

Long Beach City School District**NUMBER****PERSONNEL**

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Human Resources

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of this District to provide, through a positive and effective program, equal opportunities for employment, retention and advancement of all people regardless of race, color, weight, height, religion, national origin, ethnic group, political affiliation, sexual identity, gender, sexual orientation, age, marital status, military status, veteran status, disability, predisposing genetic characteristics, or use of a recognized guide dog, hearing dog or service dog.

Sexual orientation is defined as heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

The term "military status" means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

Provisions will be provided for the publication and dissemination, internally and externally of this policy to ensure its availability to interested citizens and groups.

Additionally, administration shall establish grievance procedures that provide for the prompt and equitable resolution of complaints alleging discrimination. Those intending to file a grievance due to alleged discrimination must follow the grievance procedure as established by the District.

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination. Follow-up inquiries shall be made to ensure that discrimination has not resumed and that all those involved in the investigation of the discrimination complaint have not suffered retaliation.

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621

Americans With Disabilities Act, 42 United States Code (USC) Section 12101 et seq.

Prohibits discrimination on the basis of disability.

Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.

Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.

Prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.

Prohibits discrimination on the basis of race, color, religion, sex or national origin.

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.

Prohibits discrimination on the basis of sex.

(Continued)

Human Resources

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY (Cont'd.)

Civil Rights Law Section 40-c

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

Executive Law Section 290 et seq.

Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, predisposing genetic characteristics, marital status, or use of a recognized guide dog, hearing dog or service dog.

Military Law Sections 242 and 243

First Reading: February 11, 2014

Second Reading: March 11, 2014

Adopted: May 13, 2014

Human Resources

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

The Board of Education affirms its commitment to non-discrimination and recognizes its responsibility to provide for all District employees an environment that is free of sexual harassment, including sexual violence. Sexual harassment including sexual violence is a violation of law and stands in direct opposition to District policy. Therefore, the Board prohibits and condemns all forms of sexual harassment by employees, school volunteers, students, and non-employees such as contractors and vendors which occur on school grounds and at all school-sponsored events, programs and activities including those that take place at locations off school premises and in another state. Since sexual violence is a form of sexual harassment, the term "sexual harassment" as used in this policy will implicitly include sexual violence even if it not explicitly stated.

Generally, 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 of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; and
- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual violence is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence as defined by New York Penal Law includes but is not limited to acts such as:

- a) Rape;
- b) Sexual assault;
- c) Sexual battery;
- d) Sexual coercion.

The Board acknowledges that in determining whether sexual harassment has occurred the totality of the circumstances should be evaluated. The Board recognizes that sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from co-workers as well as supervisors, and from a third party such as a school visitor, volunteer, or vendor, or any other individual associated with the School District. The District will designate, at a minimum, two (2) Compliance Officers, one (1) of each gender.

(Continued)

Human Resources

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any employee who believes he/she has been a victim of sexual harassment in the work environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report such alleged harassment to the District's designated Compliance Officers through informal and/or formal complaint procedures as developed by the District. Such complaints are recommended to be in writing, although verbal complaints of alleged sexual harassment will also be promptly, thoroughly and equitably investigated in accordance with the terms of this policy. In the event that the Compliance Officer is the alleged offender, the employee should report his/her complaint to the next level of supervisory authority.

Upon receipt of an informal/formal complaint (even an anonymous complaint), the District will conduct a thorough, prompt and equitable investigation of the charges. However, even in the absence of a complaint, if the District has knowledge of or reasonably should know of or suspect any occurrence of sexual harassment, the District will investigate such conduct promptly, equitably, and thoroughly. All procedures developed by the District will provide for the prompt and equitable resolution of the sexual harassment.

To the extent possible, within legal constraints, all complaints will be treated as confidentially and privately as possible. However, disclosure may be necessary to complete a thorough investigation of the charges, and any disclosure will be provided on a "need to know" basis. The Superintendent will inform the Board of Education of investigations involving findings of harassment.

Based upon the results of the investigation, if the District determines that an employee has violated the terms of this policy and/or accompanying regulations, immediate corrective action will be taken, as warranted, up to and including termination of the offender's employment in accordance with legal guidelines, District policy and regulation, the District's Code of Conduct, and the applicable collective bargaining agreement(s). Third parties (such as school volunteers, vendors, etc.) who are found to have violated this policy and/or accompanying regulations will be subject to appropriate sanctions as warranted and in compliance with law.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of sexual harassment. Follow-up inquiries shall be made to ensure that sexual harassment has not resumed and that all those involved in the investigation of the sexual harassment complaint have not suffered retaliation.

Finding That Harassment Did Not Occur

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Compliance Officer will so notify the complainant, the alleged offender and the Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to District policy or regulation and/or pursuing other legal avenues of recourse.

(Continued)

Human Resources

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

However, even if a determination is made that harassment did not occur, the Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering harassment in the workplace.

In all cases, the Superintendent will inform the Board of Education of the results of each investigation involving a finding that sexual harassment did not occur.

Knowingly Makes False Accusations

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action.

Privacy Rights

As part of the investigation, the District has the right to search all school property and equipment including District computers. Although rooms, desks, cabinets, lockers, computers, etc. are provided by the District for the use of students and staff, the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

Development and Dissemination of Administrative Regulations

Regulations have been developed for reporting, investigating and remedying allegations of sexual harassment. An appeal procedure has also be provided to address any unresolved complaints and/or unsatisfactory prior determinations by the applicable Compliance Officer(s).

Such regulations were developed in accordance with federal and state law as well as any applicable collective bargaining agreement(s).

The Superintendent/designee(s) will affirmatively discuss the topic of sexual harassment with all employees, express the District's condemnation of such conduct, and explain the sanctions for harassment. Training programs are in place for employees to help ensure awareness of the issues pertaining to sexual harassment in the workplace, and to disseminate preventative measures to help reduce such incidents of prohibited conduct. Furthermore, special training will be provided for designated supervisors and managerial employees, as may be necessary, for training in the investigation of sexual harassment complaints.

(Continued)

Human Resources

SUBJECT: SEXUAL HARASSMENT OF DISTRICT PERSONNEL

A copy of this policy and its accompanying regulations will be available upon request and may be posted at various locations in each school building. The District's policy and regulations on sexual harassment will be published in appropriate school publications such as teacher/employee handbooks and/or school calendars.

[Ref to R9100/6122 Complaints and Grievances by Employees]
Civil Rights Act of 1991, 42 United States Code (USC) Section 1981(a)
29 Code of Federal Regulations (CFR) Section 1604.11(a)
Civil Service Law Section 75-B
Education Law Section 2801(1)
Executive Law Sections 296 and 297
Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.
Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.
34 Code of Federal Regulations (CFR) Section 100 et seq.

