

**BYLAWS**



December 16, 2021 Proposed Amendments

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0100 - DEFINITIONS

Whenever the following items are used in these bylaws and policies, they shall have the meaning set forth below:

**Governing Board**

The Ohio Valley Educational Service Center Governing Board.

**Bylaw**

Rule of the Governing Board for its own governance.

**Certificated Staff Member**

Either a teacher hired by the Governing Board pursuant to R.C. 3319.07 or an administrator and/or business manager hired by the Governing Board pursuant to R.C. 3319.02 and/or R.C. 3319.03

**Classified Employee**

A nonteaching employee hired by the Governing Board pursuant to R.C. 3319.081.

**Educational Service Center**

The Ohio Valley Educational Service Center (“ESC”).

**May**

This word is used when an action by the Governing Board or its designee is permitted but not required.

**Meeting**

Any prearranged discussion of the public business of the Governing Board by a majority of its members, designees, and/or committees.

**Policy**

A general, written statement by the Governing Board which defines its expectations or position on a particular matter and authorizes appropriate action that shall or may be taken to establish and/or maintain those expectations.

**President**

The chief executive officer of the Governing Board. (See Bylaw 0170)

**Professional Staff Member**

An employee who implements or supervises one (1) or more aspects of the Governing Board’s program and whose position requires a professional credential from the Division of Teacher Education and Licensing.

**Secretary**

The Treasurer of the Governing Board.

**Shall**

This word is used when an action is required. (The word “shall” or “will” signifies a required action.)

**Social Media**

Social media are online platforms where users engage one another and/or share information and ideas through text, video, or pictures. Social media consists of any form of online publication or presence that allows interactive communication, including, but not limited to, text messaging, instant messaging, websites, web logs (“blogs”), wikis, online forums (e.g., chat rooms), virtual worlds, and social networks. Examples of social media include, but are not limited to, Facebook, Facebook Messenger, Google Hangouts, Twitter, LinkedIn, YouTube, Flickr, Instagram, Pinterest, Snapchat, Skype, and FaceTime. Social media does not include sending or receiving e-mail through the use of ESC-issued e-mail accounts. Apps and services shall not be considered social media unless they are listed on the ESC’s website as ESC-approved social media platforms/sites.

**Student**

A person who is officially enrolled in educational services/schools/programs of the ESC.

**Superintendent**

The chief executive officer of the ESC hired by the Governing Board pursuant to R.C. 3319.01. In any Governing Board policy, the word “Superintendent” implies delegation of responsibilities to appropriate individuals as determined by the Superintendent unless the Governing Board policy specifically states otherwise.

**Treasurer**

The chief fiscal officer of the ESC.

**Vice-President**

The Vice-President of the Governing Board. (See Bylaw 0170)

