored function after using a controlled substance or consuming alcohol is in violation of this prohibition. Any staff member who violates this policy shall be subject to disciplinary action in accordance with Corporation guidelines and the terms of any collective bargaining agreements, if applicable.

The Superintendent shall establish guidelines that ensure compliance with this policy and that each staff member is given a copy of the standards regarding unlawful manufacture, possession, use, distribution, or dispensing of illicit drugs and alcohol by staff and informed that compliance with this requirement is mandatory. Such guidelines shall provide for appropriate disciplinary actions, if and when needed, which comply with the terms of any negotiated agreement, if applicable.

41 U.S.C. 701 et seq., Drug-Free Workplace Act of 1988;

20 U.S.C. 3224a, The Safe and Drug-Free Schools and Communities Act; 34 C.F.R. Part 86; I.C. 20-34-2-1 et seq.

3122.02/4122.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE

The Board prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The Board also does not limit, segregate, or classify applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of the person as an employee, based on genetic information. Harassment of a person because of genetic information is also prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy is prohibited.

In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq. and 29 C.F.R. 1635 ("GINA"), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA, applicants and employees are directed not to provide genetic information, including their individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be provided as part of the certification process for FMLA leave, or when an employee is asking for leave to care for an immediate family member with a serious health condition. Applicants for employment are directed not to provide any genetic information, including the individual's family medical history, in response to requests for medical information as part of the Board's application for employment process. Employees and applicants for employment shall not be penalized for providing genetic information in good faith in response to a request from a Board employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Board.

The Board recognizes that genetic information may be acquired through commercially and publicly available media including newspapers, books, magazines, periodicals, television shows or the Internet. The Board prohibits its employees and agents including commercial background investigation agents from searching these sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall immediately be redacted and not shared beyond the point of first receipt.

As used in this policy, "genetic information," means information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of

the individual (family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the Board's employees or agents legally and/or inadvertently receive genetic information about an employee or applicant, it shall be treated as a confidential medical record in accordance with law.

42 U.S.C. 2000ff et seq.; Title II of the Genetic Information Nondiscrimination Act of 2008; 29 C.F.R. Part 1635

3123/4123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of School Trustees prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aides or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Corporation's program and/or activities. A reasonable accommodation is not necessarily required for an individual who is merely regarded as having a disability.

Corporation Compliance Officer

The following person is designated as the Corporation Section 504 Compliance Officer/ADA Coordinator ("Corporation Compliance Officer"):

Superintendent
107 North Walnut
Columbia City, IN 46725
(260) 244-5771
(260) 244-4590 facsimile

The Corporation Compliance Officer is responsible for coordinating the Corporation's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the Corporation Compliance Officer.

The Corporation Compliance Officer will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

Training

The Corporation Compliance Officer will also oversee the training of employees in the Corporation so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the Corporation's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the Corporation will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the Corporation is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the Corporation's Compliance Officer will be posted throughout the Corporation, and published in the Corporation's recruitment statements or general information publications.

29 C.F.R. Part 1630; 29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
34 C.F.R. Part 104; 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

3124 - EMPLOYMENT CONTRACTS WITH PROFESSIONAL EMPLOYEES

The Board requires that each employee it employs in a certificated position sign a Regular Teacher's Contract, a Supplemental Service Teacher's Contract, or a Temporary Teacher's Contract using the form contract promulgated by the Superintendent of Public Instruction pursuant to I.C. 20-28-6-3, unless the teacher is taking a leave of absence or has been employed to serve in the absence of a teacher who is taking a leave of absence.

Contracts employing professional employees shall be approved by a majority of the full Board and shall be signed by the professional employee and the President and Secretary of the Board in compliance with I.C. 20-28-6-5 and I.C. 20-26-4-8. In the absence of either the President or Secretary of the Board, the Vice President shall sign the contracts with the Board officer who is present.

A contract between the Board and a teacher is void if the teacher, at the time of signing the contract, is bound by a previous contract to teach in a public school and the contract is entered into at any time during the school year or less than fourteen (14) days before the day on which the teacher must report for work. Provided, however, that the Board may offer another contract to the teacher that will be effective if the teacher:

- A. furnishes the principal a release by the first employer; or
- B. shows proof that thirty (30) days' written notice was delivered by the teacher to the first employer.

A teacher who has entered into a contract with the Board must provide thirty (30) days' written notice if he takes a teaching job with another school corporation after the school year has started or less than fourteen (14) days before the day on which the teacher must report for work.

I.C. 20-26-4-8; I.C. 20-28-6-2; I.C. 20-28-6-3; I.C. 20-28-6-4; I.C. 20-28-6-5; I.C. 20-28-6-6; I.C. 20-28-6-7; I.C. 20-28-7.5-8; I.C. 20-28-10-1

Revised 11/20/2017

3125 - MENTOR PROGRAM FOR PROFESSIONAL STAFF

The School Board intends to provide all first year professional staff members a year-long program of orientation, assistance, and support during their first year of teaching in the Corporation.

- A. "Mentor program" means a program of support provided by a Corporation to meet the unique needs of an individual in the first year of employment under a classroom teaching certificate or an educational personnel certificate.
- B. "Mentor" means a person assigned to provide professional support to an individual in the first year of employment under a classroom teaching certificate or an educational personnel certificate.

The Board directs the Superintendent to develop administrative guidelines to implement this policy.

The Board reserves the right to develop a plan cooperatively with other corporations to achieve the intent of this policy.

1/21/2013

3130/4130 - ASSIGNMENT AND TRANSFER

The School Board believes that the appropriate placement of qualified and competent staff is essential to the successful functioning of the Corporation.

The Superintendent shall be responsible for the assignment and transfer of all professional staff members.

For Classified staff, all vacancies and new positions are advertised in all work locations. The advertisement includes a list of duties, qualifications, and the procedure and person to contact to apply for the position.

An employee who wants a change in assignment or transfer to a work location should inform the Superintendent.

An employee whose work assignment is being changed by the administration will be informed at least five (5) work days before the date of the change. A classified employee may appeal the decision of this policy by following the complaint procedure in policy 9130.

IC. 20-26-5-4, 5-10-7-1 et seq.

3132 - CERTIFIED VACANCIES

It shall be the policy of the School Board to employ the best qualified individual for any Corporation vacancy at any level.

Vacancies shall be announced via district website, state website, posted in buildings, and in various other media. All members of the professional staff shall be eligible for any Corporation vacancy, providing they are properly qualified.

The Superintendent shall establish procedures to facilitate identification and evaluation of candidates for administrative, supervisory, and other leadership positions.

3139 - CERTIFIED STAFF DISCIPLINE

The Board believes that standards of conduct for professional employees are necessary to provide students with a positive example of adult behavior and an orderly instructional environment. To this end, the Board has adopted a policy of progressive discipline to be applied except in cases of gross misconduct. In instances of gross misconduct, the purpose of this policy is to consider if the misconduct warrants suspension without pay or termination.

As used in this policy, "progressive discipline" means imposition of the least severe sanction that the Board determines, in its sole discretion, to be likely to prevent a recurrence of the offense. If the Board finds facts that support the use of progressive discipline, the Board may impose a penalty which may include, but not be limited to one or more of the following:

- A. Verbal counseling/oral warning in which a verbal conference between the employee and his/her supervisor is held.
- B. A written warning which is a formal notice of a performance problem or inability to follow established policy. This notice serves as a warning that continued infractions will not be tolerated and may result in recommendation for discharge.
- C. Probation for a period of time determined by the supervisor in connection with the written warning.
- D. Administrative leave with pay.

- E. Suspension without pay imposed in compliance with the applicable Indiana statutes.
- F. Termination imposed in compliance with applicable Indiana statutes.

Exceptions to the principle of progressive discipline contained in this policy may be made in cases in which the Board finds that the interests of students and the school community make the application of the principle of progressive discipline inappropriate. Examples include, but are not limited to the following:

- A. Reporting for duty under the influence of an alcoholic beverage, an illegal drug, or a prescription drug used other than in accordance with a prescription.
- B. Possession or use of alcoholic beverages or drugs on school property or at an event sponsored by the Board.
- C. Willful refusal to follow established rules or standards for the conduct of a professional employee, i.e. insubordination.
- D. Theft, fraud, or another violation of criminal law.
- E. Arrest and subsequent conviction of a crime.
- F. Falsification or omission of a material fact in the application for employment by the Board.
- G. Threats of and/or acts of violence to a person or substantial property damage.
- H. Poor professional judgment resulting in a risk of physical harm to a person.
- I. Harassment in violation of Board policy on harassment.

In the event a professional staff member is recommended for suspension without pay or dismissal, the procedures required by Indiana law will be implemented.

Professional employees of the Board shall be paid on a "salary basis" and suspension of a professional employee without pay shall not negate the professional employee's exemption from the Fair Labor Standards Act overtime provisions pursuant to 29 C.F.R. 541.303.

I.C. 20-28-6 and 7; I.C. 20-28-9-21 through 23; 29 C.F.R. 541.303

3140/4140 - RESIGNATION and TERMINATION

Resignation

Pursuant to State law, following submission of a resignation to the Superintendent, the employee may not withdraw or otherwise rescind that resignation. A notice of retirement is functionally equivalent to a resignation and thus falls within the meaning of the word "resignation" for purposes of this policy. The Superintendent shall inform the Board of the submission of that resignation at its next meeting. The Board may choose to accept that resignation, deny that resignation or take any other appropriate action relating to the termination, suspension or cancellation of employment of the person submitting the resignation. A resignation, once submitted, may not then be rescinded unless the Board agrees.

Termination (Classified Staff)

A support staff member may be suspended or terminated, upon a majority vote of the School Board, for violation of the policies of the Board, or for any reasons not otherwise prohibited by law. In such cases, the Board shall provide the employee any required procedural due process and shall abide by such terms as may be set forth in a negotiated agreement.

3141 - SUSPENSION OF TEACHERS

The School Board recognizes its obligation to maintain a working and learning environment that is conducive to the education of students and understands that at times there may be members of the teaching staff who fail to meet the expectation of serving as an exemplar for those students and/or fail to meet their professional responsibilities. In situations in which those charged with supervising professional staff members determine that a suspension of a teacher is needed, whether as part of a system of progressive discipline or for the benefit of students, colleagues, and/or the community, the administration will provide due process as required by Federal law and, if a suspension without pay is sought, comply with the procedure established under State law for the suspension of teachers without pay.

It will be the responsibility of the Superintendent to establish administrative guidelines which ensure that the proper standards have been applied and the proper procedures have been followed when a principal makes a decision to suspend a teacher.

Procedure

A teacher may be suspended without pay only under the following procedure set forth in this section:

- A. The principal shall notify the teacher of the principal's preliminary decision. The notification must be in writing and delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address
- B. The notice in subdivision must include a written statement giving the reasons for the preliminary decision.
- C. The notice required under subsection (a) must inform the teacher that, not later than five (5) days after the teacher's receipt of the notice, the teacher may request a private conference with the superintendent. The superintendent must set the requested meeting not later than ten (10) days after the request.
 1. At the conference between the superintendent and the teacher, the teacher may be accompanied by a representative.
 2. After the conference between the superintendent and the teacher, the superintendent shall make a written recommendation to the governing body of the school corporation regarding the teacher's suspension without pay.
- D. If the teacher does not request a conference, the principal's preliminary decision is considered final.
- E. If, not later than five (5) days after the initial private conference with the superintendent, the teacher files a request with the governing body for an additional private conference, the teacher is entitled to an additional private conference with the governing body before the governing body makes a final decision. The final decision must be in writing and must be made not more than thirty (30) days after the governing body receives the teacher's request for the additional private conference.
 1. At the private conference, the governing body shall do the following:
 - a. Allow the teacher to present evidence to refute the reason or reasons for suspension without pay and supporting evidence provided by the school

corporation. Any evidence presented at the private conference must have been exchanged by the parties at least seven (7) days before the private conference.