Original Policy 9010.2 Adopted: February 11, 1992

First Reading of Revised Policy: September 13, 2011
Second Reading of Revised Policy: October 11, 2011
Adopted: November 8, 2011

Human Resources

SUBJECT: COMPLAINTS AND GRIEVANCES BY EMPLOYEES

In accordance with the provisions of General Municipal Law and the collective bargaining agreements, all District personnel shall have the opportunity to present their complaints or grievances free from interference, coercion, restraint, discrimination or reprisal. The District shall provide at least two (2) procedural stages and an appellate stage for the settlement of any grievance.

Complaints or grievances not covered under employee contracts shall be handled and resolved, whenever possible, as close to their origin as possible. The Superintendent is responsible for implementing regulations for the redress of complaints or grievances through proper administrative channels.

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination. Follow-up inquiries shall be made to ensure that discrimination has not resumed and that all those involved in the investigation of the discrimination complaint have not suffered retaliation.

Title IX and Section 504 Compliance Officers

Additionally, the Board shall ensure compliance with Title IX of the Educational Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. The Superintendent shall designate District employees as the Title IX and Section 504 compliance officers, and regulations and procedures shall be implemented to resolve complaints of discrimination based on sex or disability.

Prior to the beginning of each school year, the District shall issue an appropriate public announcement which advises students, parents/guardians, employees, and the general public of District's established grievance procedures for resolving complaints of discrimination based on sex or disability. Included in such announcement will be the name, address, and telephone number of the Title IX and Section 504 compliance officers.

Title IX and Section 504 compliance officers shall also be responsible for handling complaints and grievances regarding discrimination based on race, color, creed, religion, national origin, political affiliation, sexual orientation, age, veteran or marital status, disability, predisposing genetic characteristics, or use of a recognized guide dog or service dog.

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621
Americans with Disabilities Act, 42 United States Code (USC) Section 12101 et. seq.
Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.
Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.
Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.

Human Resources

SUBJECT: COMPLAINTS AND GRIEVANCES BY EMPLOYEES - continued

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.
Civil Rights Law Section 40-c
Executive Law Section 290 et seq.
Military Law Sections 242 and 243

First Reading: August 10, 2010
Second Reading: August 24, 2010
Adopted: September 14, 2010

Human Resources

SUBJECT: REASONABLE ACCOMMODATION

Long Beach Public Schools does not discriminate against personnel with disabilities. In compliance with the Americans with Disabilities Act of 1990, Long Beach Public Schools provides reasonable accommodations for staff members provided that the request is supported by appropriate documentation.

First Reading: 10/11/2005

Second Reading: 11/8/2005

Adoption: 12/13/2005

Human Resources

SUBJECT: PROFESSIONAL SERVICES PROVIDERS

Determination by Employer

The District has the primary responsibility for determining whether an individual is rendering services as an employee or as an independent contractor. When making such a determination the District must consider the factors enumerated in Commissioner's Regulations Sections 315.2 and 315.3. An individual serving the District as an independent contractor or consultant is not an employee and should not be reported to the New York State and Local Retirement System (NYSLRS).

Charging for Professional Services

A lawyer shall not simultaneously be an independent contractor and an employee of the School District for the purpose of providing legal services to the District.

A lawyer who is not an employee of the School District shall not seek to be or be considered, treated or otherwise reported by the District as an employee thereof for purposes of compensation, remuneration, health insurance, pension and all employment-related benefits and emoluments associated therewith [Education Law Section 2051(2)].

Enforcement

Any person who shall knowingly:

- a) Violate the provisions of Education Law Section 2051(2);
- b) Make a false statement of material fact; or
- c) Falsify or permit to be falsified any record or records of the retirement system in an attempt to defraud the retirement system as a result of such act for the purpose of obtaining a credit towards pension benefits, or a benefit or payment in excess of \$1000 from such retirement system for a professional services provider to which such professional services provider would not be entitled, shall be guilty of a Class E felony.

Human Resources

SUBJECT: PROFESSIONAL SERVICES PROVIDERS (Cont'd.)

Reports Regarding Lawyers

The District shall, on or before the 45th day after the commencement of its fiscal year, file with the State Education Department, the State Comptroller and the Attorney General a report specifying those requirements enumerated in Education Law Section 2053.

Protection against Fraud

Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud the system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable under the laws of New York State.

Any violation of applicable law that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of \$1000 more than he/she would have been entitled to shall be a class E felony. Any violation of applicable law that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of \$3000 more than he/she would have been entitled to shall be a class D felony.

Education Law Sections 525, 2050-2054

Retirement and Social Security Law Sections 111 and 411

8 New York Code of Rules and Regulations (NYCRR) Sections 315.2 and 315.3

NOTE: Refer also to Policy #6560 -- Determination of Employment Status: Employee or Independent Contractor

First Reading:	June 9, 2009
Second Reading:	June 23, 2009
Approval:	July 1, 2009

Human Resources

SUBJECT: EMPLOYEE MEDICAL EXAMINATIONS

Pre-employment Medical Examinations

In accordance with the Americans with Disabilities Act, as amended, the School District shall not require applicants for positions to undergo a medical examination prior to an offer of employment. Further, the District will shall not make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

However, the District may make pre-employment inquiries into the ability of an applicant to perform job-related functions.

Employment Examinations

All bus drivers and substitute bus drivers and each vendor/contract bus company shall ensure that its bus drivers and substitute bus drivers shall have yearly physical examinations. Each bus driver initially employed by the School District or vendor/contract bus company shall have a physical examination within the four (4) weeks prior to the beginning of service. In no case shall the interval between physical examinations exceed a thirteen-month period. All food service employees shall have a physical examination prior to serving in the position and have yearly physical examinations thereafter.

The Board reserves the right to request a medical examination at any time during employment, at School District expense, in order to determine whether any employee can perform the essential functions of the position with or without reasonable accommodation.

Annual or more frequent examinations of any employee may be required, when, in the judgment of the school physician/nurse practitioner and the Superintendent, such procedure is deemed necessary.

The final acceptance or rejection of a medical report with reference to the health of an employee lies within the discretion of the Board. The decision of the physician designated by the Board as the determining physician shall take precedence over all other medical advice.

All medical and health related information will be kept in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Examinations and Inquiries

Acceptable

The District may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. The district may make inquiries into the ability of an employee to perform job-related functions.