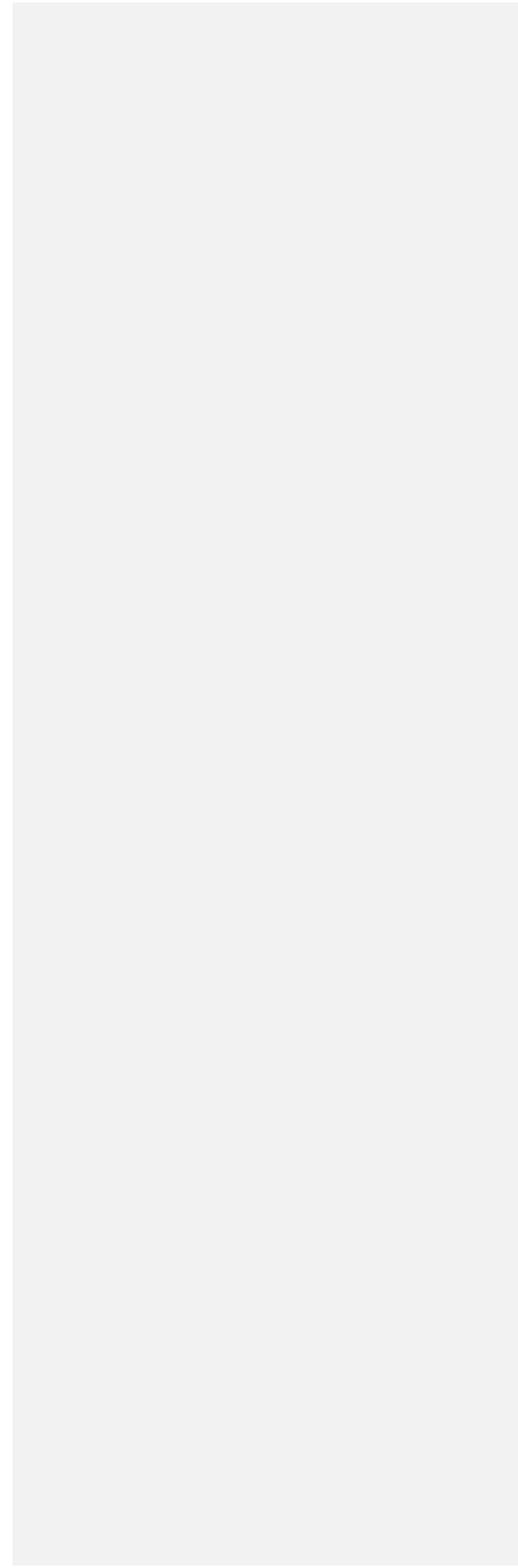
**Voting**

A vote at a meeting of the Governing Board. A Governing Board member shall be physically present in order to cast a vote and have that vote officially recorded in the Governing Board minutes.

Citations to the Ohio Revised Code are noted as R.C. (Revised Code). Citations to Ohio Administrative Code are noted as A.C. (Administrative Code). Citations to the Federal Register are noted as FR, to the Code of Federal Regulations as C.F.R., and to the United States Code as U.S.C.

0121 - **AUTHORITY**

The supervision of the system of public education of this ESC shall be conducted by the Governing Board.



**0122 - GOVERNING BOARD POWERS**

The Governing Board has no power outside a meeting authorized pursuant to R.C. 121.22 and Bylaw 0165.2 for special meetings.

The Governing Board only speaks through its minutes.

The Governing Board shall be a body politic and corporate, and, as such, capable of suing and being sued; contracting and being contracted with; acquiring, holding, possessing, and disposing of real and personal property; taking and holding in trust for the use and benefit of the Governing Board, any grant or devise of land and any donation or bequest of money or other personal property.

The Governing Board shall have the management and control of all the public schools of whatever name or character that it operates in the ESC.

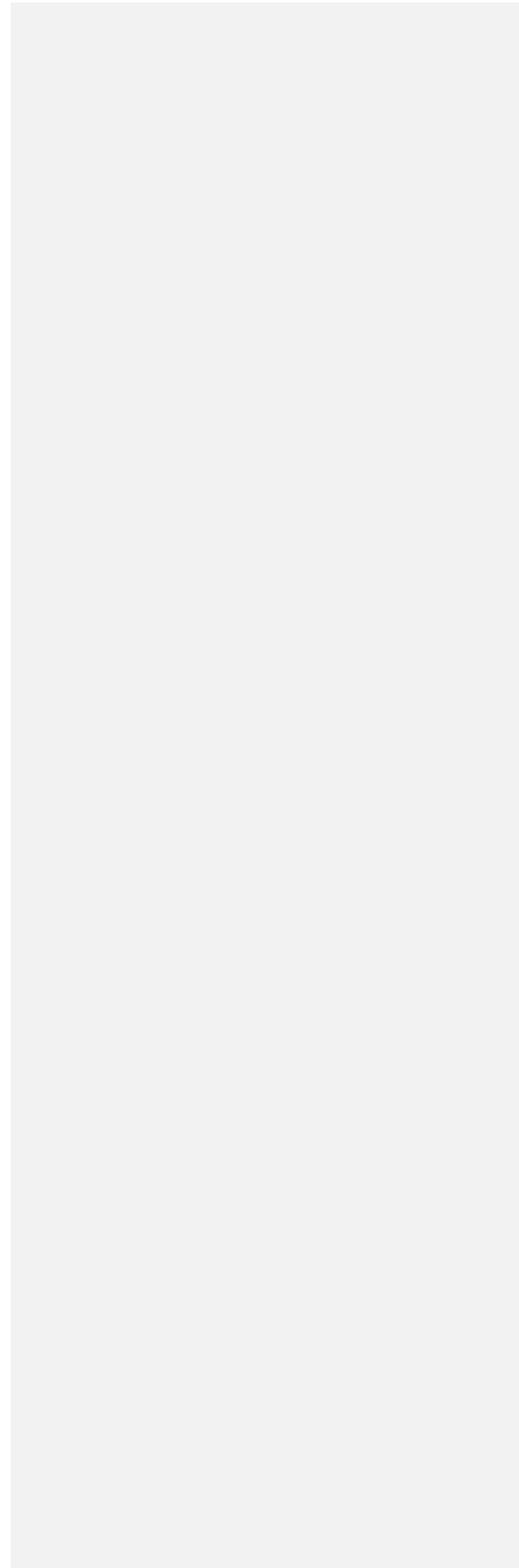
The Governing Board shall make any rules that are necessary for its government and the government of its employees, students of its educational services/schools/programs, and all other persons entering upon its school grounds or premises.

**0122.1 – GOVERNING BOARD MEMBER POWERS**

No members of the Governing Board individually possess any of the powers that reside in the Governing Board as set forth above and contained in these bylaws and policies.