- b. Consider whether a preponderance of the evidence supports the teacher's suspension without pay.
- F. At the first public meeting following a private conference with the governing body; or the superintendent, or if no conference with the governing body is requested; the governing body may suspend a teacher without pay for a reasonable time by a majority vote evidenced by a signed statement in the minutes of the board. The decision of the governing body is final.
- G. The timeline set out in this procedure may be extended for a reasonable period when a teacher or school official is ill or absent from the school corporation; or for other reasonable cause.

I.C. 20-28-9-22

4141 - LAYOFFS OF SUPPORT STAFF

It is the responsibility of the School Board to provide the support staff necessary for the operation of the Corporation, consistent with the responsibility of the Board for the judicious allocation of its resources. The Superintendent shall recommend to the Board the abolishment of existing positions.

The Board reserves the right in accordance with statute to abolish any existing position in whole or in part or to reduce the number of support staff in such positions based on the recommendation of the Superintendent.

All support staff shall be selected for layoff in accordance with all of the following:

- A. performance of the job;
- B. past experience and diversified capabilities,
- C. Length of service in the Corporation.

Any support staff member shall be notified by May 1st if s/he is not to be reemployed in the following year.

3142 - CANCELLATION OF A TEACHING CONTRACT

The School Board recognizes its obligation to employ only those professional staff members best trained and equipped to meet the educational needs of its students. This policy addresses this obligation, and the Board will continue to employ only those "probationary", "professional", and "established" teachers who meet the performance standards established in the evaluation plan adopted by the Board.

An employment contract may be terminated, upon a majority vote of the Board, for violation of the policies of the Board or for reasons set forth in law. In such cases, the Board shall abide by due process procedures and such terms as may be set forth in a negotiated agreement.

It will be the responsibility of the Superintendent to establish administrative guidelines which ensure that the proper standards have been applied and the proper procedures have been followed when a principal makes a preliminary determination that a teacher's contract should be cancelled.

In acting on a principal's preliminary determination that a teacher's contract be cancelled, the Board will be guided by the procedure set out in I.C. 20-28-7.5.

Cancellation of a Teaching Contract Due to Reduction in Staff

The cancellation of a teacher's contract due to a justifiable decrease in the number of teaching positions shall be determined on the basis of performance rather than seniority. In cases where teachers are placed in the same performance category, the district may consider any of the following: additional content area degrees or credit hours earned by individual teachers before January 31st of the calendar year in which the RIF will take effect; the number of years of a teacher's experience; instructional leadership roles assigned to the teacher; academic needs of students in the corporation.

I.C. 20-28-7.5-1, 20-28-7.5-2

4150 - DISCIPLINARY ACTIONS

In the event of an infraction of Corporation rules or the laws of the State of Indiana by a support staff member, it shall be the policy of the School Board to take appropriate disciplinary measures up to and including dismissal.

3160/4160 - FITNESS FOR DUTY EXAMINATION

The Board reserves the right to require a current employee or applicant for employment (after a conditional offer of employment), to submit to a fitness for duty examination by a qualified healthcare provider to determine the employee or applicant's ability to meet the qualification standards and perform the essential functions of a position an application is being considered for or an employee is performing ("FFD exam"). A FFD examination shall be done in accordance with the Superintendent's guidelines and the examiner shall be provided with specific essential functions of the position in question.

Reports of all FFD examinations shall be delivered to the Superintendent or a named designee, who shall protect the confidentiality of the FFD exam report and its contents. In agreeing to perform the FFD exam, the healthcare provider and the examinee shall agree that no treatment relationship or privileged communication shall occur between the FFD examiner and the applicant or employee. The report of the examiner may be shared with the employee or candidate and made a part of a personnel record on the examinee maintained by the Board. However, the report shall be filed separately from an applicant/employee's other personnel documents so that the report and related documents are accessible only to the Superintendent and specific designees. Failure to protect the confidentiality of a FFD exam report and related documents shall be a basis for discipline of an employee permitting the disclosure.

In the event of a report of a condition that could adversely impact the examinee's performance of an essential function of the position occupied or applied for, the Superintendent shall base a recommendation to the Board on the examinee's employment on the assessment of the healthcare provider who conducted the FFD exam as to whether the examinee will be able to meet the qualification standards and perform or continue to perform the essential functions of the position in question.

Employees and applicants referred for a FFD exam will be required to execute a release that complies with the requirements of the Health Insurance Portability and Accountability Act in order to allow the results of the healthcare provider's FFD exam to be released to the Board/Superintendent and to allow the Superintendent to speak to the health care provider who conducted the FFD examination if clarification is needed (see Form 3160 F2).

In compliance with the Genetic Information Nondiscrimination Act (GINA) and Board Policy 3122.02, a FFD examiner shall be advised not to seek, collect, or report genetic information, including the candidate's family medical history.

The cost of a FFD exam shall be paid for by the Board. An employee shall be paid for the time required for the FFD exam and for travel at the per mile rate established by the Board. A candidate for employment shall not be eligible for mileage reimbursement.

The report of the healthcare provider performing the FFD exam shall be the property of the Board and shall be exempt from disclosure pursuant to the Indiana Access to Public Records Act (I.C. 5-14-3). A FFD exam report and related documents will be maintained in a separate confidential personnel file in accordance with the Americans with Disabilities Act, as amended, and the Genetic Information Nondiscrimination Act (GINA).

29 C.F.R. Part 1630; 29 C.F.R. Part 1635; 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008; 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

3161/4161 - UNREQUESTED LEAVES OF ABSENCE

It is the policy of the School Board to protect students and employees from staff members who are unable to perform essential job functions with or without accommodation.

The Board may place a staff member on unrequested leave of absence when the staff member is unable to perform assigned duties in conformance with statute and the negotiated, collectively-bargained agreement with or without accommodation.

If the Superintendent believes the staff member is unable to perform essential job functions, he will be offered the opportunity for a meeting to discuss these issues.

If a staff member refuses to attend the meeting, the Board may order the staff member to submit to an appropriate examination by a physician designated and compensated by the Board.

Where the physician designated by the Board disagrees with the physician designated by the staff member, the two (2) physicians shall agree in good faith on a third impartial physician who shall examine the staff member and whose medical opinion shall be conclusive and binding on the issue of ability to perform assigned duties with or without accommodation. The expenses of a third examination shall be borne by the Board.

The staff member will be required to execute a release that complies with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) in order to allow the report of the medical examination to be released to the Board/Superintendent and to allow the Superintendent or his/her designee to speak to the health care provider who conducted the medical examination in order to get clarification. Refusal to submit to an appropriate examination or to execute the HIPAA release will be grounds for disciplinary action, up to and including termination.

As required by Federal law and regulation and Board Policy 3122.02, the Superintendent shall direct the provider designated by the Board to conduct the examination not to collect genetic information or provide any genetic information, including the individual's family medical history, in the report of the medical examination.

Pursuant to State law and in accordance with the Americans with Disabilities Act, as amended (ADA) and the Genetic Information Nondiscrimination Act (GINA), the results of any such examination shall be treated as a confidential medical record and will be exempt from release, except as provided by law. If the Corporation inadvertently receives genetic information about an individual who is required to submit to an appropriate examination from the medical provider it shall be treated as a confidential medical record as required by the ADA.

If, as a result of such examination, the staff member is found to be unable to perform assigned duties with or without accommodation, the staff member may be placed on leave of absence for a reasonable time to heal or until she is able to perform the essential job function, but only for a period not to exceed one (1) year. A staff member placed on leave without a written request is entitled to a hearing on that action in accordance with I.C. 20-6.1-4-11.

Should a staff member refuse to submit to the examination requested by the Board and the staff member has exercised his/her rights under the provisions hereinabove set forth, such refusal shall subject the staff member to disciplinary action.

Americans with Disabilities Act of 1990, as amended; 42 U.S.C. 12101 et seq.; 29 C.F.R. Part 1630
I.C. 20-28-7-3,4,5, 20-28-10-4

3162/4162- DRUG AND ALCOHOL TESTING OF STAFF MEMBERS

The School Board believes that the safety and welfare of students is of utmost importance. To fulfill such a responsibility, each staff member must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply.

- A. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- B. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions
- C. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- D. The term *safety-sensitive functions* includes all tasks associated with the operation and maintenance of Corporation equipment.
- E. The term *while on duty* means all time from the time the staff member begins to work or is required to be in readiness for work until the time she/he is relieved from work and all responsibility for performing work.

The Board expects all employees to comply with Board policy 3122.01/4122.01 on Drug Free Workplace which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the Federal requirement that all employees should be free of any influence of alcohol or controlled substance while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby any staff member may be tested for the presence of alcohol in his/her system as well as for the presence of the following controlled substances: marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

The drug tests are to be conducted in accordance with Federal and State regulations and may be conducted a.) prior to employment, b.) for reasonable cause, c.) upon return to duty after any alcohol or drug rehabilitation, d.) on a random basis, and e.) on a follow-up basis.

Candidates may also be tested for the presence of alcohol in their system prior to employment.

Any staff member who tests positive shall be prohibited from operating school equipment and be referred to the Corporation's Employee Assistance Program.

Prior to the beginning of the testing program, the Corporation shall provide a drug-free awareness program which will inform each staff member about:

- A. The dangers of illegal drug use and controlled substance and alcohol abuse;

- B. Board policies 3122.01/4122.01 - Drug Free Workplace, 3161/4161 - Unrequested Leaves of Absence, 3170/4170 Substance Abuse, and 3170.01/4170.01 Employee Assistance Program;
- C. The sanctions that may be imposed for violations of policy 3122.01/ 4122.01.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. Testing of all first and second test urine samples
- B. Clear and consistent communication with the Corporation's Medical Review Officer (MRO)
- C. Methodology and procedures for conducting random tests for controlled substances and alcohol
- D. Preparation and submission of all required reports to the Corporation, The MRO, and to Federal and State governments.

The Superintendent shall also select the agency or persons who will conduct alcohol breathalyzer tests, the Corporation's MRO, and the drug collection site(s) in accordance with the requirements of the law. 49 CFR 382.101 et seq.

4162.10 - ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY FOR COMMERCIAL DRIVERS LICENSE (CDL) EMPLOYEES

The Board of School Trustees for the Whitley County Consolidated Schools recognizes the critical and growing problem alcohol and controlled substance abuse poses to the transportation of its students. It is the policy of the school corporation to provide and maintain a safe, healthy and productive work environment for our drivers. This policy applies to all drivers and applicants for driver positions for the school corporation who must have a Commercial Drivers License (CDL) to operate school vehicles.

The use, possession, sale, purchase or transfer of any controlled substances except medically prescribed drugs on school property, while on school business, or while operating school vehicles and equipment, is prohibited. Drinking alcoholic beverages during working hours, 6 hours before reporting to work or having any measurable amount of alcohol in his/her system during working hours is prohibited, whether on or off school property. Working hours include all breaks. Off-duty use of drugs and alcohol is prohibited to the extent it affects a driver's attendance or performance and his/her ability to pass required DOT alcohol and controlled substance tests. Any violation of this policy is grounds for termination as a driver for the school corporation and possible legal prosecution.