Prohibited

The District shall not require a medical examination and shall not make inquiries as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

Human Resources

SUBJECT: EMPLOYEE MEDICAL EXAMINATIONS

Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325
Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191
45 Code of Federal Regulations (CFR) Parts 160 and 164
Education Law Sections 913 and 3624
8 New York Code of Rules and Regulations (NYCRR) Section 156.3(2)
10 New York Code of Rules and Regulations (NYCRR) Part 14
15 New York Code of Rules and Regulations (NYCRR) Part 6

First Reading: April 13, 2010
Second Reading: May 3, 2010
Adoption: May 11, 2010

Human Resources

SUBJECT: LONG BEACH CITY SCHOOL DISTRICT DRUG FREE WORKPLACE

The Board of Education prohibits the manufacture, distribution, dispensing, possession and/or illegal use of any controlled substances in the workplace. "Workplace" shall mean any site on school grounds, at school-sponsored activities, or any place in which an employee is working within the scope of his/her employment or duties. "Controlled substances" shall include drugs which are illegal, and addictive drugs which have legitimate medical uses but are not prescribed by the user's treating physician.

The Superintendent of Schools or his/her designee shall implement related regulations which outline the District's compliance with the requirements of the federal Drug-Free Workplace Act of 1988.

Adopted: September 11, 1990

Human Resources

SUBJECT: EMPLOYEE PERSONAL IDENTIFYING INFORMATION

In accordance with Section 203-d of the New York State Labor Law, the District shall restrict the use and access to employee personal identifying information. As enumerated in law, "personal identifying information" shall include social security number, home address or telephone number, personal electronic mail address, Internet identification name or password, parent's surname prior to marriage, or driver's license number.

The District shall not unless otherwise required by law:

- a) Publicly post or display an employee's social security number;
- b) Visibly print a social security number on any identification badge or card, including any time card;
- c) Place a social security number in files with unrestricted access; or
- d) Communicate an employee's personal identifying information to the general public.

District staff shall have access to this policy, informing them of their rights and responsibilities in accordance with Labor Law Section 203-d. District procedures for safeguarding employee "personal identifying information" shall be evaluated; and employees who have access to such information as part of their job responsibilities shall be advised as to the restrictions on release of such information in accordance with law.

Labor Law Section 203-d

First reading:	March 10, 2009
Second reading:	March 24, 2009
Approval:	April 7, 2009

Human Resources

SUBJECT: SAFETY OF STUDENTS (FINGERPRINTING CLEARANCE OF NEW HIRES)

Unless otherwise authorized in accordance with law and regulation, the District shall not employ or utilize a prospective school employee, as defined below, unless such prospective school employee has been granted a "full" clearance for employment by the State Education Department (SED). The School District shall require a prospective school employee who is not in the SED criminal history file to be fingerprinted for purposes of a criminal history record check by authorized personnel of the designated fingerprinting entity. For purposes of this provision of law, the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI). The District shall, however, obtain the applicant's consent to the criminal history records search.

The District shall utilize SED's Web-based application known as *TEACH for instantaneous access to important information about certification and fingerprinting. Through TEACH, SED provides an individual with the ability to apply for fingerprint clearance for certification and/or employment and view the status of his/her fingerprint clearance request. Through TEACH, the School District is able, among other applications, to submit an online request for fingerprint clearance for a prospective employee, view the status of a fingerprint clearance request, and determine whether a subsequent arrest letter has been issued.

Safety of Students

The District will develop internal building and/or program procedures to help ensure the safety of students who have contact with an employee holding conditional appointment or emergency conditional appointment. Such procedures will address the safety of students in the classroom, students attending off-campus activities under the supervision of the School District, and students participating in extracurricular and/or co-curricular activities (including sports and athletic activities).

Safety procedures to be addressed include, but are not limited to, the following: supervision of the employee holding conditional appointment/emergency conditional appointment as determined appropriate by the applicable building/program administrator; and periodic visitations by the building/program administrator to the classroom, program and/or activity assigned to the employee holding conditional appointment/emergency conditional appointment.

"Sunset" Provision for Conditional Appointments/Emergency Conditional Appointments

The provisions in law which permit the conditional appointment and/or emergency conditional appointment of employees pending full clearance from SED shall terminate, in accordance with legislation, on July 1, 2012; and shall be rescinded as Board policy and procedure as of that date (unless subsequent revisions to applicable law provide otherwise).

Human Resources

SUBJECT: SAFETY OF STUDENTS (FINGERPRINTING CLEARANCE OF NEW HIRES)

Access to TEACH

Information regarding fingerprinting of new hires, including relevant laws and regulations, frequently asked questions (FAQs), an up-to-date chart for "Who Must be Fingerprinted", and instructions on the fingerprinting process are found on www.highered.nysed.gov/tcert/ospra. To request access to TEACH, e-mail TEACHHELP@mail.nysed.gov.

Correction Law Article 23-A

Education Law Sections 305(30), 305(33), 1604, 1709, 1804, 1950, 2503, 2554, 2590-h, 2854, 3004-b, 3004-c and 3035

Executive Law Section 296(16)

Social Services Law Article 5, Title 9-B

8 New York Code of Rules and Regulations (NYCRR) Sections 80-1.11 and Part 87

First Reading: November 27, 2012

Second Reading: December 11, 2012

Adopted: January 8, 2013

Human Resources

SUBJECT: PROFESSIONAL CERTIFICATION: 175 HOURS OF PROFESSIONAL DEVELOPMENT REQUIREMENT

All District employees who hold professional teaching certificates for classroom teaching are required to complete professional development hours to maintain the validity of their certificates. Professional certificate holders must complete 175 hours every five (5) years. The five-year professional development period commences on July 1 after the effective date of the triggering certificate, and each subsequent five-year period thereafter. Each professional development year of the five-year cycle of professional development begins on July 1 and ends the following June 30. The professional development requirement may be completed at any time during the five-year professional development period. The New York Patriot Plan was enacted to recognize members of the military, called to active duty, so that they were not discriminated against in employment or education because of their military status. Professional continuing education requirements for active military are waived during the period of military service or reduced proportionately for partial periods of service during certification. Certifications due to expire during military service are extended for the length of the service plus an additional 12 months after release from service. However, this shall not be construed to permit those who have had certifications revoked or suspended to continue to engage in such professions.

Decisions regarding content, delivery and providers of such professional development are within the purview of the School District and shall be made within the context of the District Professional Development Plan. The Professional Development Plan shall describe how the School District will provide teachers it employs holding a professional certificate with opportunities to maintain such certificates in good standing based upon successfully completing 175 hours of professional development every five (5) years in accordance with Commissioner's Regulations.

If the professional certificate holder wishes to maintain the validity of his/her New York State professional certificate, he/she must satisfy the professional development requirement. Valid license is required for continued employment in the LBCSD. If the certificate holder teaches less than ninety (90) days in a given school year for any reason, including an Adopted leave, the required hours are reduced by ten percent (10%) for each school year during which this is the case.