**0123 - CODE OF ETHICS/CODE OF CONDUCT**

Each member of the Governing Board shall comply with the Ohio Ethics Laws.



**0131 - LEGISLATIVE**

The Governing Board shall make any rules that are necessary for its government and the government of its employees, students of its educational services/schools/programs, and all other persons entering upon its school grounds or premises.

All Governing Board members and employees are engaged in the performance of legislative and/or quasi-legislative functions when engaged in legislative actions intended for consideration of the Governing Board.

Engaging in the performance of legislative and/or quasi-legislative functions is necessary and essential to the exercise of powers of the Governing Board, as well as its members and employees.

Engaging in the performance of legislative and/or quasi-legislative functions is within the discretion of all Governing Board members and employees with respect to policymaking, planning, and enforcement powers by virtue of the duties and responsibilities of the respective offices and positions of the Governing Board members and employees.

Any resolution shall only require one (1) reading.

By resolution, the Governing Board may adopt, amend, and/or repeal any bylaws and policies that are not inconsistent with the law.

Bylaws shall be adopted, amended, repealed, or suspended by a supermajority vote. Policies shall be adopted, amended, or repealed by simple majority vote.

## 0133 - JUDICIAL

Certain policies, contracts, and laws require that the Governing Board and/or its designee(s) conduct judicial, quasi-judicial, and prosecutorial functions.

The Governing Board may assume jurisdiction over any dispute or controversy arising within the ESC and concerning any matter in which authority has been vested in the Governing Board and/or its designee(s) by policy, contract, or law.

Any person appearing as a witness before the Governing Board or any of its designees/representatives in any administrative or executive proceeding or investigation, public or private, if the witness so requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. The witness shall be advised of the right to counsel before the witness is interrogated.

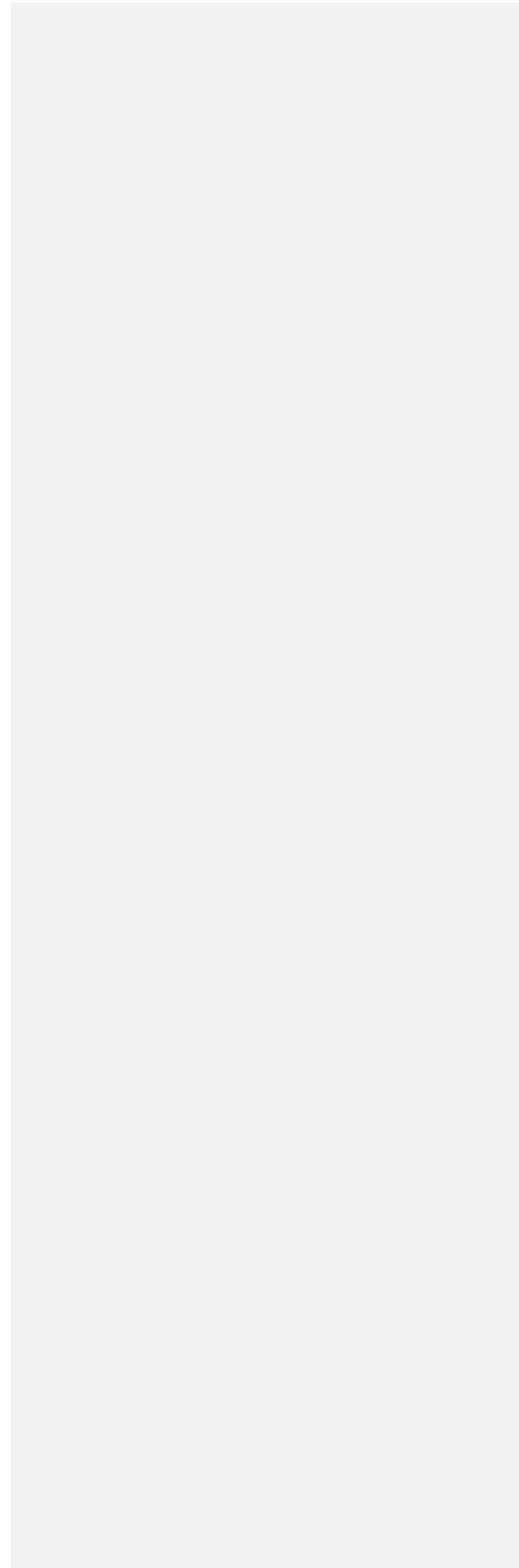
All Governing Board members, designees, and employees are engaged in the performance of judicial, quasi-judicial, and prosecutorial functions when assuming jurisdiction over any dispute or controversy arising within the ESC and concerning any matter in which authority has been vested in the Governing Board and/or its designee(s) by policy, contract, or law.

Engaging in the performance of judicial, quasi-judicial, and prosecutorial functions is necessary and essential to the exercise of powers of the Governing Board, as well as its members, designees, and employees.