Since physician-directed use of drugs can affect behavior and performance, drivers are encouraged to advise their supervisor whenever they are taking drugs for medical reasons. When such use of drugs adversely affects job performance or safety, it is in the best interest of the driver, co-workers, and the School Corporation that the driver takes sick or vacation days, or, if necessary, unpaid leave, in accordance with the School Corporation's leave policies.

The execution and enforcement of this policy will follow set procedures to screen body fluids, conduct breath testing, and/or search all employee/applicants for alcohol and drug use, and those employees suspected of violating this policy who are involved in a U.S. Department of Transportation (USDOT) reportable accident or who are periodically or randomly selected pursuant to this policy. The procedures are designed not only to detect violations of this policy but also to ensure fairness to each employee. Disciplinary action will be taken as necessary.

The Transportation Director is authorized to implement this policy and program, including a periodic review of the program to address any problems, changes, and/or revisions of it, maintenance of all records required by the federal regulations, and determination upon Board approval of how the program will be accomplished, whether in-house, contracted, or by consortium.

The Transportation Director is responsible for communicating this policy to all drivers and is accountable for its consistent enforcement. The Transportation Director is designated to answer questions about this policy and all other matters involved in alcohol and controlled substance testing of CDL drivers.

Drug and Alcohol Clearinghouse Checks for CDL Drivers

Prior to employment the school corporation will conduct a full query of the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse (Clearinghouse) to obtain information about the driver's eligibility under federal rules to perform a safety-sensitive function. The school corporation will also contact prior employers where the applicant was a CDL driver for information to determine the driver's eligibility to perform safety-sensitive functions. Prior employers' inquiries will continue until January 2023.

The school corporation will conduct a limited query of the Clearinghouse for current CDL drivers who are employees on at least an annually basis. If information exists in the Clearinghouse about a driver, the school corporation will conduct a full query within 24 hours to determine if the driver is eligible to perform safety-sensitive functions. If the school corporation fails to conduct the full query within 24 hours, the driver will not be allowed to perform any safety-sensitive functions until the full query is conducted and it is determined the driver may perform safety-sensitive functions.

The school corporation will report the following information collected and maintained on each CDL driver to the Clearinghouse:

- A. A verified positive, adulterated, or substituted drug test result;
- B. An alcohol confirmation test with a concentration of 0.04 or higher;
- C. A refusal to submit to any test required by this policy or the CDL drug testing program;
- D. An employer's report of actual knowledge of the following:
 - 1. On duty alcohol use;
 - 2. Pre-duty alcohol use;
 - 3. Alcohol use following an accident; and
 - 4. Controlled substance use.
- E. A substance abuse professional (SAP) report of the successful completion of the return-to-duty process;
- E. A negative return-to-duty test; and
- F. An employer's report of completion of follow-up testing

SAFETY-SENSITIVE FUNCTION -- DEFINED

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

A safety-sensitive function is defined as:

- A. All time spent at a facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the school corporation.
- B. All time spent inspecting equipment, otherwise inspecting, servicing, or conditioning any motor vehicle at any time.
- C. All driving time spent at the driving controls of a motor vehicle in operation.
- D. All time, other than driving time, in or upon any motor vehicle.
- E. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle.
- F. All time spent performing the driver requirements relating to an accident.
- G. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

PROHIBITED CONDUCT

The following shall be considered prohibited conduct for purposes of this policy:

- A. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcoholic concentration of .04 or greater.
- B. No employee shall be on duty or operate a commercial vehicle while the employee possesses alcohol.
- C. No employee shall use alcohol while performing safety-sensitive functions.
- D. No employee shall perform a safety-sensitive function within 6 (six) hours after using alcohol.
- E. No employee required to take a post-accident test shall use alcohol for 8 (eight) hours following the accident or until he or she undergoes a post-accident test, whichever occurs first.
- F. No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.
- G. An employee is prohibited from reporting for duty or remaining on duty when the employee uses any controlled substance except when the use is pursuant to the written instructions of a physician who has advised the employee that the substance will not adversely affect their ability to safely perform their duties. The employee must provide the school corporation with proof of such medical advice. The transportation director decides if the employee can remain at work or what work restrictions are necessary.
- H. Any employee who is using a prescribed drug or other medication which is known or advertised as possibly affecting or impairing judgment, coordination, or other sense, or which may adversely affect the employee's ability to perform work in a safe and productive manner, must notify the transportation director prior to starting work. The Transportation Director will decide if the employee can remain at work or what work restrictions are necessary.

TESTING OF DRIVERS

All drivers will be tested for alcohol and drugs in accordance with the USDOT-approved procedures when directed by the Transportation Director.

Drivers will be tested under the following circumstances:

A. Pre-Employment

Under no circumstances will an individual be placed on the payroll without proof of a successful completion of a drug test. Any individual who refuses to submit to such a test or has a positive controlled substance test result will not be considered for employment with the school corporation.

B. Random

The school corporation will conduct random drug and alcohol tests. The corporation will submit all employees' names to a random selection system. Random selections will be spread throughout the year. The corporation will drug test 25% of the number of employees in each calendar year or at a rate established by the USDOT for the given year. The corporation will alcohol test 10% of the number of employees in each calendar year or at a rate established by the USDOT for the given year.

If an employee is selected at random for either test, the Transportation Director will notify the employee. Once the employee is notified, he or she must proceed to the designated collection site immediately. If the employee does not go to the collections site as soon as possible after notification, such may be considered a refusal to test.

C. Post-Accident

Drivers are required to submit to drug and alcohol testing as soon as possible following a "DOT" accident that involves

1. A fatality; or
2. The employee receives a citation for a moving violation arising from the accident that involved: a) bodily injury to a person who, as a result of the injury, receives medical treatment away from the scene of the accident; or b) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

A driver who is subject to post-accident testing shall remain readily available for such testing. Nothing in this section shall be construed to require the delay of necessary medical treatment or to prohibit the driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

If a driver is seriously injured and cannot submit to testing at the time of the accident, he/she shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any drugs or alcohol in his/her system.

The results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by Federal, State, or local officials having independent authority for the test shall be considered to meet the requirements for post-accident testing if the results are obtained by the school corporation.

D. Reasonable Suspicion

The School Corporation is required to test for the use of alcohol and controlled substances upon "reasonable suspicion." A reasonable suspicion test is required when based upon specific, contemporaneous, and articulable observation concerning the behavior, speech, body odor, or appearance of a driver while on duty are indicative of the use of alcohol and/or controlled substances. A supervisor or the Transportation Director who is so trained in accordance with the USDOT regulations must witness the conduct. The mere possession of alcohol does not constitute a need for an alcohol test. The witness must have received training in the detection of probable alcohol and drug use by observing a person's behavior. The witness shall not conduct the alcohol test of the driver.

Alcohol testing is authorized only if the observations are made during, just before, or just after the period of the workday of the driver. A written record shall be made of the observations leading to an alcohol and/or controlled substance test. This record is to be signed by the supervisor who made the observations.

If a reasonable suspicion alcohol test is not administered within two hours following the observations, the witness shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight hours, all attempts to administer the test shall cease. A record shall be prepared and maintained stating why the alcohol test was not administered.

E. Return to Duty Testing

A return to duty test will be required for all employees who have violated this policy and is allowed to return to duty to perform safety-sensitive functions. The employee may not return to duty until he or she passes a drug test and/or tests below a .02 for breath alcohol and the substance abuse professional (SAP) and the school corporation have determined that the employee may return to duty upon completion of the SAP's evaluation recommendations for education and training.

If an employee who has violated this policy and will not be returned to duty to perform safety-sensitive functions, school administrators will provide the driver with the names and addresses of SAPs in the area.

F. Follow-Up Testing

Any employee who has returned to work following a violation of this drug and alcohol policy will be subject to follow-up testing. At a minimum six follow-up tests will be required within the first 12 months following an employee's return to work and less frequently during the next 4 years. Employees will be tested in accordance with USDOT regulations and the recommendations of the SAP.

TESTING PROCEDURES

The following testing procedures are to be strictly observed by any collection facility and/or laboratory contracted with by the school corporation in order to carry out its drug and alcohol testing program.

Controlled substance testing procedures include the following:

A. Chain of Custody

Chain of custody is defined as 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. These procedures will require an approved chain-of-custody form.

B. Preparation for Testing

1. Use of tamperproof seal system designed in a manner that a specimen bottle top can be sealed against undetected opening and the bottle has a means for identification of the test subject, either by number or some other confidential manner.
 2. Use of shipping container in which one or more specimens and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering.
- C. Specimen Collection
Specimen collection will be done at collection sites designated by the School Corporation.
- D. Laboratory Analysis
Laboratory analysis of all specimens collected will be done by a district designated lab under all federal guidelines.

Controlled Substance Testing Protocol

Urine Collection Procedures:

- A. The testing procedure starts with the collection of a urine specimen.
- B. Collection procedures will follow the specific guidelines set forth by the USDOT as outlined in the published collection procedures guidelines.
- C. Employees will be directed to empty their pockets and display the contents to the collector.
- D. Employees will be allowed privacy during the collection process except as noted in number E below.
- E. Observed collections are required by USDOT if:
 1. The specimen is determined invalid and there is no medical explanation.
 2. The collector observes evidence of an employee's attempt to tamper with the specimen.
 3. The temperature of the specimen is out of range.
 4. The specimen appears to have been tampered with.
- F. Observed collections are required on return to duty and follow-up tests.
- G. As part of the collection process, the specimen provided will be split into two portions; a primary specimen and a secondary (split) specimen.
- H. If the employee is unable to provide 45 ml of urine, the DOT "shy bladder" rule will apply. The employee will have up to 3 hours to provide the required 45 ml and may consume up to 40 ounces of fluids during this time period. The employee will be required to be monitored during the waiting period.
- I. After collection, the specimen will be submitted to a SAMHSA certified laboratory for testing.

Laboratory Procedures:

Drug testing will be performed through urinalysis. Urinalysis will test for the presence of the following drugs or classes of drugs:

- A. Marijuana metabolites;

- B. Cocaine metabolites;
- C. Amphetamines;
- D. Opioids; and
- E. Phencyclidine (PCP).

The SAMHSA certified laboratory will perform initial screenings on all primary specimens. In the event that the primal specimen tests positive, a confirmation test of that specimen will automatically be performed. If the confirmatory test is positive, it will be reported to the Medical Review Officer (MRO) as a positive.

Validity Testing:

The laboratory must also perform validity testing on each specimen received. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. The following will be measured: creatinine level, specific gravity, and pH. In addition, all specimens will be tested for known adulterants. An initial validity test is performed first, followed by a confirmation test as required.

All laboratory results will be reported by the laboratory to a MRO designated by the Company or its agents.