District Recordkeeping Responsibilities

If the School District provides professional development to teachers in its schools, or professional development is provided by other entities on behalf of the District, the District must maintain a record of professional development completed by its teachers who are required to complete this requirement. Such records shall include those items enumerated in Commissioner's Regulations Section 100.2 (dd) (5):

- a) The name of the professional certificate holder;

Human Resources

SUBJECT: PROFESSIONAL CERTIFICATION: 175 HOURS OF PROFESSIONAL DEVELOPMENT REQUIREMENT

- b) His/her teacher certification identification number;
- c) The title of the program;
- d) The number of hours completed; and
- e) The date and location of the program.

These records shall be retained by the District for at least seven (7) years from the date of completion of the professional development by the professional certificate holder and shall be available for review by the State Education Department (SED).

District Reporting Responsibilities

Annually, the School District must report to the New York State Education Department (SED) Office of Higher Education's Office of Teaching Initiatives (OTI) the number of all Adopted professional development hours completed by each teacher who is employed by the District and subject to the professional development requirement, regardless of the professional development provider.

All hours of completed professional development reported by Districts will become part of the certificate holder's certification record maintained by OTI. Teachers with professional certificates must complete the required number of hours of professional development every five (5) years for their certificates to remain valid.

The School District is required to report professional development hours for its employees online directly via the Web-based computer system TEACH (Teacher Education and Certification Help).

Certificate Holder Responsibilities

All professional certificate holders must keep records of all of their Adopted professional development activities/programs/coursework, regardless of the provider, for at least seven (7) years from the date of completion of the program and shall be available for review by SED. Such records shall include those items enumerated in Commissioner's Regulations Section 80-3.6(f):

- a) The title of the program;
- b) The number of hours completed;

Human Resources

SUBJECT: PROFESSIONAL CERTIFICATION: 175 HOURS OF PROFESSIONAL DEVELOPMENT REQUIREMENT (Cont'd.)

- c) The sponsor's name and any identifying number;
- d) Attendance verification; and
- e) The date and location of the program.

While it is the responsibility of the District to report hours, it is in the interest of every professional certificate holder to verify that their professional development hours are reported and that their individual record is complete. It is recommended that professional certificate holders develop their personal professional development plan in consultation with the District, and obtain District approval before commencing any professional development activities.

8 New York Code of Rules and Regulations (NYCRR) Subpart 80-3 and Section 100.2(dd)

First Reading: November 27, 2012
Second Reading: December 11, 2012
Adopted: January 8, 2013

Human Resources

SUBJECT: EMPLOYEE PROTECTION (WHISTLE-BLOWER)

The Long Beach Board of Education expects that its officers and employees will fulfill the public's trust and conduct themselves in a lawful manner, in accordance with all applicable statutes, rules, regulations, and the District policies.

The Long Beach Board of Education encourages all employees to disclose suspected illegal and/or unethical activities occurring within the school district to the immediate supervisor, Principal, Superintendent of Schools or Board of Education.

No employee shall intimidate, threaten, coerce or command another employee for the purpose of interfering with that employee's intention to disclose suspected illegal and/or unethical activities. Any employee who has disclosed suspected illegal and/or unethical activities and believes that (s)he has been subjected to acts or attempted acts of reprisal and/or retaliation shall file a written complaint with the Superintendent of Schools or the District Clerk.

The District shall not take adverse personnel action against an employee because (s)he, in good faith, discloses to the District any: (1) information regarding a violation of a law, rule, regulation or Board policy, which creates and presents a substantial and specific danger to the public health or safety; or (2) information concerning conduct that the employee reasonably believes constitutes improper conduct by any public officer or employee of the District. However, nothing in this policy is intended to interfere with legitimate employment decisions.

Upon obtaining information pursuant to this policy, the Board shall take immediate steps to conduct an investigation into the alleged violation and to report the findings and conclusions to the appropriate authorities.

Complaints filed pursuant to this policy shall remain confidential to the extent possible in accordance with any applicable laws and collective bargaining agreements. Any person who deliberately makes a false report of improper conduct shall be subject to appropriate disciplinary action.

First Reading:	May 12, 2015
Second Reading:	May 26, 2015
Adoption:	June 9, 2015

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

I. DISTRICT COMPUTER SYSTEM

The Board of Education will provide staff with access to various computerized information resources through the District's computer system (DCS hereafter) consisting of software, hardware, computer networks, wireless networks/access and electronic communication systems. This may include access to electronic mail, and the Internet. It may also include the opportunity for staff to have independent access to the DCS from their home or other remote locations, and/or to access the DCS from district-owned or their personal devices. All use of the DCS and the wireless network, including independent use off school premises and use on personal devices, shall be subject to this policy and accompanying regulations. Every employee/authorized user has a responsibility to maintain the District's image and reputation, to be knowledgeable about the inherent risks associated with social media and email usage and to avoid placing the School District at risk.

The Board encourages staff to make use of the DCS to explore educational topics, conduct research and contact others in the educational world. The Board anticipates that staff access to various computerized information resources will both expedite and enhance the performance of tasks associated with their positions and assignments. Toward that end, the District should provide staff with notification in the proper and effective use of DCS.

All employees/authorized users will be required to access a copy of the District's policies on staff and student use of computerized information resources and the regulations established in connection with those policies. Each user will acknowledge this employee/designated user agreement before establishing an account or continuing in his/her use of email.

Generally, the same standards of acceptable staff conduct which apply to any aspect of job performance shall apply to use of the DCS. Employees are expected to communicate in a professional manner consistent with applicable District policies and regulations governing the behavior of school staff.

Access to confidential data may be required of District employees in the performance of their duties. Safeguarding this data is a District obligation that the Board of Education takes very seriously. Employees have a responsibility to maintain confidentiality when utilizing electronic mail and/or when accessing the DCS on or off school grounds. District employment does not automatically guarantee the initial or ongoing access the DCS and the information it may contain.

This policy does not attempt to articulate all required and/or acceptable uses of the DCS; nor is it the intention of this policy to define all inappropriate usage. The Superintendent will further define general guidelines of appropriate staff conduct and use as well as proscribed behavior. The staff will be notified.

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

District staff shall also adhere to the laws, policies and rules governing information technology and intellectual property rights including, but not limited, to copyright laws, rights of software publishers, license agreements, and rights of privacy protected federal and state laws.

Staff members who engage in unacceptable use may lose access to DCS and may be subject to further discipline under the law and in accordance with applicable collective bargaining agreements. Legal action may be initiated against a staff member who willfully, maliciously or unlawfully damages or destroys property of the District

II. SOCIAL MEDIA USE BY EMPLOYEES

The School District recognizes the value of teacher and professional staff inquiry, innovation, investigation and communication using new technology tools to enhance student learning experiences. The School District also realizes its obligations to teach and ensure responsible and safe use of these new technologies. Social media, including social networking sites, have great potential to connect people around the globe and enhance communication. Every employee/authorized user has a responsibility to maintain the District's image and reputation, to be knowledgeable about the inherent risks associated with email and social media site usage and to avoid placing the School District at risk.