Engaging in the performance of judicial, quasi-judicial, and prosecutorial functions is within the discretion of all Governing Board members and employees with respect to policymaking, planning, and enforcement powers by virtue of the duties and responsibilities of the respective offices and positions of the Governing Board members, designees, and employees.

**0141 - NUMBER**

The Governing Board shall consist of the authorized number of members permitted by law.



**0141.2 - CONFLICT OF INTEREST**

Governing Board members shall not have any conflicts of interest prohibited by law.

Governing Board members shall not accept any form of compensation from vendors. Such compensation includes, but is not limited to, cash, check, 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.

A Governing Board member whose spouse is an employee in the ESC may not vote, authorize, or use the influence of his/her office to secure approval of an employment contract with his/her spouse.

**0142 - QUALIFICATIONS**

Each of the eleven (11) members of the Governing Board – six (6) members from the Guernsey/Monroe/Noble Subdistrict and five (5) members from the Washington Subdistrict – shall meet the qualifications specified by law and courts of competent authority including, but not limited to, the July 1, 2012 Governance Plan for the Ohio Valley Educational Service Center on file with the Office of the Treasurer.

**0142.1 - OATH**

Each member of the Governing Board shall, before entering his/her duties of office, take an oath to support the Constitution of the United States and the Constitution of the State of Ohio and to perform faithfully the duties of his/her office.

**0142.3 - ORIENTATION**

The Governing Board believes that the preparation of each Governing Board member for the performance of Governing Board duties is essential to the effectiveness of the Governing Board's functioning. The Governing Board shall encourage each Governing Board member to understand the functions of the Governing Board, acquire knowledge of matters related to the operation of the schools, and learn Governing Board procedures.

## 0147 - COMPENSATION

Governing Board members shall be compensated for meetings and travel in an amount equal to the maximum allowable compensation permitted by law including, but not limited to, R.C. 3313.12(A).

Additionally, Governing Board members shall be paid the maximum allowable compensation permitted by law including, but not limited to, R.C. 3313.12(C), for attendance at an approved training program.

Should applicable laws and regulations be amended to provide for an increase in the amount of compensation members may receive for the upcoming year, only newly elected and re-elected members shall be eligible to receive the increase, effective with the first day of their new or subsequent term. Current members shall continue to be paid at the rate in effect prior to the passage of the resolution and shall only receive the increased compensation, if re-elected, effective with the first day of their subsequent term.

Expenses of a Governing Board member incurred in the performance of his/her duties and expenses of a member-elect in training and orientation shall be paid from the Governing Board Service Fund, provided that each such member or member-elect submits a written statement of his/her expenses for approval by the Governing Board at its next regular meeting.

A Governing Board member shall be permitted to request coverage for himself/herself and/or family in the ESC's group health and life insurance plan. This coverage is permissible only at the Governing Board member's expense. This does not constitute "pecuniary interest" in any contract.

Within thirty (30) days after a Governing Board member takes office, s/he has an opportunity to become a member of the State Employees Retirement System in accordance with R.C. 3309.012 and A.C. 3309-1.

The Governing Board member shall notify the Treasurer whether or not s/he wishes to participate. The Treasurer shall ensure that the proper procedure is followed for completing the information required by the Retirement Governing Board.

**0148 - PUBLIC EXPRESSIONS OF MEMBERS**

The Governing Board President functions as the official spokesperson for the Governing Board.

From time-to-time, however, individual Governing Board members make public statements on school matters to local media and/or to local or State officials.

Governing Board members should, when writing or speaking on school matters to the media, legislators, and other officials, make it clear that their views do not necessarily reflect the views of the Governing Board or of their colleagues on the Governing Board unless such views have been memorialized pursuant to a resolution of the Governing Board.

**0148.1 - GOVERNING BOARD-EMPLOYEE COMMUNICATIONS**

As to all non-financial and non-public record matters, the line of communication to and from the Governing Board and its employees shall flow through the Superintendent and/or his/her designees only.

As to all financial and public record matters, the line of communication to and from the Governing Board and its employees shall flow through the Superintendent and/or his/her designees and/or the Treasurer and/or his/her designees only.

**0151 - ORGANIZATIONAL MEETING**

The Governing Board shall meet on a day occurring during January of each year and shall organize by electing one of its members the President and another the Vice-President, both of whom shall serve for one (1) year.

The Treasurer shall canvass the members of the incoming Governing Board members no later than December 31 to establish the day of the organizational meeting prescribed by this section.

On or before the last meeting of the year - i.e., on or before December 31, the Governing Board shall appoint one of its members to serve as the President Pro Tem (aka President Pro Tempore) at the organizational meeting.

**0152 - NEW MEMBERS, OFFICERS, AND OATHS**

The organizational meeting shall be called to order by the President Pro Tem who shall act as the presiding officer.