MRO Procedures:

- A. All tests results will undergo a review process by the MRO.
- B. Negative test results will be reported directly to the school corporation by the MRO.
- C. Positive, adulterated or substituted results will be handled in the following manner by the MRO:
 1. Before reporting a positive, adulterated or substituted test result to the school corporation, the MRO will attempt to contact the employee to discuss the test result.
 2. The employee is required to discuss the result with the MRO. The employee will be allowed to explain and present medical documentation to explain any permissible use of a drug.
 3. For adulterated or substituted results, the employee must demonstrate that he or she did produce or could have produced urine, through physiological means, a specimen meeting the creatinine and specific gravity criteria of a substituted or adulterated specimen.
 4. If the MRO is unable to contact the employee directly, the MRO will contact the Superintendent who shall contact the employee and direct the employee to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or, if the MRO is unavailable, at the start of the MRO's next business day.
 5. If, after failing to contact the MRO within 72 hours after being instructed to do so by the Superintendent, or if the employee cannot be contacted at all within ten (10) days, or the employee expressly declines the opportunity to discuss the test, the MRO may verify the test as positive or a refusal.
 6. In the MRO's sole discretion, a determination will be made as to whether a result is verified as positive, negative or considered a refusal.
 7. After any verified positive or refusal to test determination, the employee may petition the MRO to reopen the case for reconsideration.
- D. Diluted Specimens: If a specimen is reported diluted by the laboratory, the MRO will

report this information to the Transportation Director. The school corporation requires an immediate recollect for another test. The result of this test will stand as the final result.

Medical Information Disclosure:

Pursuant to USDOT regulations, if, in the MRO's opinion, any information provided may mean a medical disqualification or represent a safety hazard, such as the use of certain prescription drugs, the MRO must disclose this to the school corporation. Individual test results for applicants and employees will be released to the school corporation and will be kept strictly confidential unless consent for the release of the test result has been obtained.

Split Specimen Testing Protocol

An employee may request that the "split" portion of his/her specimen be tested at a different SAMHSA laboratory if he/she was notified by the MRO that his/her test result was positive, adulterated or substituted. The request must be made to the MRO within 72 hours of being notified of a verified positive, adulterated or substituted result. The MRO will arrange for all procedures to be done in accordance with split specimen testing procedures.

The cost of a split specimen test will be the responsibility of the employee. The school corporation will withhold the amount of the cost of testing the split specimen from the employee's pay unless other arrangements are acceptable to both the employee and the school corporation. If the employee makes a timely request to the MRO for the split portion to be tested, the MRO shall immediately make arrangements with the laboratory to initiate the process.

Alcohol Testing Procedures

Testing Devices

Alcohol tests are to be conducted with only evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHTSA) on their Conforming Products List (CPL). The rules allow the use of EBT's for the initial screening test that is on the CPL, that does not meet the additional requirements for the confirmation test (e.g. sequential numbering and print-out capability).

Test Administrators

Only a Breath Alcohol Technician (BAT) that has had proper training may administer breath alcohol tests. Reasonable cause tests may not be conducted by the person making the determination that reasonable suspicion exists to conduct an alcohol test.

Test Procedures

The BAT will perform an initial alcohol screen. If the initial screen results in a Blood Alcohol Concentration (BAC) of .02% or above, a confirmation test is required. Any tests resulting in a BAC of less than .02% will be considered negative. The BAT will wait a minimum of 15 minutes, before administering the confirmation test. Confirmation tests must be performed within 30 minutes. If the confirmation test indicates a BAC of .020 to .039, the employee shall be removed from duty for 24 hours or until his/her next scheduled on-duty time, whichever is longer. Employees with test indicating a BAC of .04 or greater are considered to have engaged in prohibited conduct which may result in disciplinary action up to and including termination. All alcohol tests shall be performed just prior to, during or just after performing a safety sensitive function.

REFUSAL TO TEST

Refusal to submit to the types of drug and alcohol test required by this policy will be grounds to discipline CDL employees. A refusal to test includes any of the following situations:

- A. Failing to appear for any test within a reasonable time after being directed to do so.
- B. Failing to remain at the testing site until the testing process is completed.
- C. Failure to provide a breath sample, saliva sample or urine sample as directed.

- D. Failure to permit, if the situation requires, the observation or monitoring of providing a urine specimen.
- E. Failure to provide a urine, breath or saliva specimen within required time frames may be considered a refusal. If an employee cannot produce a sufficient quantity of urine or breath, he/she will be directed to be evaluated by a physician of the corporation's choice. If the physician cannot find a legitimate medical explanation for the inability to provide a specimen, it will be considered a refusal to test. In that circumstance the employee has violated one of the prohibitions of the USDOT regulations.
- F. Failure to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the transportation director as part of the "shy bladder" or "insufficient breath" situation.
- G. Failure or declining to take a second test as required by USDOT regulations.
- H. Failure to cooperate with any part of the testing process and/or conduct that would obstruct the proper administration of a test. (e.g., refusing to empty pockets when so directed by the collector or behave in a confrontational way that disrupts the collection process.)
- I. For an observed collection, fail to follow the observer's instruction to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if any type of prosthetic or other device that could be used to interfere with the collection process is present.
- J. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process.
- K. Admission by the employee to the collector or the MRO that the employee adulterated or substituted their specimen. Refusing to sign step two of the alcohol testing form.
- L. A report from the MRO that the employee has a verified adulterated or substituted test result.

CONFIDENTIALITY

All information obtained in the course of testing of drivers shall be protected as confidential medical information. No data concerning this information will be made a part of the employee's personnel file or will be provided to any other party without the direct written consent of the driver.

Employees are entitled upon written request to obtain copies of any records pertaining to their use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substance tests.

The school corporation may release information as follows:

- A. Copies of the results of alcohol or drug testing to an identified person provided the employee has provided written consent.
- B. Copies of information requested by the Secretary of Transportation, and USDOT agency, or any state or local official with regulatory control over the corporation or its employees.
- C. The results of post-accident testing when requested by the National Transportation Safety Board as part of an accident investigation,
- D. Legal proceedings including lawsuits involving wrongful discharge action, grievances, administrative proceedings brought on by or on behalf of an employee and resulting from a positive DOT drug or alcohol test or a refusal to test, and/or criminal or civil actions.

DISCIPLINARY ACTIONS FOR POLICY VIOLATIONS

Drivers found to commit any conduct prohibited by this policy, including refusal to test, and/or testing positive for alcohol (.04 or greater) or for a controlled substance shall be prohibited from driving or performing a safety-sensitive function for the school corporation. Such employee will be provided with the names, addresses, and telephone numbers of qualified substance abuse professionals (SAPs) who are approved by the school corporation. To be able to return to duty the employee must complete the following steps:

- A. Complete an evaluation with a SAP.
- B. Complete any rehabilitation and/or evaluation required by the SAP.
- C. Be re-evaluated by the SAP and obtain written confirmation of satisfactory completion of all recommendations.
- D. Complete a return to duty test that is issued with a negative result.
- E. As a condition of continued employment, the employee will be required to submit to a minimum of 6 unannounced follow-up tests in the next 12 months after returning to work.

Follow-up testing is separate from and in addition to the reasonable suspicion, post-accident, and random testing. The schedule of follow-up testing shall be unannounced and in accordance with the instructions of the SAP. The cost of any SAP evaluation, prescribed treatment and follow-up testing shall be paid for by the employee. In addition, the employee will be subject to any school corporation policy dealing with the use of alcohol and controlled substances.

Drivers testing .02 or greater but less than .04 shall not drive or perform safety sensitive functions for the school corporation, nor shall the school corporation permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test. The driver also becomes subject to any other school corporation policy dealing with the use of alcohol and controlled substances.

EDUCATIONAL MATERIALS

The school corporation will provide education materials that explain the requirements of Federal Motor Carrier Safety regulations, consequences of violating the regulations, and the corporation's policies and procedures with respect to meeting these requirements. Materials will also be provided concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life. Employees are required to attend an educational meeting to discuss the corporation's policies and procedures and to review all materials covered by this policy. Each employee is required to sign a statement certifying that he or she has received a copy of these materials. The corporation will provide these materials to employees prior to the start of the testing required by this policy and to any employee who is hired or transferred into a position requiring a CDL.

TRAINING OF SUPERVISORS AND DRIVERS

Supervisor Training:

Transportation Directors and Supervisors are the key to a drug-free work environment. At a minimum, the Transportation Director and Supervisors will receive basic training and orientation on:

- A. The identification of behavioral and physiological signs of alcohol and drug abuse.
- B. How to recognize, counsel and document employees whose performance has deteriorated.
- C. How and when to suggest and/or require the services of the Employee Assistance Program (EAP), or any other drug/alcohol assistance program.

Driver Training:

The drivers training program will consist of:

- A. Explanation of the effects and consequences of alcohol and controlled substance use on personal health, safety and work environment.
- B. The manifestations and behavioral causes that may indicate alcohol and controlled substance use or abuse.
- C. Information and materials required by federal regulations.

The training of both supervisors and drivers will be documented.

RETENTION OF RECORDS

The following records relating to the school corporation's drug and alcohol testing program are required to be maintained:

- A. Records related to the collection process:
 - 1. Collection logbooks
 - 2. Documents related to the random selection process
 - 3. Calibration documentation for EBT's
 - 4. Documentation of Breath Alcohol Technician (BAT) Training
 - 5. Documentation of reasoning for reasonable suspicion testing
 - 6. Documentation of reasoning for post-accident testing
 - 7. Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing
 - 8. Consolidated annual calendar year summaries
- B. Records related to the driver's test results:
 - 1. Employer's copy of the alcohol test form, including results
 - 2. Employer's copy of the drug test chain of custody and control form
 - 3. Documents sent to the employer by the Medical Review Officer
 - 4. Documentation of any driver's refusal to submit to a required alcohol or controlled substance test
 - 5. Documents provided by a driver to dispute results of test
- C. Documentation of any other violations of controlled substance use or alcohol misuse rules
- D. Records related to evaluations and training:
 - 1. Records pertaining to substance abuse professional's (SAP's) determination of driver's need for assistance
 - 2. Records concerning a driver's compliance with SAP's recommendations
- E. Records related to education and training:
 - 1. Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol misuse
 - 2. Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials
 - 3. Documentation of supervisor training
 - 4. Certification that training conducted under this rule complies with all requirements of the rule
- F. Records relating to drug testing:
 - 1. Agreements with collection site facilities, laboratories, medical review officers (MRO's), and consortia

2. Names and positions of officials and their role in the employer's alcohol and controlled substance testing program
3. Monthly statistical summaries of urinalysis
4. The employer's drug testing policy and procedures

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the school corporation's central office within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

LEGAL REFERENCE: 49 C.F.R. Part 382

Confidentiality

Any information concerning a driver's drug or alcohol abuse will be available only to members of the administration whom the School Corporation believes should be aware of this information. Unless otherwise required by law, this information will not be disclosed by the School Corporation to any other employer, organization or individual without the driver's written consent.

3170/ 4170 - SUBSTANCE ABUSE

The School Board recognizes alcoholism and drug abuse as treatable illnesses.

A staff member having an illness or other problem relating to the use/abuse of alcohol or other drugs will receive the same careful consideration and offer of assistance that is presently extended to staff members having any other illness.

The responsibility to correct unsatisfactory job performance or behavior resulting from a substance abuse problem rests with the staff member. Failure to do so, for whatever reason, will result in appropriate corrective or disciplinary action as determined by the Board.

No staff member will have his/her job security or promotion opportunities jeopardized solely on the basis of his/her request for counseling or referral assistance.

Staff members who suspect they may have an alcohol or other drug abuse problem are encouraged to seek counseling and information on a confidential basis by contacting resources available for such service.

Please refer to Board Policy 3122.01/4122.01 on Drug-Free Workplace for additional requirements for staff members.

I.C. 20-26-5-4; 29 U.S.C. 794

Adopted 10/19/2014

3170.01/4170.01 - EMPLOYEE ASSISTANCE PROGRAM (EAP)

The School Board believes that early recognition and treatment of alcohol or drug abuse is important for successful rehabilitation, return to productive work, and reduced personal, family, and social disruption.