For purposes of this Policy, the definition of public social media networks or Social Networking Sites (SNS) are defined to include: websites, applications, Web logs (blogs), wikis, social networks, online forums, virtual worlds, video sites and any other social media generally available to the School District Community which do not fall within the District's electronic technology network. The definition of District approved password-protected social media tools are those that fall within the District's electronic technology network or which the District has approved for educational use. Within these internal forums, the District has greater authority and ability to protect minors from inappropriate content and can limit public access.

The use of social media (whether public or internal) can generally be defined as Official District Use, Professional/Instructional Use and Personal Use. The definitions, uses and responsibilities will be further defined and differentiated in the Administrative Regulation. Employees have the right to decide whether or not to participate in the use of social media or SNS for personal use on personal time. Employees should maintain the highest level of professionalism, when communicating on social media or SNS, whether using District devices or their own personal devices, as the District views employees as role models both at school and away from school. Communications which disrupt co-worker relations, erodes a close working relationship premised on professionalism and confidentiality, and/or interferes with the performance of an employee's duties may be deemed inappropriate. Employees have a responsibility to address inappropriate behavior or activity on these networks, including requirements for mandated reporting and compliance with all applicable District Policies and Regulations.

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

II. USE OF EMAIL IN THE SCHOOL DISTRICT

Electronic mail or email is a valuable business communication tool, and users shall use this tool in a responsible, effective and lawful manner. Every employee/authorized user has a responsibility to maintain the District's image and reputation, to be knowledgeable about the inherent risks associated with email usage and to avoid placing the School District at risk. Although email seems to be less formal than other written communication, the same laws and business records requirements apply. School District employees/authorized users shall use the District's designated email system, for all business emails, including emails in which student or student issues are involved. All email accounts in the district's system are the property of the school district.

A) Employee Acknowledgement

All employees and authorized users shall acknowledge annually and follow the District's policies and regulations on acceptable use of computerized information resources:

B) Classified and Confidential

District employees and authorized users shall not:

- (a) Provide lists or information to external users about District employees or students to others and/or classified information without approval. Questions regarding usage should be directed to a Principal/Supervisor.
- (b) Forward emails to external users with confidential, sensitive, or secure information without approval or Administrator/Supervisor authorization. Additional precautions should be taken when sending documents of a confidential nature.
- (c) Use file names that may disclose confidential information.
- (d) Send or forward email with comments or statements about the District that may negatively impact it.

C) Personal Use

Employees and authorized users may use the District's email system for limited personal use. However, there is no expectation of privacy in email use. The District has the right to review all employees' email. If employees decide to use the District's email system for personal use, the employee will be held accountable for the content of all incoming and outgoing personal messages. The District has the right to monitor all school district owned email accounts. If the use of an account by an employee is found to be in violation of Federal or State law or regulation, and/or

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

school district policy, and contractual and/or assigned responsibilities, the employee may be subject to prosecution and/or disciplinary action. Employees should maintain the highest level of professionalism, when communicating via email, as the District views employees as role models both at school and away from school. Communications which disrupt and/or interferes with the performance of any employee's duties may be deemed inappropriate.

D) Email Accounts

All email accounts on the District's system are the property of the School District.

E) Receiving Unacceptable Emails

Employees and authorized users who receive offensive, unpleasant, harassing, or intimidating messages via email or instant messaging shall inform their Principal/Supervisor immediately.

F) Records Management and Retention

Retention of email messages are covered by the same retention schedules as records in other formats, but are for a similar program function or activity. Email shall be maintained in accordance with the NYS Records Retention and Disposition Schedule ED-1 and as outlined in the Records Management Policy. Email records may consequently be deleted, purged or destroyed after they have been retained for the requisite time period established in the ED-1 schedule.

G) Archival of Email

All email sent and received to an employee's email account should be archived by the District for a period of no less than six (6) years. This time period was determined based on the possibility of emails that are the official copy of a record according to school schedule ED-1. Depending on the District's archival system, employees may have access to view their personal archive, including deleted email.

H) Employee Notice

Employees will be informed of the District Policy at the time of hire. Employees/authorized users should receive regular notification on the following topics:

- (a) The appropriate use of email with students, parents and other staff to avoid issues of harassment and/or charges of fraternization, including email response expectations

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

- (b) Confidentiality of emails
- (c) Permanence of email: email is never truly deleted, as the data can reside in many different places and in many different forms
- (d) No expectation of privacy: email use on District property is NOT to be construed as private

I) Sanctions

District staff should report inappropriate use of email by an employee/authorized user to the employee/authorized user's Principal/Supervisor who will take appropriate disciplinary action. Violations may result in loss of email use, access to technology network and/or disciplinary action. When applicable, law enforcement agencies may be involved.

J) Notification

All employees/authorized users will be required to access a copy of the District's policies on staff and student use of computerized information resources and the regulations established in connection with those policies. Each user will acknowledge this employee/designated user agreement before establishing an account or continuing in his/her use of email.

K) Confidentiality Notice

A standard Confidentiality Notice will automatically be added to each email as determined by the District.

L) Confidentiality, Privacy Information and Privacy Rights

Confidential and/or private data, including but not limited to, protected student records, employee personal identifying information, and District assessment data, shall only be loaded stored or transferred to District-owned devices which have encryption and/or password protection. This restriction, designed to ensure data security, encompasses all computers and devices within the DCS, any mobile devices, including flash or key drives, and any devices that access the DCS from remote locations. Staff will not use email to transmit confidential files in order to work at home or another location or cloud based storage services (such as Dropbox, Google drive, SkyDrive, etc.) for confidential files.

Staff will not leave any device unattended with confidential information visible. All devices are required to be locked down while the staff members steps away from the device, and settings enabled to freeze and lock after a set period of inactivity.

Human Resources

SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

Staff data files and electronic storage areas shall remain District property, subject to District control and inspection. The Superintendent and/or his designee may access all such files and communications without prior notice to ensure system integrity and that users are complying with requirements of this policy and accompanying regulations. Staff should **NOT** expect that information stored on the DCS will be private.

First Reading: April 21, 2016

Second Reading: May 5, 2016

Adoption: May 26, 2016

Human Resources

SUBJECT: THEFT OF SERVICES OR PROPERTY

The theft of services or property from the District by an employee will result in immediate disciplinary action that can lead to dismissal or other penalty, and shall not preclude the filing of criminal or civil charges by the District.

First Reading: November 27, 2012
Second Reading: December 11, 2012
Adopted: January 8, 2013

Human Resources

SUBJECT: EMPLOYEE BENEFITS

Teachers' Retirement System

Upon employment with Long Beach School District, each eligible person will be given an option to join the Teachers' Retirement System.