The oath of office shall be administered to new members.

The Governing Board shall then proceed to the election of a President and a Vice- President and then the President shall act as the presiding officer.

Elections of officers shall be by roll-call majority vote of members physically present taken by the Treasurer.

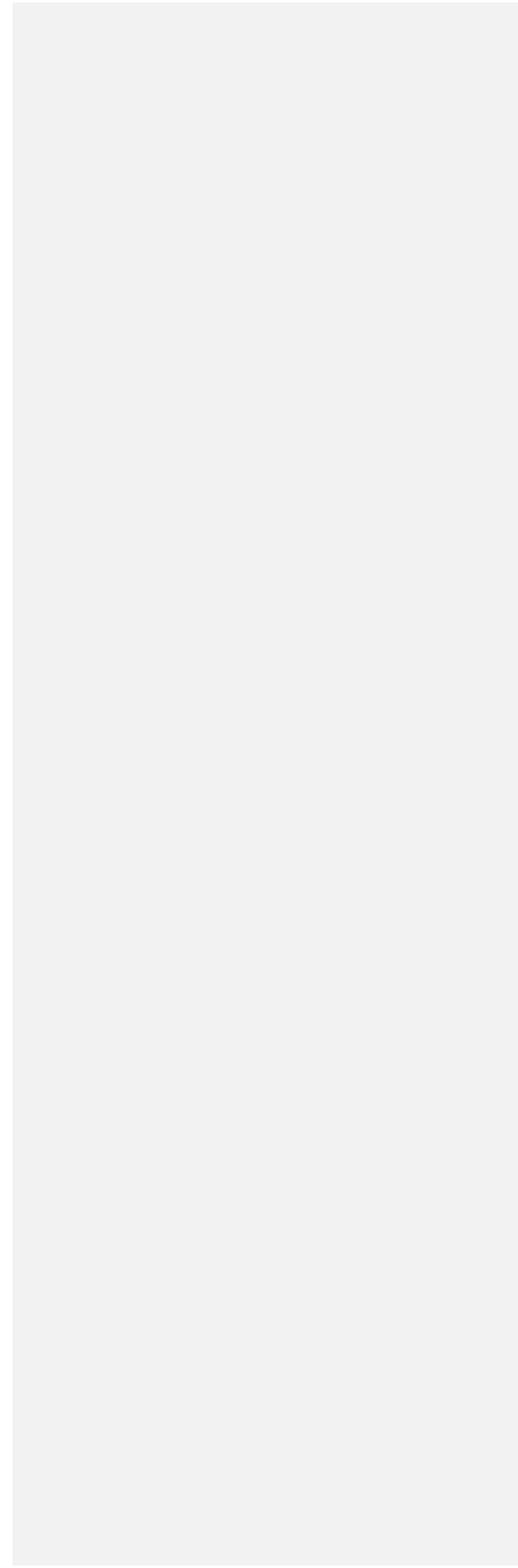
If no such majority exists on the first vote, a second vote shall be cast for the two (2) candidates who receive the greatest number of votes. If no such majority exists on the second vote, subsequent votes shall be cast until one (1) candidate receives the greatest number of votes. The organizational meeting cannot adjourn until a President and Vice-President are elected.

Officers shall serve for one (1) year and until their respective successors are elected and shall qualify.

In the event that the office of President becomes vacant, the Vice-President shall succeed the President and the position of Vice-President shall be filled in the same manner as the election conducted at the organizational meeting.

**0153 - APPOINTEES/DESIGNEES**

At the organizational meeting, and throughout the calendar year, the Governing Board may appoint those designees, delegates, and advisors as required and permitted by policies, contracts, and law.



**0154 - REGULAR MEETINGS OF THE GOVERNING BOARD**

At the time of the organization meeting, the Governing Board shall fix the time for holding its regular meetings. Regular meetings shall be held at least once every two (2) months.

## 0155 - COMMITTEES

Consistent with Governing Board policies, the Governing Board may charge committees and/or sub-committees to conduct studies, make recommendations to the Governing Board, and act in an advisory capacity, but shall not take action on behalf of the Governing Board.

Whenever a committee and/or sub-committee meets for any pre-arranged discussion of public business of that committee or sub-committee, it shall abide by Bylaw 0165.2 for special meetings and the Ohio Sunshine Law as codified in R.C. 121.22 and applicable law. The law requires that the committee or sub-committee give public notice of each meeting as well as prepare, file, and maintain minutes of the proceedings. Such minutes shall also be available for inspection by the public. A committee and/or sub-committee may meet in executive session in accordance with the Ohio Sunshine Law as codified in R.C. 121.22 and applicable law.