The Corporation encourages the earliest possible diagnosis and treatment for alcoholism and drug abuse and supports sound treatment efforts. Whenever feasible, and subject to the limitations described here, the Corporation will assist staff members in overcoming their alcohol or drug abuse problems. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is primarily the individual staff member's responsibility.

Self-Referral

Staff members with personal alcohol or drug abuse problems should request assistance from Assistant Superintendent. Assistance will be provided on a confidential basis, and each staff member will be referred to the appropriate treatment and counseling services. Staff members who, in dealing with alcohol or drug abuse problems, voluntarily request assistance through the EAP may do so without jeopardizing their continued employment with the Corporation subject to compliance with Board Policy 3122.01/4122.01 - Drug-Free Workplace.

Corporation Referral

Staff members who test positive for alcohol and/or drug use/abuse and who are referred, at Corporation request, for counseling or treatment will be limited to one (1) opportunity for counseling or treatment to cease the use of alcohol and or drugs.

A second positive test for the use of illegal drugs may result in immediate termination.

Special Considerations

All Corporation-requested staff member treatment and counseling will require, at a minimum, that the staff member immediately cease any alcohol and drug use/abuse and that the staff member be subject to periodic unannounced testing for a sixty (60) month period following enrollment in the program. Undergoing treatment or counseling for the first time, at the Corporation's request, will normally not jeopardize a staff member's employment. However, the Corporation will be required in certain safety-sensitive situations to remove from certain duties, such as driving a school bus. If other work cannot be found, the staff member's employment will be terminated.

Adopted 10/10/2015

3211/4211 - REQUIRED REPORTS AND PROTECTION OF WHISTLEBLOWERS

The School Board recognizes that its employees teach its students by example and serve as a role model for students. It therefore requires that they exemplify high standards of honesty and integrity and comply with Indiana and Federal law and Board policies and administrative guidelines in their words and actions. To implement these expectations, the Board requires its employees to report possible violations of these Board standards to their immediate supervisor.

An employee who is aware of words or acts of a Board member or employee that may violate Federal or Indiana law, Board policy, or administrative guidelines shall bring the words or actions to the attention of the employee's immediate supervisor. If the immediate supervisor does not respond within a reasonable time, or the immediate supervisor is the officer or employee whose words or actions are in question, the employee shall make the report required by this policy to the Superintendent. If the words or acts that violate this policy are the Superintendent's words or acts, the report shall be made to the Board president. An employee also may report suspected malfeasance, misfeasance, or nonfeasance by a public officer to the State Board of Accounts.

Employees are subject to disciplinary action, up to and including termination for knowingly or recklessly making a false report under this policy or failing to make a report required by this policy.

After a verbal report of a violation of this policy is made, the immediate supervisor will direct the reporting employee to put the report in writing. If a reporting employee requires assistance in making a written report, the immediate supervisor shall assist the reporting employee.

An employee making a report required by this policy shall be protected from discipline, retaliation, or reprisal for making a report required by this policy as long as the employee had a good faith belief in the truth and accuracy of the information reported at the time of the report. A report in compliance with this policy is not required if the employee confirms that another employee has reported the same words or actions.

3213 - STUDENT SUPERVISION AND WELFARE

Staff members shall maintain a standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities and are expected to establish and maintain professional staff-student boundaries that are consistent with their legal, professional and ethical duty of care for students.

The Superintendent shall maintain and enforce the following standards:

- A. A staff member shall immediately report to a building administrator any accident, safety hazard, or other potentially harmful condition or situation detected.
- B. A professional staff member shall provide proper instruction in safety matters as presented in assigned course guides.
- C. Each staff member shall immediately report to a building administrator knowledge of threats of violence by students.
- D. A staff member shall not send students on any personal errands.
- E. A staff member shall not associate or fraternize with students at any time in a manner that may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity that could be considered abusive or sexually suggestive or involve harmful substances such as illegal drugs, alcohol or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal prosecution and disciplinary action by the Board up to and including termination of employment.
- F. If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationship, etc., the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the Corporation or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. Any staff member who determines that a student is in need of services shall report the matter to appropriate authorities. However, under no circumstances should a staff member attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should any such staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.
- G. A staff member shall not transport students in a private vehicle.
- H. A student shall not be required to perform work or services that may be detrimental to his/her health.
- I. Staff members shall only engage in electronic communication with students via email, texting, social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., when such communication is directly related to curricular matters or co-curricular/extracurricular events or activities with prior approval of the principal.
- J. Staff members are prohibited from electronically transmitting any personally identifiable image of a student(s), including video, photographs, streaming video, etc. via email, text message, or through the use of social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., unless such transmission has been made as part of a pre-

approved curricular matter or co-curricular/extracurricular event or activity such as a school-sponsored publication or production.

Since most information concerning a child in school, other than directory information described in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline and/or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, alleged child abuse, and any other record information.

Pursuant to the laws of the State, each staff member shall report to the proper legal authorities immediately, any sign of suspected child abuse or neglect.

I.C. 31-33-5

3214/4214 - STAFF GIFTS

The School Board discourages the presentation of gifts to professional staff members by students and their parents because it could embarrass students with limited means and gives the appearance of currying favor.

It is the policy of the Board that no staff member should expect or accept gifts for carrying out the terms of his/her assignment.

The Board does recognize, though, that gift-giving to staff members at Christmas fits the spirit of the season and gift-giving at the close of an academic year is a part of tradition. At these times, gifts other than money may be accepted; however, employees should not open gift(s) in class or comment on item(s) in front of students.

Upon the recommendation of the Superintendent, the Board shall consider, as appropriate, the presentation of token gifts to retiring members of the staff who have rendered service for a period of time.

Staff members shall not accept any form of compensation from vendors that might influence their recommendations on or raise a conflict of interest with respect to the eventual purchase of equipment, supplies, or services. Furthermore, staff members shall not accept any compensation from a vendor after a decision has been made to purchase equipment, supplies, or services from said vendor. In addition, staff members who recommend purchases shall not enter into a contractual arrangement with a vendor seeking to do business with the Corporation or a vendor with whom the Corporation is doing business, whereby an individual staff member receives compensation in any form for services rendered.

Such compensation includes, but is not limited to cash, checks, stocks, or any other form of securities, and gifts such as televisions, microwave ovens, computers, discount certificates, travel vouchers, tickets, passes, and other such things of value. In the event that a staff member receives such compensation, albeit unsolicited, from a vendor, the staff member shall notify the Superintendent, in writing, that he received such compensation and the compensation has been returned to the vendor.

A Corporation employee making a recommendation to the Board on a matter to be considered by the Board shall not accept any gift or gratuity from a person or entity having a substantial personal or pecuniary interest in the Board's decision on the matter.

I.C. 35-44.1-1-1, 35-44.1-1-2, 35-44.1-1-4, 35-44.1-1-5; 2 C.F.R. 200.318; 7 C.F.R. 3016.36(b)(3) and 3019.42

3215/4215 - USE OF TOBACCO BY STAFF

The Board recognizes that the use of tobacco presents a health hazard that can have serious consequences both for the user and the nonuser and is, therefore, of concern to the Board.

For purposes of this policy, "use of tobacco" shall mean all uses of tobacco, including a cigar, cigarette, pipe, snuff, or any other matter or substance that contains tobacco, as well as electronic, "vapor," or other substitute forms of cigarettes.

In order to protect students and staff who choose not to use tobacco from an environment noxious to them, and because the Board cannot, even by indirection, condone the use of tobacco, the Board prohibits the use of tobacco by professional staff members at all times within any facility owned or leased or contracted for by the Board.

The Board also prohibits the use of tobacco anywhere on the campus of any facility owned or leased or contracted for by the Board, including, but not limited to, practice fields, playgrounds, football fields, baseball fields, softball fields, pool areas, soccer fields, tennis courts, and all open areas and will remain in effect at all times. Furthermore, the Board prohibits the use of tobacco in all vehicles owned or operated by the Board, including, but not limited to, school buses, special purpose buses, vans, trucks, and cars.

I.C. 16-41-37; 20 U.S.C. 6081 et seq., 20 U.S.C. 7182

3217/4217 - POSSESSING FIREARMS/KNIVES ON SCHOOL PROPERTY

A firearm under this policy is any weapon that is capable of expelling, designed to expel, or may be readily converted to expel a projectile by means of an explosion and includes ammunition.

No school employee may possess a firearm in a school building or on school property while on duty as a school employee unless the firearm is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle or stored out of plain sight in the employee's locked vehicle, except as otherwise authorized by the school board.

A knife under this policy is any instrument that consists of a sharp edge or sharp pointed blade capable of inflicting cutting, stabbing, or tearing wounds; and is intended to be used as a weapon.

No school employee may possess a knife in a school building or on school property while on duty as a school employee except if the knife is provided to the person by the school corporation or possession of the knife is authorized by the school corporation; and the person uses the knife for a purpose authorized by the school corporation; or the knife is secured in a motor vehicle.

I.C. 35-47-2-1; I.C. 35-47-9-1; I.C. 35-47-5-2.5; I.C. 34-28-7-2; I.C. 34-28-8-9; I.C. 35-47-1-5

3220 - STAFF EVALUATION

The School Board shall adopt a plan for annual performance evaluations of every certificated employee employed by the School Corporation in each school year beginning after June 30, 2014. This plan may be amended as needed, subject to required discussion with the teachers' exclusive representative.

The plan approved by the Board shall include the following components:

- A. Performance evaluations for all certificated employees conducted at least annually;
- B. Rigorous measures of effectiveness, including observations and other performance indicators;
- C. An annual designation of each certificated employee in one (1) of the following rating categories:
 1. Highly effective

- 2. Effective
 - 3. Improvement necessary
 - 4. Ineffective
- D. An explanation of the evaluator's recommendations for improvement, and the time in which improvement is expected;
 - E. A provision that a teacher who negatively affects student achievement and growth cannot receive a rating of highly effective or effective;
 - F. Provide for a pre-evaluation planning session conducted by the Superintendent or equivalent authority for the Corporation with the principals in the Corporation;
 - G. Discussion of the evaluation between the evaluated employee and the evaluator.

The Corporation's annual performance evaluation plan shall be in writing and shall be explained to the Board in a public meeting before the evaluations are conducted. Prior to the plan being explained to the Board, the Superintendent shall discuss the plan with the teachers' exclusive representative. The plan is not subject to collective bargaining.

The Principal of each school in the Corporation shall report in the aggregate the results of staff performance evaluations for the school for the previous year to the Superintendent and the Board at a public Board meeting held before August 15 of each year on the schedule determined by the Board. Before presentation to the Board, the Superintendent shall discuss the report of completed evaluations with the teachers' exclusive representative.

The Corporation annually shall provide the Indiana Department of Education with the disaggregated results of staff performance evaluations for all schools in the Corporation before November 15 of each year.

I.C. 20-18-2-22; I.C. 20-28-11.5-0.5; I.C. 20-28-11.5-4; I.C. 20-28-11.5-9

4220 - EVALUATION OF SUPPORT STAFF

The School Board recognizes the importance of implementing a program of support staff evaluations for the purpose of promoting individual job performance and improving services to students.

The goals of the Board's evaluation plan for support staff are:

- A. To improve and reinforce the skills, attitudes, and abilities which enable a support staff member to be effective in achieving assigned job goals;
- B. To identify and remediate weaknesses which prevent a support staff member from achieving the goals of assigned duties.

The Superintendent shall prepare administrative guidelines for the conduct of support staff member evaluations.