Employees' Retirement System

Upon employment with Long Beach School District, each eligible person will be given an option to join the Employees' Retirement System.

Health, Dental, and Life Insurance

Health, dental, and life insurance for all employees shall be in accordance with their respective negotiated agreements.

Excess Major Medical Insurance

To be eligible for excess medical insurance an employee must be covered by the district's health insurance in accordance with respective negotiated agreements.

Vision Plan

The district shall provide a comprehensive eyeglass coverage policy to employees in accordance with their respective negotiated agreements.

AFLAC Supplemental Insurance

AFLAC supplemental insurance is made available to employees in accordance with their respective negotiated agreements.

Continuation of Medical Insurance Coverage at Termination of Employment

Under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), employees and their dependents are eligible to continue their insurance coverage.

Human Resources

SUBJECT: EMPLOYEE BENEFITS (continued)

Tax Sheltered Annuity Program

The program allows an employee to set aside a designated amount of salary in a tax shelter.

The Long Beach School District employees can participate in designated deferred compensation programs that qualify under IRS Sec. 403 (b).

Election of Flexible Benefit Plans

Employees are offered the option of participating in a Flexible Benefits Plan under Section 125 of the Internal Revenue Code in accordance with the respective negotiated agreements.

Ref: Consolidated Omnibus Budget Reconciliation Act of 1985
Consolidated Omnibus Budget Reconciliation Act of 1986
The American Recovery and Reinvestment Act of 2009 (ARRA), as amended on March 2, 2010 by the Temporary Extension Act of 2010

First Reading: April 13, 2010
Second Reading: May 3, 2010
Adoption Date: May 11, 2010

Human Resources

SUBJECT: RETIREE HEALTH INSURANCE AND DENTAL COVERAGE

Retirees with 10 years of eligibility for District health insurance and dental coverage may continue health insurance and dental coverage for themselves and their eligible dependent(s) under the District's Plan(s) in accordance with the language of his/her respective collective bargaining agreement or individual contract.

Health Insurance: The District will utilize the TRS/ERS system wherever possible to collect the required premium contribution. Any monies uncollected via the retirement system will be invoiced semi-annually by the business office.

Former employees deemed eligible for health benefits, according to Empire regulations shall contribute the same rate of health insurance premium contribution as the rate of the active employees from the bargaining unit in which the member last served.

Dental Coverage: The District shall continue Dental coverage into retirement for eligible employees based upon the collective bargaining agreement or individual contract under which he/she retires.

First Reading: January 11, 2011
Second Reading: February 8, 2011
Adoption: March 8, 2011

Human Resources

SUBJECT: WORKERS' COMPENSATION

Employees injured in the performance of their duties are covered by Workers' Compensation. Employees are encouraged to report work-related injuries immediately (for their own protection), but must report such injuries within thirty (30) calendar days to their immediate supervisor and the appropriate form filled out and signed by the building Health Office, their supervisor, or the building principal.

Reimbursement for Workers' Compensation Insurance benefits shall be in accordance with their respective negotiated agreements.

Ref: Education Law Sections 1604(31), 1709(34) and 2503(10)

First Reading:	April 13, 2010
Second Reading:	May 3, 2010
Adoption:	May 11, 2010

Human Resources

SUBJECT: LEAVES OF ABSENCE

a) In general, leaves of absence:

1. Shall be administered by the Superintendent.
2. The Board reserves the right to grant leaves of absence for purposes or under conditions not contemplated or considered in the policy statement.
3. Under laws and rules governing such action, the Board may undertake appropriate disciplinary action where a leave of absence is falsely requested or improperly used.
4. Except by permission of the Superintendent, as expressed in writing, the purpose or conditions of a leave of absence may not be altered.

b) Leaves of absence, contractual, et al:

1. Employees who are members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted pursuant to provisions of contracts in effect between the District and each bargaining unit.

2. Employees who are not members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted by such employees where such requests are consistent with provisions of contracts in effect between the District and the bargaining unit most compatible with the employment status of the employee.

3. Employees who are under contract to the District:

Authorization is granted to implement provisions for leaves of absence contained in each such contract.

c) Leaves of absence, unpaid, not covered in b) 1. above:

1. Subject to limitations enumerated in this policy statement, authorization is granted for the following unpaid leaves of absence.
2. Unpaid leaves of absence shall not be used to extend vacation periods, to take vacations, to engage in other occupations, or to provide additional personal leaves, except that the Superintendent shall have discretion, where circumstances warrant, to approve leaves of absence for such purposes.

Continued

Human Resources

SUBJECT: LEAVES OF ABSENCE (continued)

3. Except where it interferes with an employee's legal or contractual rights, the timing of unpaid leaves of absence will be granted at the convenience of the District.

d) Other leaves of absence:

1. Emergency Service Volunteer Leave

Upon presentation of a written request from the American Red Cross and with the approval of the Superintendent, employees certified by the American Red Cross as disaster volunteers shall be granted leave from work with pay for up to twenty (20) days in any calendar year to participate in specialized disaster relief operations. This leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled.

2. Screenings for Breast Cancer and Prostate Cancer

Employees shall be granted up to four (4) hours of leave on an annual basis to undertake a screening for breast cancer; employees shall be granted up to four (4) hours of leave on an annual basis to undertake a screening for prostate cancer (i.e., male employees are entitled to a total of eight (8) hours for both screenings). This leave shall be excused leave and shall not be charged against any other leave to which the employee is entitled.

3. Blood donation

Employees desiring to make blood donations shall be granted three (3) hours of leave in any twelve (12) month period. The leave may not exceed three (3) hours unless agreed to by the Superintendent/designee. Additional leaves for the purpose of blood donation under any other provision of law shall not be prevented.

4. Bone Marrow donation

Employees seeking to undergo a medical procedure to donate bone marrow shall be granted leaves to do so, the combined length of the leaves to be determined by the physician, but may not exceed twenty-four (24) work hours unless agreed to by the Superintendent/designee. The District shall require verification for the purpose and length of each leave requested by the employee for this purpose.

Continued

Human Resources

SUBJECT: LEAVES OF ABSENCE (continued)

e) Other Leaves

1. Nursing Mothers

The District shall provide reasonable unpaid break time or permit the use of paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three (3) years following child birth. The District shall make reasonable efforts to provide a room or other location in close proximity to the work area where the nursing mother can express milk in privacy.

2. Military Leave

The District will comply with state and federal laws regarding military leave and re-employment.