**0156 - APPOINTMENT OF LEGAL ADVISORS**

Pursuant to R.C. 3313.35, the prosecuting attorney of the county in which the largest number of pupils supervised by the Governing Board reside shall be the legal adviser of the Governing Board. The prosecuting attorney shall prosecute all actions against a member or officer of a board for malfeasance or misfeasance in office, and the prosecuting attorney shall be the legal counsel of the Governing Board and its officers in all civil actions brought by or against them and shall conduct such actions in the prosecuting attorney's official capacity. No compensation in addition to the prosecuting attorney's regular salary shall be allowed for such services.

When a civil action is between the Governing Board and another board in the same county, the prosecuting attorney shall not be required to act for either of them.

The Governing Board has the discretionary authority to employ private legal counsel (who is not the Law Director) to represent the Governing Board and render legal services provided that such private legal counsel is paid from the school fund.

The Governing Board also has the discretionary authority to employ legal counsel as "in-house" counsel for the Governing Board.

**0162 - QUORUM**

With respect to Governing Board meetings, a simple majority of members present in person at a regular or special Governing Board meeting shall constitute a quorum, and no business shall be conducted in the absence of a quorum. A simple majority of designees or committee/sub-committee members-excluding ex-officio members - present in person at a designee meeting or committee/sub-committee shall constitute a quorum, and no business shall be conducted in the absence of a quorum.

**0163 - PRESIDING OFFICER**

The President shall preside at all regular and special meetings of the Governing Board other than committee or sub-committee meetings. In the absence, disability, or disqualification of the President, the Vice-President shall act instead; if neither person is available, any member shall be designated by a majority of those present to preside. The act of any person so designated shall be legal and binding.

**0164 - NOTICE OF MEETINGS**

- A. At the time of the organization meeting, each Governing Board shall fix the time for holding its regular meetings. The Governing Board's designees, committees, and sub-committees shall fix the time for holding its regular meetings thirty (30) calendar days of any appointment for any given calendar year.
- B. Notice of the time, place, and purpose of each special meeting shall be provided consistent with Bylaw 0165.2 for special meetings and the Ohio Sunshine Laws (R.C. 121.22 and R.C. 3313.16) for all meetings of the Governing Board (or its designees, committees, or sub-committees as applicable).
- C. Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by reviewing the ESC website or submitting a request to the Treasurer to be provided with electronic notification of same. And posting such meetings and material to the ESC website shall establish a reasonable method by whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings.
- D. Any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person. No fee is required for electronic notifications.

## 0165.1 - REGULAR MEETINGS

Regular Governing Board meetings shall be held at least once every two (2) months.

- A. It shall be the responsibility of the Superintendent, in consultation with the Governing Board President, to prepare an agenda of the items of business to come before the Governing Board at each regular meeting.
- B. The agenda of the regular meetings or special meetings may be accompanied by a report from the Superintendent on information relating to the ESC with any such recommendations as the Superintendent deems appropriate.
- C. The agenda for each regular meeting shall be mailed or delivered to each Governing Board member so as to provide proper time for the member to fully study the agenda.
- D. The Governing Board shall transact business according to the approved agenda. The order of business may be altered, and items added at any meeting by a majority vote of the members present.

E. **Consent Agenda**

The Governing Board may use a consent agenda. A member of the Governing Board may request any item be removed from the consent resolution. No vote of the Governing Board shall be required to remove an item from the consent agenda. A single member's request shall cause it to be relocated as an action item eligible for discussion.

F. **Rescheduled Regular Meeting**

The agenda for a rescheduled regular meeting shall be the agenda that had been established for that regular meeting and the agenda may be modified pursuant to "regular meeting" procedures detailed in Bylaw 0165.1 - Regular Meetings.

## 0165.2 - SPECIAL MEETINGS

A special meeting of the Governing Board may be called by the Governing Board President, Treasurer, or by any two (2) Governing Board members by serving a written notice of the time and place of such meeting upon each member of the Governing Board at least two (2) days prior to the date of such meeting. A special meeting of the Governing Board's designees, committees, or sub-committees may be called by the Treasurer upon request of a designee or committee/sub-committee chairperson by serving a written notice of the time and place of such meeting upon each designee or committee/sub-committee member at least two (2) days prior to the date of such meeting. Such notices shall be signed by the official or members calling the meeting. Service by mail is good service.

The Governing Board (or its designees, committees, or sub-committees as applicable) shall not hold a special meeting unless it gives at least twenty-four (24) hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action.

In the event of an emergency, the official or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

Special meetings of the Governing Board shall be public. (R.C. 121.22 and R.C. 3313.16)

- A. Special meetings shall be called by the President or the Treasurer or by two (2) members of the Governing Board by serving a written notice of the time and place of such meeting upon each Governing Board member at least two (2) days in advance of the meeting. R.C. 3313.16
- B. The agenda for a special meeting, other than a rescheduled regular meeting, is limited to the purpose set forth in the public notice that is provided at least twenty-four (24) hours in advance of the meeting. At the special meeting, the Governing Board may only discuss those issues set forth on the agenda, whether in open session or executive session.