3220.01 - TEACHER APPRECIATION GRANTS

The Whitley County Consolidated Schools Corporation will distribute its Teacher Appreciation Grant monies received from the Indiana Department of Education to teachers who meet the following criteria:

- A. Employed in the classroom or directly provided education in a virtual classroom setting;

- B. Received a Highly Effective or Effective rating on their most recently completed performance evaluation; and
- C. Employed on December 1st of the year the Corporation receives the Teacher Appreciation Grant monies.

Whitley County Consolidated Schools Corporation will distribute its Teacher Appreciation Grant monies as follows:

- A. To all teachers who received an Effective rating on their most recently completed performance evaluation: A stipend as determined by the Superintendent.
- B. To all teachers who receive a Highly Effective rating on their most recently completed performance evaluation: A stipend in the amount of 25% more than the stipend given to teachers who received an Effective rating.

Whitley County Consolidated Schools Corporation will distribute the stipends within 20 business days of the distribution date by the Indiana Department of Education of the Teacher Appreciation Grant monies to the School Corporation.

I.C. 20-43-10-3.5

3231/4231 - OUTSIDE ACTIVITIES OF STAFF

The School Board directs the Superintendent to promulgate the following guidelines so that staff members may avoid situations in which their personal interests, activities, and associations may conflict with the interests of the Corporation. If nonschool activities threaten a staff member's effectiveness within the school system, the Board reserves the right to evaluate the impact of such activity upon a staff member's responsibility to the students and to the Board.

- A. Staff members should not give school time to an outside activity without valid reason to be excused from assigned duties.
- B. Staff members shall not use school property or school time to solicit or accept customers for private enterprises without written administrative permission.
- C. Staff members shall not campaign on school property during duty hours on behalf of any political issue or candidate for local, State, or National office except on election day at election polls on school property.
- D. Professional staff members may not accept fees for tutoring when such tutoring is conducted during the normal work day
- E. Staff members may not accept fees for remedial tutoring of students currently enrolled in one (1) or more of their classes.
- F. Staff members should avoid conduct and associations outside the school which, if known, could have an adverse or harmful effect upon the school community.

Research and Publishing

Professional staff members are encouraged to contribute articles to professional publications and to engage in approved professional research.

- A. Publications and productions shall be subject to the following copyright provisions:

1. Rights to copyrights or patents of books, materials, devices, etc. developed by professional staff members on their own time will be relinquished by the Board upon request of the staff member provided that
 - a. The books, materials, devices, etc. were prepared without the use of Corporation data, facilities, and/or equipment;
 - b. The Corporation is granted the privilege of purchasing the materials or products free of any copyright or royalty charges;
 - c. The staff member does not become involved in any way in the selling of the product to the Corporation.

The final decision regarding whether materials were produced independently of any work assignment, and/or without using school equipment, facilities, data, or equipment rests with the Superintendent who shall submit such decisions to the Board.

Professional staff members who desire to publish or produce school-related materials on their own time should make such action known to the Superintendent prior to the time such work is started in order that proper procedures can be established to assure that Corporation interests and the interests of the staff member are protected.

2. All books, materials, devices, or products which result from the paid work time and/or prescribed duties of professional staff members shall remain the property of the Corporation. The Corporation shall retain all rights and privileges pertaining to the ownership thereof.

In the event that any of these products have commercial possibilities, the Superintendent is authorized to secure copyrights, patents, etc. which will ensure the ownership of the product by the Corporation.

The Superintendent is authorized to negotiate with appropriate agencies for the production and distribution of products with commercial appeal. Such negotiations shall ensure fair and appropriate compensation, including sharing of royalties, for the staff member(s) who developed the products.

I.C. 35-44-2-4(f)

3241 - PROFESSIONAL ASSOCIATIONS

The School Board encourages professional staff members to maintain active memberships in local, State, and National organizations which have as their purpose the improvement and expansion of the professional role of teachers and welfare of students.

Every professional staff member, however, shall be accorded freedom of choice, and shall be assured that decisions affecting their welfare shall be made without regard to membership in professional organizations.

3242 - PROFESSIONAL GROWTH REQUIREMENTS

The School Board believes that study is a prerequisite for professional growth of staff and, therefore, encourages the participation of professional staff members in in-service and other training programs. The Superintendent shall plan and implement a program of staff development for professional staff members.

The Board may reimburse staff members for the costs incurred in participation of such programs.

3243 - PROFESSIONAL MEETINGS

The School Board encourages opportunities for professional staff members to develop increased competence beyond that which they may attain through the performance of their assigned duties through attendance at professional meetings.

For purposes of this policy, a professional meeting shall be defined as:

- A. any meeting that is related to the activities, duties, or responsibilities of professional staff members as determined by the Superintendent;
- B. a meeting through which direct value can be derived for the person in attendance for later use in the performance of Corporation duties.

The Superintendent shall prepare administrative guidelines to implement this policy.

I.C. 20-28-3-4

3310 - FREEDOM OF SPEECH IN NON INSTRUCTIONAL SETTINGS

The School Board acknowledges the right of its professional staff members, as citizens in a democratic society, to speak out on issues of public concern. When those issues are related to the Corporation, however, the professional staff member's expression must be balanced against the interests of this Corporation.

The following guidelines are adopted by the Board to help clarify and, therefore, avoid situations in which the professional staff member's expression could conflict with the Corporation's interests. In situations in which the professional staff member is not engaged in the performance of professional duties he should:

- A. state clearly that his/her expression represents personal views and not necessarily those of the School Corporation;
- B. not discuss with others any individual with whom she would normally be in daily contact in the performance of duties, in order to avoid the disruption of cooperative staff relationships;
- C. refrain from expressions that would disrupt harmony among co-workers or interfere with the maintenance of discipline by school officials;
- D. not make abusive or personally defamatory comments about co-workers, administrators, or officials of the Corporation;
- E. refrain from making public expressions which she knows to be false or are made without regard for truth or accuracy;
- F. not make threats against co-workers, supervisors, or Corporation officials.

Violations of these guidelines may result in disciplinary action up to and including termination.

I.C. 20-28-10-14

3362/4362 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all School Corporation operations, employment opportunities, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct affects the Corporation environment.

The Board will vigorously enforce its prohibition against unlawful harassment (see definition above), which is based on race, color, national origin, sex (including transgender status, sexual orientation and/or gender identity), religion, disability, military status, ancestry, or genetic information that are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition above) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee.

The Board will investigate all allegations of unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and, in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

The Corporation will offer counseling services to any person found to have been subjected to unlawful harassment, and where appropriate, the person(s) who committed the unlawful harassment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or

seeking to do business with, the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

Other Violations of the Anti-Harassment Policy

The Corporation also will take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment (see definition on page 1) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve: teasing; threats; intimidation; stalking; cyberstalking; cyberbullying; physical violence; sexual violence; theft; sexual, religious, or racial harassment; public humiliation; or destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. Places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. Has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.

- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. Sexual violence, including physical and/or sexual assault;
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment;
- J. Inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- K. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education or creates a hostile or abusive employment or educational environment.

NOTE: Sexual conduct/relationships with students by a Corporation employee or any other adult member of the Corporation community is prohibited, and any teacher, administrator, coach, other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a

minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment also may include but is not limited to conduct directed at or pertaining to a person's genetic information.

Reports and Complaints of Harassing Conduct

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition on page 1) to an administrator, supervisor or other Corporation official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition on page 1) by another member of the Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false.

Individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and may have constituted unlawful harassment (see definition on page 1) based on "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

Anti-Harassment Compliance Officers

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

Dr. Patricia O'Connor
Superintendent
107 North Walnut Street
Columbia City, IN 46725
260-244-5771
oconnorpc@wccsonline.com

Todd Fleetwood
Director of Business and Operations
107 North Walnut Street
Columbia City, IN 46725
260-244-5771
fleetwoodta@wccsonline.com

The names, titles, and contact information for the Compliance Officers will be published annually in the student, parent, and staff handbooks; in the School Corporation Annual Report to the public; on the School Corporation's website; and on each individual school's website.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition on page 1), to assist students, other members of the Corporation community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within five (5) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or his/her designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the School Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the Board President.

All Corporation employees must report incidents of unlawful harassment (see definition on page 1) that are reported to them to the Compliance Officer within five business days of learning of the incident.

Investigation and Complaint Procedure

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that she has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of unlawful harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1), and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes he has been unlawfully harassed or retaliated against in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the Corporation community, or third parties who believe that they have been subjected to unlawful harassment (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that she is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one (1) of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one (1) of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition on page 1) with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one of the Compliance Officers or a designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One (1) of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320 and Policy 8330).

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one (1) of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes she has been subjected to offensive conduct/unlawful harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the complaint is reported must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions she deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/unlawful harassment/retaliation.

A principal will not conduct an investigation unless directed to do so by the Compliance Officer. Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one (1) of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used (i.e., it is more likely than not that unlawful discrimination retaliation occurred).

The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the complaint of harassment has

been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

A Complainant or respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

Privacy/Confidentiality

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

In accordance with the Board's records retention policy and student records policy, the Compliance Officer will maintain all records created as a part of an investigation of a complaint of unlawful harassment/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

Remedial Actions, Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1) or retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any.

All subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct. The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

Remediation

In cases where the complaint investigation results in a finding that the allegation of harassment is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such harassment. This may include but is not limited to providing a contact person to monitor the harassed student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling. Counseling shall be offered to all students who have been subjected to harassment.

Retaliation

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement. Any reports made to the local Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

Notice

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983; 42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended; 29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008

3362.01/4362.01 - THREATENING AND/OR INTIMIDATING BEHAVIOR TOWARD STAFF MEMBERS

The School Board believes that a staff member should be able to work in an environment free of threatening or intimidating speech or actions.

Threatening behavior consisting of any words or deeds that intimidate a staff member or cause anxiety concerning his/her physical well-being is strictly forbidden. Any student, parent, visitor, staff member, or agent of this Board who is found to have threatened a member of the staff will be subject to discipline and reported to the principal. The principal shall immediately make an oral report to the local law enforcement agency.

The Superintendent shall implement guidelines whereby students and employees understand this policy and appropriate procedures are established for prompt and effective action on any reported incidents.

I.C. 20-20-33-9-2 et seq., 34-30-2-85.1, 35-45-2-1

3410.01/4410.01 - COMPENSATION FOR PART-TIME STAFF

The School Board requires that part-time staff members be compensated in an amount equivalent to the portion of time worked, whether it be a fraction of a day or a fraction of a year. The Superintendent shall prepare administrative guidelines to ensure that end.

3410.04 - SUBSTITUTE COMPENSATION

In order to retain well-qualified substitutes for service in this Corporation, the School Board will offer competitive compensation at a rate set by the Board.

4413 – OVERTIME

It is the intention of the School Board to compensate support staff members for overtime work when such is previously approved and properly performed.

No overtime shall be worked without the prior approval of the staff member's supervisor and no overtime will be paid without the prior approval of the Director of Business and Operations.

Fair Labor Standards Act of 1938, 29 U.S.C. 701 et seq.

3419/4419 - GROUP HEALTH PLANS

The School Board shall have discretion to establish and maintain group health plans for the benefit of eligible employees. Group health plans, as the term is used in this policy, may include, but would not be limited to, major medical, prescription drug, dental and/or vision plans. These group health plans may provide certain health benefits to employees and eligible dependents as permitted by law.

The Board has elected to provide major medical coverage that provides minimum value coverage under the Affordable Care Act for some or all of its eligible employees. The terms and conditions of the health coverage are set forth in the appropriate plan documents.