Leaves of absence for military spouses are granted in accordance with law and are unpaid.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 United States Code (USC) Sections 4301-4333

Civil Service Law Sections 71-73, 159-b and 159-c

Education Law Sections 1709(16), 3005, 3005-a and 3005-b

General Municipal Law Section 92-c

Labor Law Sections 202-a, 202-c, 202-i and 202-j

Military Law Sections 242 and 243

First Reading: April 13, 2010

Second Reading: May 3, 2010

Adoption Date May 11, 2010

Human Resources

SUBJECT: FAMILY AND MEDICAL LEAVE ACT

The Board, in accordance with the Family and Medical Leave Act of 1993 (as amended) (FMLA), gives "eligible" employees of the District the right to take unpaid leave for a period of up to twelve (12) work weeks in a twelve (12)-month period as determined by the District.

The District uses a "rolling" twelve (12) month period measured backward from the date of any FMLA leave usage its method of calculating the leave year period for the commencement of the FMLA leave period. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

The entitlement to leave for the birth or placement of a child will expire at the end of the twelve (12)-month period beginning on the date of the birth or placement.

Employees are "eligible" if they have been employed by the District for at least twelve (12)-months and for at least 1,250 hours of service during the previous twelve (12)-month period. Full-time teachers are deemed to meet the 1,250-hour test. However, a break in employment for military service (i.e., call to active duty) should not interrupt the twelve (12)-month/1,250 hours of employment requirement and should be counted toward fulfilling this prerequisite. The law covers both full-time and part-time employees.

Qualified employees may be granted leave for one or more of the following reasons:

- a) The birth of a child and care for the child;
- b) Adoption of a child and care for the child;
- c) The placement of a child with the employee from foster care;
- d) To care for a spouse, minor child or parent who has a "serious health condition" as defined by the FMLA;
- e) To care for an adult child who is also incapable of self-care due to a disability (regardless of date of the onset of disability) and has a "serious health condition" as defined by the FMLA; and/or
- f) A "serious health condition" of the employee, as defined by the FMLA that prevents the employee from performing his or her job.

A "serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider that renders the person incapacitated for more than three consecutive calendar days. Furthermore, the first visit to a health care provider for an employee claiming a "serious health condition" under FMLA must occur within seven days of the aforementioned incapacity with the second required visit occurring within 30 days of the incapacitating event. In order for an employee to claim the need for continuous treatment under FMLA for a chronic serious health condition, the condition must require a minimum of two visits per year to a healthcare provider, continue over an extended period of time, and may cause episodic rather than a continuing period of incapacity. A "serious health condition" is also defined as any period of incapacity related to pregnancy or for prenatal care.

(Continued)

Human Resources

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

Military Family Leave Entitlements

Military Caregiver Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) is entitled to up to twenty six (26) weeks of leave in a single twelve (12)-month period to care for a "military member" who is:

- a) Recovering from a service-connected serious illness or injury sustained while on active duty; or
- b) Recovering from a serious illness or injury that existed prior to the service member's active duty and was aggravated while on active duty; or
- c) A veteran who has a qualifying injury or illness from service within the last five years and aggravates that illness or injury.

This military caregiver leave is available during a single twelve (12)-month period during which an eligible employee is entitled to a combined total of twenty six (26) weeks of all types of FMLA leave. Military Caregiver Leave may be combined with other forms of FMLA-related leave providing a combined total of 26 weeks of possible leave for any single twelve (12)-month period; however, the other form of FMLA leave when combined cannot exceed twelve (12) of the twenty six (26) weeks of combined leave. Military Caregiver Leave has a set "clock" for calculating the twelve (12)-month period for when FMLA leave begins and tolling starts at the first day of leave taken.

The term "military member" means:

- a) A member of the Regular Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- b) A veteran (discharged or released under any condition other than dishonorable) who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

"Qualifying Exigency" Leave/Call to Active Duty

An "eligible" employee is entitled to FMLA leave because of "a qualifying exigency" arising out of circumstances where the spouse, son, daughter, or parent of the employee is serving in the regular Armed Forces or either the National Guard or the Reserves and is on active duty during a war or national emergency called for by the President of the United States or Congress, or has been notified of an impending call to active duty status, in support of a contingency operation. There is no "qualifying exigency" unless the military member is or is about to be deployed to a foreign country.

(Continued)

Human Resources

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

A "qualifying exigency" related to families of the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve personnel on (or called to) active duty to take FMLA protected leave to manage their affairs is defined as any one of the following reasons:

- a) Short-notice deployment;
- b) Military events and related activities;
- c) Childcare and school activities;
- d) Parental care leave;
- e) Financial and legal arrangements;
- f) Counseling;
- g) Rest and recuperation (for up to 15 calendar days);
- h) Post-deployment activities; and
- i) Any additional activities where the employer and employee agree to the leave.

In any case in which the necessity for leave due to a qualifying exigency is foreseeable, the employee will provide such notice to the employer as is reasonable and practicable. This military-related leave is for up to twelve (12) weeks during a single twelve (12)-month period. Leave may be taken intermittently or on a reduced leave schedule.

Concurrent (Substitute) Leave

Employees must use paid leave concurrently with periods of FMLA leave.

Implementation/Benefits/Medical Certification

At the Board's option, paid leave may be substituted for unpaid leave.

An employee on FMLA leave is also entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his or her share during the leave period.

In most instances, an employee has a right to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the conclusion of the leave.

(Continued)

Human Resources

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

The Board has a right to thirty (30) days' advance notice from the employee where practicable. In addition, the Board may require an employee to submit certification from a health care provider to substantiate that the leave is due to the "serious health condition" of the employee or the employee's immediate family member. Under no circumstance should the employee's direct supervisor contact any health care provider regarding the employee's condition; all contact in this manner must be made by a health care provider (employed by the employer), a human resource professional, a leave administrator or a management official. If the medical certification requested by the employer is found to be deficient, the employer must indicate where the errors are, in writing, and give the employee seven days to provide corrected materials to cure any deficiency prior to any action being taken.

Special Provisions for District Employees

An instructional employee is an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting (e.g., teachers, coaches, driving instructors, special education assistants, etc.). Teaching assistants and aides who do not have instruction as the principal function of their job are not considered an "instructional employee."

Intermittent Leave Taken by Instructional Employees

FMLA leave that is taken at the end of the school year and resumes at the beginning of the next school year is not regarded as intermittent leave but rather continuous leave. The period in the interim (i.e., summer vacation) is not counted against an employee and the employee must continue to receive any benefits that are customarily given over the summer break.

Intermittent leave may be taken but must meet certain criteria. If the instructional employee requesting intermittent leave or leave on a reduced schedule will be on that leave for more than 20% of the number of working days during the period for which the leave would extend, the following criteria may be required by the employer:

- 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 for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

Appropriate notice for foreseeable FMLA leave still applies and all employees must be returned to an equivalent position within the school district. Additional work-related certifications, requirements and/or training may not be required of the employee as a contingent of their return to work.