**0165.3 – RECESS/ADJOURNMENT**

The Governing Board may adjourn or recess at any time. The recessed or adjourned meeting, when reconvened, shall take up its agenda at the point where the motion to adjourn or recess was acted upon.

Notice of a new meeting is required where a meeting is ended by adjournment.

Meetings may not be recessed from day to day but may be recessed for a period of time on a day scheduled for a regular or special meeting.

## 0166 - EXECUTIVE SESSION

The Governing Board, as well as its designees, committees, and sub-committees, may hold an executive session only after a majority of a quorum of the Governing Board (or its designees, committees, or sub-committees as applicable) determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters set forth in R.C. 121.22(G).

The motion and vote to hold that executive session shall state, with specificity, which one or more of the approved matters listed in R.C. 121.22(G) are to be considered at the executive session but shall not list any matter in which the Governing Board (or its designees, committees, or sub-committees as applicable) has no intention of considering.

Upon receiving a second to the motion and a majority roll-call vote of those present and voting, the chairperson shall declare the Governing Board as having recessed out of open session and into executive session.

No official action may be taken in executive session.

The chairperson of the Governing Board (or its designees, committees, or sub-committees as applicable) ends its executive session and re-enters open session upon a simple declaration by the chairperson (i.e., no action is taken to end an executive session).

The Superintendent shall be responsible for advising the Governing Board as to the proper executive session procedures for all executive sessions upon the consultation of legal counsel as needed.

## 0167 - VOTING

All motions shall require for adoption a simple majority vote of those present and voting, except as provided by statute, these bylaws, or parliamentary authority. Upon the demand of any member of the Governing Board, the vote shall be recorded by roll call.

Unless a specified number of affirmative votes is required, an abstention shall be recorded and deemed to consent to the outcome of the voting. In situations in which a tie vote occurs and abstentions have been cast, the motion shall fail for lack of a majority.

All actions requiring a vote can be conducted by voice vote or show of hands unless a roll-call vote is requested or required. A Governing Board member shall be physically present at the meeting to vote. Each vote and abstention shall be recorded. Proxy voting is prohibited.

The Treasurer shall be responsible for advising the Governing Board as to the number of votes needed for the adoption of any motion upon the consultation of legal counsel as needed.

**0167.1 - USE OF ELECTRONIC COMMUNICATION**

Private and public electronic communications are subject to the Ohio Sunshine Law (R.C. 121.22) and may constitute public records.

Any use of electronic communication between two or more Governing Board members is discouraged.

0168 - **MINUTES**

The Treasurer shall record the proceedings of each meeting in a book to be provided by the Governing Board for that purpose, which shall be a public record. All resolutions passed by the Governing Board shall be memorialized in a manner that allows the public to access, understand, and comply with the actions of the Governing Board.

If the Treasurer is absent from any meeting of the Governing Board, the Governing Board members present shall choose one of their number to serve in his/her place pro tempore.

At the next succeeding meeting, the record of proceedings at each meeting of the Governing Board shall be read, corrected, and approved, which approval shall be noted in the proceedings. After such approval, the Governing Board President shall sign the record and the Treasurer/CFO attest it.

By resolution, a Governing Board may waive the reading of the record of any of its proceedings, provided that such record has been distributed to the members of the Governing Board at least two (2) days prior to the date of the next succeeding meeting and that copies of such record are made available to the public and news media. Such regulation shall be in full force and effect until such time as amended or rescinded by the Governing Board.

## 0169.1 - PUBLIC PARTICIPATION AT GOVERNING BOARD MEETINGS

There is no right for the public to participate in any regular or special meeting of the Governing Board.

Whether public participation shall be permitted at any regular or special meeting of the Governing Board shall be determined by the Governing Board.

When public participation is permitted at any regular or special meeting of the Governing Board, public participation shall be placed on the agenda at the end of all old and new business for a period not to exceed a total of fifteen (15) minutes.

The presiding officer of each Governing Board meeting at which public participation is permitted shall administer the rules of the Governing Board for its conduct.

The presiding officer shall be guided by the following rules:

- A. Public participation shall be permitted as indicated on the order of business which shall be at the end of all old and new business.
- ~~A.B.~~ Individuals may not register others to speak during public participation.
- ~~B.C.~~ Participants shall be recognized by the presiding officer and shall be requested to preface the participant's comments by an announcement of the participant's name, address, and group affiliation when appropriate.
- ~~C.D.~~ Public participation shall be limited to a period not to exceed a total of fifteen (15) minutes.
- ~~D.E.~~ Within the maximum fifteen (15) minute public participation period, a participant shall be permitted to speak in the order in which the participant's name appears on the sign-in sheet until the fifteen (15) minute period expires. Upon expiration of the fifteen (15) minutes period, there shall be no further public participation
- F. Each statement made by a participant shall be limited to three (3) minutes duration.
- ~~E.G.~~ During the portion of the meeting designated for public participation, no participant may speak more than once on the same topic unless all others who wish to speak on that topic have been heard.
- ~~F.~~ No participant may speak more than once.
- ~~G.H.~~ All statements shall be directed to the presiding officer and no participant may address and/or question Governing Board members individually.