The Patient Protection and Affordable Care Act, 42 U.S.C. 18001 et seq.

3419.01/4419.01 - PRIVACY PROTECTIONS OF SELF-FUNDED GROUP HEALTH PLANS

The School Board provides coverage to eligible employees under self-funded group health plans. The Board has established the following self-funded group health plans:

- A. Medical Plan
- B. Prescription Drug Plan
- C. Dental Plan

- D. Vision Plan
- E. Long-term Care Plan (not long-term disability)
- F. Health Flexible Spending Accounts (FSA)

The Board acknowledges that these group health plans are required to comply with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. Certain health information maintained by these group health plans is afforded significant protection by this Federal law.

The Board hereby appoints the Director of Business and Operations to serve as the Privacy Official of the group health plans. The Board delegates authority to the Privacy Official to develop and implement policies and procedures for the group health plan(s) relating to the use and disclosure of Protected Health Information. In the event that the HIPAA Privacy Rule is subsequently amended, the Privacy Official is authorized to make necessary amendments to the internal policies and procedures.

The Board also acknowledges that the HIPAA Security Rule requires the group health plans to implement various security measures with respect to electronic Protected Health Information. The Board hereby appoints the Director of Business and Operations to serve as the Security Official of the group health plans. The Board delegates authority to the Security Official to develop and implement internal policies and procedures for the group health plan(s) relating to the security of electronic Protected Health Information, if applicable. In the event that the HIPAA Security Rule is subsequently amended, the Security Official is authorized to make necessary amendments to the internal policies and procedures.

The Board further delegates authority to the Privacy Official and/or the Security Official to undertake such other actions as provided by the Administrative Guidelines in effect from time to time. The Privacy Official and/or Security Official shall report his/her progress to the Board upon request. The Board reserves the right to revoke any or all delegations set forth in this policy at any time and for any reason.

Since the Department of Health and Human Services (HHS) has the authority to impose civil monetary penalties (CMP) for violations of the HIPAA Privacy Rule and the HIPAA Security rule, the Board agrees to indemnify and hold harmless the Privacy Official and Security Official for any CMP imposed upon the Privacy Official or Security Official in connection with the performance of his/her duties for the group health plans. Notwithstanding the foregoing language, the Board shall not indemnify the Privacy Official or Security Official in the event the CMP was imposed as the result of intention misconduct or gross negligence by the Privacy Official or Security Official. The Board reserves the right to revoke any or all delegations set forth in this policy at any time for any reason.

29 C.F.R. Part 1635; 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
42 U.S.C. 1320d-5(a)(1); 45 U.S.C. 160.102(a), 164.308(a)(2), 164.530(a), 164.530(i)

3420 - BENEFITS FOR NON REPRESENTED STAFF

Salaries and fringe benefits for all professional staff members not covered by the terms of a currently-valid negotiated agreement shall be determined by the School Board upon the recommendation of the Superintendent.

4420 - BENEFITS FOR SUPPORT STAFF

Health Insurance Program

The School Board shall provide payroll deduction services for group health and life insurance programs in accordance with approved staff handbook. Such policies shall be approved by the Board and the Superintendent.

Benefits

The School Board realizes the concern of its support staff for the availability of those protective and personally advantageous benefits beyond an individual's basic salary. It is the Board's desire to make available or provide, within the limits of law and sound fiscal management, those which are beneficial to the support staff members and the Corporation.

Vacation

The School Board believes that it is beneficial to the Corporation that support staff members employed to work twelve (12) months per year be given periodic relief from the responsibilities of their job without loss of compensation.

The Board reserves the right to specify the conditions under which vacation time may be taken.

Vacation time will be granted in accordance with the support staff handbook.

3421 - BENEFITS FOR ADMINISTRATORS

It is the School Board's desire to make available or provide, within the limits of law and sound fiscal management, certain benefits beyond an administrator's basic salary. Such benefits shall be recommended by the Superintendent, approved by the Board, and incorporated into the language of the administrator's contract.

Such benefits may include but not be limited to health insurance, vacation, outside work activities, retirement, and the like.

3430/4430 - LEAVES OF ABSENCE

The School Board delegates to the Superintendent the responsibility to determine whether to grant a leave of absence of up to one (1) year's time to classified staff. Any request for a leave of absence of one (1) years or more shall be submitted to the Board.

All professional staff members not otherwise covered by the terms of a currently-valid negotiated agreement of this Corporation shall be entitled to the same leave benefits provided in the master agreement with Whitley County Consolidated Schools. All requests for leaves of absence by professional staff members shall be presented to the School Board for approval.

The Board shall grant a leave of absence in addition to a regular vacation period without loss of pay or time to any staff member who is a member of the Indiana National Guard, a reserve component of the U.S. forces, or a retired member of the naval, air, or ground forces of the United States and is on training duty for the State by order of the Governor or under the order of the reserve-component authority for consecutive or nonconsecutive periods not to exceed a total of fifteen (15) days in any calendar year. The staff member's vacation benefits, if any, will not be affected by this type of leave.

A staff member who has been employed for at least twelve (12) months and is the spouse, parent, grandparent, or sibling of a person who is ordered to active duty is entitled to an unpaid leave of absence during one (1) or more of the following periods:

- A. during the thirty (30) days before active duty orders are in effect;
- B. during a period in which the person ordered to active duty is on leave while active duty orders are in effect; or
- C. during the thirty (30) days after the active duty orders are terminated.

The staff member must have worked at least 1,500 hours during the twelve (12) month period immediately preceding the day the leave begins.

The leave of absence allowed each year may not exceed a total of ten (10) working days.

The staff member may request to substitute any of his/her earned vacation, personal leave, or other paid leave except for paid medical or sick leave available for leave for any part of the ten (10) day period.

After a staff member takes a leave of absence, the staff member shall be restored to:

- A. during the thirty (30) days before active duty orders are in effect;
- B. during a period in which the person ordered to active duty is on leave while active duty orders are in effect; or
- C. during the thirty (30) days after the active duty orders are terminated.

The staff member must have worked at least 1,500 hours during the twelve (12) month period immediately preceding the day the leave begins.

The leave of absence allowed each year may not exceed a total of ten (10) working days.

The staff member may request to substitute any of his/her earned vacation, personal leave, or other paid leave except for paid medical or sick leave available for leave for any part of the ten (10) day period.

After a staff member takes a leave of absence, the staff member shall be restored to:

- A. the position the staff member held before the leave, or
- B. a position equivalent to the position that the staff member held before the leave with equivalent benefits and terms of the negotiated agreement.

The Board shall permit the staff member to continue his/her health care benefits during the leave at the staff member's expense.

Any staff member granted a leave of absence shall be considered to have terminated all work with the School Corporation until the completion of the leave. Exceptions may be made by the Superintendent in cases where the best interest of the Corporation might be served.

I.C. 10-16-7-1 et seq., 10-17-4, 20-20-4-1, 22-2-13

38 U.S.C. 4301 et seq. (Uniformed Services Employment and Reemployment Rights Act)

3430.01 - FAMILY & MEDICAL LEAVES OF ABSENCE ("FMLA")

In accordance with Federal law, the Board of Education shall provide up to twelve (12) weeks of unpaid FMLA leave in any twelve (12) month period to eligible professional staff members for the following reasons:

- A. the birth of a child and/or the care of a newborn child within one (1) year of the child's birth;
- B. the placement of a child with the staff member by way of adoption or foster care and/or to care for the child within one (1) year of the child's arrival;
- C. the staff member is needed to care for a spouse, son, daughter, or parent if such individual has a serious health condition; or

- D. the staff member's own serious health condition prevents him/her from performing the functions of his/her position.

Employee Entitlement to Service Member FMLA

Leave Entitlement

Service member FMLA provides eligible employees unpaid leave for one, or for a combination, of the following reasons:

- A. A "qualifying exigency" arising out of a covered family member's (spouse, son, daughter, or parent) covered active duty or call to covered active duty in the United States Armed Forces including the National Guard and Reserves. Qualifying exigencies, as defined by Federal regulations, include: 1) short-notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation (maximum fifteen (15) calendar days); 7) post-deployment activities; and 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.
- B. To care for a covered family member, including next of kin as provided in the statute, who has incurred an injury or illness or aggravation of a pre-existing illness or injury while in the line of duty while on covered active duty in the United States Armed Forces, including the National Guard and Reserves, provided that such injury or illness may render the family member medically unfit to perform duties of the member's office, grade, rank, or rating. Covered active duty means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of the treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of fifty percent (50%) or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers.

General Provisions

Professional staff members are "eligible" if they have worked for the Board for at least twelve (12) months, and for at least 1,250 hours over the twelve (12) months prior to the leave request. All full-time professional staff members are presumed to meet the 1,250 hour requirement if they were employed by the Corporation in this capacity for the preceding twelve (12) months.

Months and hours that reservists or National Guard members would have worked if they had not been called up for military service count towards the staff member's eligibility for FMLA Leave/Service Member Family Leave. Employment service time may be aggregated when the break in employment service is less than seven (7) years, is for fulfillment of military obligations, or if the employee is subject to recall under a written agreement. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

Twelve (12) month period is defined as the twelve (12) month period measured forward from the date the staff member's first FMLA leave begins (i.e. the "leave year" is specific to each individual staff member).

For Service Member Family Leave, the use of the twenty-six (26) weeks will be measured forward from the first date on which the employee takes leave.

Serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves:

A. Inpatient care, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

B. Continuing treatment by a healthcare provider, including:

1. A period of incapacity of more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves either in-person treatment two (2) or more times by a healthcare provider within thirty (30) days of the first date of incapacity, absent extenuating circumstances beyond the employee's control, or in-person treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of a healthcare provider;

The first visit to the healthcare provider must occur within seven (7) days of the first date of incapacity.

2. Any incapacity due to pregnancy or for prenatal care;
3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
5. Any period of absence to receive multiple treatments by a healthcare 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 (3) consecutive days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

C. Conditions for which cosmetic treatment are administered are not "serious health conditions" unless inpatient hospital care is required or complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomachs, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, periodontal disease, etc., are conditions that do not meet this definition and do not qualify for FMLA leave.

Intermittent and Reduced Schedule Leave

The Superintendent may allow a staff member to take FMLA leave intermittently or on a reduced schedule for the birth, adoption, or foster care placement of a child (see A-1 or B-1 on page one). A staff member may take FMLA leave on an intermittent or reduced-leave schedule when medically necessary for his/her own serious health condition or to care for a spouse, parents, or dependent child with a serious health condition (see C-1 and D-1 on page one). Service Member Family Leave may also be taken on an intermittent or reduced-leave schedule when medically necessary.

The taking of such leave results in the total reduction of the twelve (12) or twenty-six (26) weeks only by the amount of leave actually taken.

If the intermittent or reduced-leave schedule is foreseeable based on planned medical treatment or the staff member is taking Service Member Family Leave, the Superintendent may require the staff member to transfer temporarily to an available alternative position which better accommodates recurring periods of leave. The alternative position shall have equivalent pay and benefits but not necessarily equivalent duties.

If the intermittent or reduced-leave schedule is foreseeable based on planned medical treatment or the staff member is taking Service Member Family Leave, the Superintendent may require the staff member to transfer temporarily to

an available alternative position which better accommodates recurring periods of leave. The alternative position shall have equivalent pay and benefits but not necessarily equivalent duties.

- A. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- B. Transfer temporarily to an available alternative position offered by the Superintendent for which the instructional staff member is qualified, and that has equivalent pay and benefits and that better accommodates the recurring periods of leave than the staff member's regular position.