Leave Taken by Instructional Employees Near the End of the Instructional Year

There are also special requirements for instructional employees taking leave and the leave's relation to the end of the term. If the instructional employee is taking leave more than five (5) weeks prior to the end of the term, the District may require that the employee take the leave until the end of the term if the leave lasts more than three (3) weeks and the employee was scheduled to return prior to three (3) weeks before the end of the term.

(Continued)

Human Resources

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

If the instructional employee is taking leave less than five (5) weeks prior to the end of the term for any of the previous FMLA-related reasons except qualifying exigency, the District may require that the employee remain out for the rest of the term if the leave lasts more than two (2) weeks and the employee would return to work during that two (2)-week period at the end of the instructional term.

If the instructional employee begins taking leave during the three (3) weeks prior to the end of the term for any reason except qualifying exigency, the District may require that the employee continue leave until the end of the term if the leave is scheduled to last more than five (5) working days.

Any additional time that is required by the District due to the timing of the end of the school year, will not be charged against the employee as FMLA leave because it was the District who requested that the leave extend until the end of the term.

FMLA Notice

A notice which explains the FMLA's provisions and provides information concerning the procedures for filing complaints of violations of the FMLA will be posted in each school building and a notice of an employee's FMLA rights and responsibilities will be either placed in the employee handbook of the employer or furnished to each new employee upon hire. The District has five (5) days to supply this notice from the date of hire.

Family and Medical Leave Act of 1993 (as amended), Public Law 103-3
National Defense Authorization Act of 2008, Public Law 110-181
10 USC 101(a) (13)
29 USC 1630.1 and 2611-2654
29 CFR Part 825 and Part 1630
42 USC 12102
Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191
45 CFR Parts 160 and 164

Adopted: 4/8/14
First Reading of Revised Policy: 1/12/17
Second Reading of Revised Policy: 3/9/17
Adoption: 4/6/17

Human Resources

**SUBJECT: DETERMINATION OF EMPLOYMENT STATUS: EMPLOYEE OR
INDEPENDENT CONTRACTOR**

Regulations recently promulgated by the Office of the State Comptroller provide guidance to school districts to help them determine whether an individual is an employee, and therefore eligible for membership in the New York State and Local Retirement System (NYSLRS) and for service credit, or an independent contractor who is not eligible for membership.

A certification of the determination that an individual is an employee will now be required when the School District initially reports to the NYSLRS certain covered professionals -- those persons providing services as an attorney, physician, engineer, architect, accountant or auditor.

Employee shall mean an individual performing services for the School District for which the District has the right to control the means and methods of what work will be done and how the work will be done. Independent contractor shall mean a consultant or other individual engaged to achieve a certain result who is not subject to the direction of the employer as to the means and methods of accomplishing the result.

Employees to be Reported to NYSLRS

Only persons who are active members of NYSLRS and who have been assigned a registration number shall be included in the reporting requirements. In the case of employees who are in the process of being registered to membership, all service, salary and deductions data and mandatory contributions shall be accumulated by the District and such accumulation shall be included with the first monthly report which is due after the employee's registration number has been assigned.

An individual serving the District as an independent contractor or consultant is not an employee and should not be reported to the retirement system.

The District has the primary responsibility for determining whether an individual is rendering services as an employee or as an independent contractor. When making such a determination the District must consider the factors enumerated in State Regulations.

The District shall also complete, as necessary, a Certification Form for Individuals Engaged in Certain Professions (Form RS2414) as promulgated by the Office of the New York State Comptroller. As noted on the Certification Form instructions, when making a determination as to an individual's status as an employee or independent contractor, no single factor should be considered to be conclusive of the issue. All factors should be considered in making an assessment of an individual's status when engaged to perform services.

Human Resources

**SUBJECT: DETERMINATION OF EMPLOYMENT STATUS: EMPLOYEE OR
INDEPENDENT CONTRACTOR**

Written Explanation by District: Certain Professions

In the case of an individual whose service has been engaged by the School District in the capacity of attorney, physician, engineer, architect, accountant or auditor and the District has determined that the individual is rendering service as an employee and, therefore, may be eligible for credit with a retirement system, the District shall submit to the retirement system, in a form prescribed by the Comptroller and certified by the Chief Fiscal Officer of the District, an explanation of the factors that led to the conclusion that the individual is an employee and not an independent contractor or consultant.

Retirement and Social Security Law Sections 11, 34, 311, and 334
2 New York Code of Rules and Regulations (NYCRR) Sections 315.2 and 315.3

First Reading:	June 10, 2008
Second Reading:	June 24, 2008
Adopted:	July 1, 2008

Human Resources

SUBJECT: CONDITIONAL APPOINTMENT & EMERGENCY CONDITIONAL APPOINTMENT OF STAFF MEMBERS SUBJECT TO SUCH APPOINTMENTS

The Board of Education recognizes that there will be instances in which it is necessary, upon recommendation of the Superintendent of Schools, for the Board to make a conditional appointment or an emergency conditional appointment of a prospective employee. To protect the district and provide for the safety of students who have contact with an employee holding a conditional appointment or an emergency conditional appointment, the Board adopts the following policy.

All employees to be employed on a conditional or emergency conditional appointment will sign an affidavit assuring the district that they have not been convicted of any criminal offense and there are not criminal actions pending against him or her. Further, the district will conduct credential and reference checking of such employees in the same manner and to the same extent such checking is conducted of all prospective employees, whether to be employed on a conditional, emergency conditional or regular appointment basis. Such checking includes but is not necessarily limited to a review and confirmation of paper documents, including certification and licenses, transcripts, and other documents as necessary, and checking of personal references by interview or telephone interview, where such references may include both names of those provided by the prospective employee as well as names of persons with possible relevant information not so provided.

At the building level, administrators at each site shall insure that conditional and emergency conditional appointees:

1. adhere to the regular schedule and shall not be given before or after school assignments with students on an individual basis;
2. may not transport students in their private vehicles or be in contact in their professional capacity with students off school property.

In addition, school administrators shall take deliberate steps to advise conditional and emergency conditional appointees regarding appropriate conduct and monitor activities to insure the safety of students in the district.

REFERENCE: Chapter 147 of the Laws of 2001 Amending Chapter 180 of the Laws of 00

ADOPTED: October 9, 2001

Human Resources

SUBJECT: PAYROLL DEDUCTIONS

Payroll deductions may be made when authorized by contractual and non-contractual employees, as required by collective bargaining agreements, individual employment contract, and district regulations or as required by law.

Ref: Education Law Section 1709

First Reading:	April 13, 2010
Second Reading:	May 3, 2010
Adoption:	May 11, 2010