Staff Member Notice Requirement

Whenever the leave is foreseeable, the staff member shall provide the Superintendent with thirty (30) days notice. If there is insufficient time to provide such notice because of unforeseeable events, the staff member shall provide such notice as soon as possible and practical, generally not later than the next business day after the employee realizes the need for leave. Failure to follow the leave notice requirements may result in delay of obtaining the leave. Employees will still be required to comply with the absence reporting procedures at their buildings.

When planning medical treatment or taking leave pursuant to Service Member Family Leave, the staff member must consult with the Superintendent and make a reasonable effort to schedule the leave so as not to unduly disrupt the regular operation of the Corporation, subject to the approval of the healthcare provider.

Substitution of Paid Leave

The staff member may request to substitute (i.e. run concurrently) any of his/her earned or accrued paid leave (e.g. sick leave, personal leave, vacation leave) (per the applicable collective bargaining agreement) for unpaid FMLA leave (see A-1, B-1, and A-2).

The staff member may request to substitute any of his/her earned or accrued paid vacation, personal leave or sick leave (per the applicable collective bargaining agreement) for unpaid FMLA leave provided for either reason (C-1) or (D-1) on page one and B-2 on page two (2).

The staff member may request to substitute any of his/her earned or accrued paid vacation, personal leave, family leave or sick leave (per the applicable collective bargaining agreement) for unpaid Service Member Family Leave.

If the staff member has not earned or accrued adequate paid leave to encompass the entire twelve (12) week period of FMLA leave or twenty-six (26) week period of Service Member Family Leave, the additional weeks of leave to obtain the twelve (12) weeks of FMLA leave or twenty-six (26) weeks of Service Member Family Leave, the staff member is entitled to shall be unpaid. Whenever a staff member uses paid leave in substitution for unpaid FMLA leave/Service Member Family Leave, such leave counts toward the twelve (12) week/twenty-six (26) week maximum leave allowance provided by this policy.

Corporation Notice Requirement

The Superintendent will notify the staff member when the Corporation intends to designate leave as FMLA-qualifying. Such notice may be given orally or in writing and should be given within five (5) business days of the request. When verbal notice is given, it will be followed by written notice within five (5) business days. In the case of intermittent or reduced schedule leave, only one (1) such notice is required unless the circumstances regarding the leave have changed. If the Superintendent does not have sufficient information about the reason for the staff member's use of paid leave, the Superintendent may inquire further to ascertain whether the paid leave is FMLA-qualifying. Once the Superintendent learns that a paid leave is for an FMLA leave-qualifying reason, the Superintendent will notify the staff member within five (5) business days that the paid leave will count toward the staff member's twelve (12) week FMLA-leave entitlement. The notification will indicate whether the employee is required to provide a fitness-for-duty certification to return to work.

Limits

In cases in which the Board employs both spouses, the total amount of FMLA leave is twelve (12) weeks for the couple, except when the leave is due to the serious health condition of either spouse or a child. Additionally, the

aggregate number of work weeks of leave to which both the husband and wife may be entitled pursuant to this policy is limited to twenty-six (26) work weeks during the single twelve (12) month period provided for in the Service Member Family Leave provision if the leave is taken pursuant to Service Member Family Leave or a combination of general FMLA leave and Service Member Family Leave.

Certification

When FMLA leave is taken for the staff member's own serious health condition or to care for a spouse, parents, or dependent child with a serious health condition (see C-1 and D-1 on page one), or Service Member Family Leave is taken, the staff member must provide medical certification from the healthcare provider of the eligible staff member, his/her immediate family member, or the next of kin of the individual. For service member leave, any certification permitted under 29 C.F.R. 825.310 shall be allowed.

The staff member may either:

- A. submit the medical certification to the Superintendent; or
- B. direct the health care provider to transfer the medical certification directly to the Superintendent, which will generally require the staff member to furnish the health care provider with a HIPAA-compliant authorization.

Staff members are not eligible for leave pursuant to this policy if they work elsewhere during leave pursuant to this policy.

In the event the staff member fails to provide medical certification, any leave taken by the employee is not FMLA leave/Service Member Family Leave.

When the need for FMLA leave is foreseeable and at least thirty (30) days' notice has been provided, the staff member must provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the Superintendent within fifteen (15) calendar days after the staff member requests FMLA leave unless it is not practicable under the circumstances to do so despite the staff member's diligent and good faith efforts.

Any dispute over eligibility for FMLA leave shall be discussed between the employee and Superintendent. The Corporation shall be responsible for maintaining a record of those communications.

The Board reserves the right to obtain, at its expense, the opinion of a second healthcare provider and, in the event of conflict, the opinion of a third healthcare provider whose decision shall be binding and final. The staff member may either:

- A. submit the opinion of the second health care provider, and the opinion of the third health care provider if applicable, to the Superintendent; or
- B. direct the second or third health care provider to transfer his/her opinion directly to the Superintendent, which will generally require the staff member to furnish the health care provider with a HIPAA-compliant authorization.

In the event that the staff member fails to provide the medical opinion of the second or third health care provider, if applicable, any leave taken by the staff member is not FMLA leave.

A staff member who takes leave for reason (D-1) above, prior to returning to work, must provide the Superintendent with a statement from his/her healthcare provider that s/he is able to resume work.

A staff member seeking to take leave pursuant to reason (A-2 or B-2) above must submit, in a timely manner to the Superintendent, an appropriate certification as described by Federal regulations.

Return from Leave

Upon return from any FMLA leave, the Board will restore the staff member to his/her former position or to a position with equivalent employment benefits, pay and conditions of employment. During FMLA leave, the Board shall maintain the staff member's current coverage under the Board's group health insurance program on the same conditions as coverage would have been provided if the staff member had been continuously working during the leave period. If the staff member was paying all or part of the premium payments prior to going on FMLA leave, the staff member must continue to pay his/her share during the leave.

Any professional staff leave or return from leave during the last five (5) weeks of an academic term shall be reviewed individually by the Superintendent to minimize disruption to the students' program.

The staff member shall not accrue any sick leave, vacation, or other benefits during a period of unpaid FMLA leave.

The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the staff member's leave.

If the staff member fails to return to work at the end of the leave for reasons other than the continuation, recurrence, or onset of a serious health condition that entitles the staff member to leave pursuant to reasons (C-1) or (D-1) above or Service Member Family Leave, or for circumstances beyond the control of the staff member, the staff member shall reimburse the Board for the health insurance premiums paid by the Board during the unpaid FMLA leave period.

A staff member who fraudulently obtains FMLA leave is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Superintendent shall prepare any guidelines that are appropriate for this policy and ensure that the policy is posted properly.

In any areas where discretion is allowed in the implementation of this policy or its guidelines for implementation, such discretion shall be exercised in a non-discriminatory manner. Similarly situated persons shall be treated similarly.

The Superintendent shall provide a copy of the policy to all staff members, and retain a record of how and when the policy was distributed. A notice of Rights and Obligations shall also be provided each time an employee requests FMLA leave or the Corporation has sufficient information to believe that the employee may qualify for FMLA leave.

The approval, denial and administration of leave under this policy will be governed by the Family Medical Leave Act of 1993, as amended, and its published regulations, as applied and interpreted by the Superintendent.

29 U.S.C. 2601 et seq.; 29 C.F.R. Part 825; P.L. 110-181, Sec. 585 – National Defense Authorization Act (January 28, 2008); P.L. 111-84, Sec. 565 - National Defense Authorization Act (October 28, 2009)

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3437 - MILITARY SERVICE

The School Board recognizes that military service by staff members is a service benefiting the entire school community and the Board is committed to supporting this service by providing military leave to eligible professional staff members. The Board reserves the right to establish conditions for leaves of absence for military service and reemployment in compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) as amended and Indiana law.

As used in this policy, "military service" means the performance of duty on a voluntary or involuntary basis in a uniformed service of the United States, including:

- A. Federal active duty including Reserve and Guard members who have been called up;
- B. Federal active duty for training;
- C. Initial federal active duty for training;
- D. Inactive duty drills and annual training;
- E. State active duty for the Indiana National Guard;
- F. Absence from work for an examination to determine a person's fitness for federal or State duty;
and
- G. Funeral honors duty.

A staff member on leave for military service shall receive compensation in accordance with applicable law during the period of leave and shall continue to accrue seniority subject to any applicable collectively bargained agreement during the period of leave for military service. Staff members on leave for military service are entitled to continued health insurance coverage as if they were not on leave during absences for drills and absences for annual training. During leave for drills and annual training of not more than fifteen (15) consecutive or non-consecutive days per calendar year the staff member shall be entitled to continue to receive their pay from the School Corporation and retain their military pay.

For other absences for military service, a staff member may elect to continue health insurance coverage for the staff member and dependents under the following conditions. For periods of up to thirty (30) days of military training or service, the staff member shall be required to pay only the normal staff member share of the premium for this continued coverage. For longer periods of military service, the staff member shall have the option to continue health insurance coverage by paying 102 percent of the full employer and employee premium. If the staff member elects to take this coverage, the right to that coverage ends on the earlier of the day after the deadline for the staff member to apply for reemployment or twenty-four (24) months after the absence for military leave began. A professional staff member on leave for military service is entitled to all additional rights provided to professional staff members for non-military leaves of absence.

A staff member's right to re-employment under USERRA is subject to a cumulative five (5) year total for all federal active duty except where the staff member's military obligation is involuntarily extended. Annual training and drills for reserve component and National Guard members are not included in computing the service for purposes of the five (5) year cap.

Where a staff member has options as to when to take military leave, the staff member shall make every effort to schedule the leave to minimize the absence from their duties for the School Corporation. Staff members shall include a copy of any applicable military orders in their application for leave for military service. The staff member shall submit notice of the need for this leave to the Superintendent or a designee as soon as the staff member learns of the need for the leave unless giving advance notice is impossible, unreasonable, or precluded by military necessity as determined by the Department of Defense.

Credit for periods of leave for military service by staff members for purposes of the Indiana State Teachers' Retirement Fund shall be governed by the statutes applicable to that retirement fund and the rules adopted by the Fund. See Ind. Code 5-10.4-4-8(b).

I.C. 10-16-7; I.C. 10-17-4; USERRA 38 USC 4301 et seq.

3440 - JOB-RELATED EXPENSES

The School Board may provide for the payment of the actual and necessary expenses, including traveling expenses, of any staff member of the Corporation incurred in the course of performing services for the Corporation, whether within or outside the Corporation, under the direction of the Board and in accordance with the Superintendent's administrative guidelines.

The validity of payments for job-related expenses shall be determined by the Superintendent and/or the Director of Business and Operations.

The Board shall pay the expenses of professional staff members when they attend professional meetings approved in accordance with the policy of this Board and in accordance with the administrative guidelines of the Superintendent.

I.C. 20-26-5-4

3531 - WORK STOPPAGE

The School Board is obligated and committed to provide certain basic services to students participating in Corporation programs. Therefore, if the schools are open and the students are in attendance, those basic services will be provided.

Recognizing the fact that the Corporation, for various reasons, could have a work stoppage, slowdown, or "work to contract", the Board remains committed to providing services to the schools and will fulfill its obligations.

Staff members are required at all times to perform their normal duties as assigned by the Superintendent. Staff members who fail to perform their duties when so required will be subject to loss of pay and disciplinary measures which may include termination in accordance with the policies of this Board, the laws of the State, and may be subject to the loss of benefits as well.

I.C. 20-29-9-1 et seq.