~~H.I.~~ Tape and/or video recordings are permitted. The person operating the recorder shall contact the Superintendent prior to the Governing Board meeting to review possible placement of the equipment, and shall agree to abide by the following conditions:

1. No obstructions are created between the Governing Board and the audience;
2. No interviews are conducted in the meeting room while the Governing Board is in session; and
3. No commentary, adjustment of equipment, or positioning of operators is made that would distract either the Governing Board or members of the audience while the Governing Board is in session.

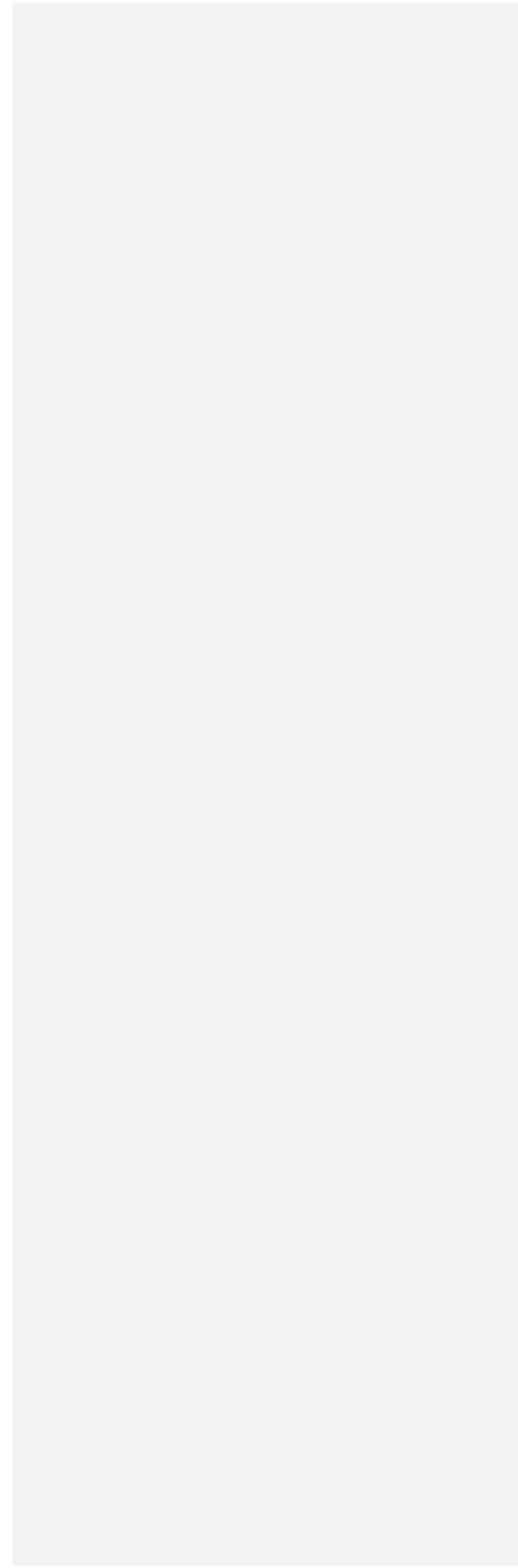
~~H.J.~~ The presiding officer may:

- ~~1.~~ Interrupt, warn, or terminate a participant's session when they make comments that are repetitive, obscene, and/or comments that constitute a true threat (i.e., statements meant to frighten or intimidate one (1) or more specified persons into believing that they will be seriously harmed by the speaker or someone acting at the speaker's behest);
- ~~0.~~ Interrupt, warn, or terminate a participant's statement when the statement is too lengthy, personally directed, abusive, obscene, or irrelevant;
- ~~1-2.~~ Request any individual person to stop speaking and/or leave the meeting when that person does not observe reasonable decorum;
- ~~2-3.~~ Request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the conduct and/or orderly progress of the meeting;
- ~~3-4.~~ Call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action; and/or
- ~~4-5.~~ Waive these rules, with the approval of the Governing Board when necessary for the protection of privacy and/or the administration of the Governing Board's business.

~~The Governing Board may permit individuals to attend meetings remotely through live broadcast; however, public participation will be limited to those who are in attendance at the meeting site only. The Governing Board is not responsible for any technology failures that prevent or disrupt any individual from attending remotely.~~

**0169.2 - OPEN MEETINGS/SUNSHINE LAW**

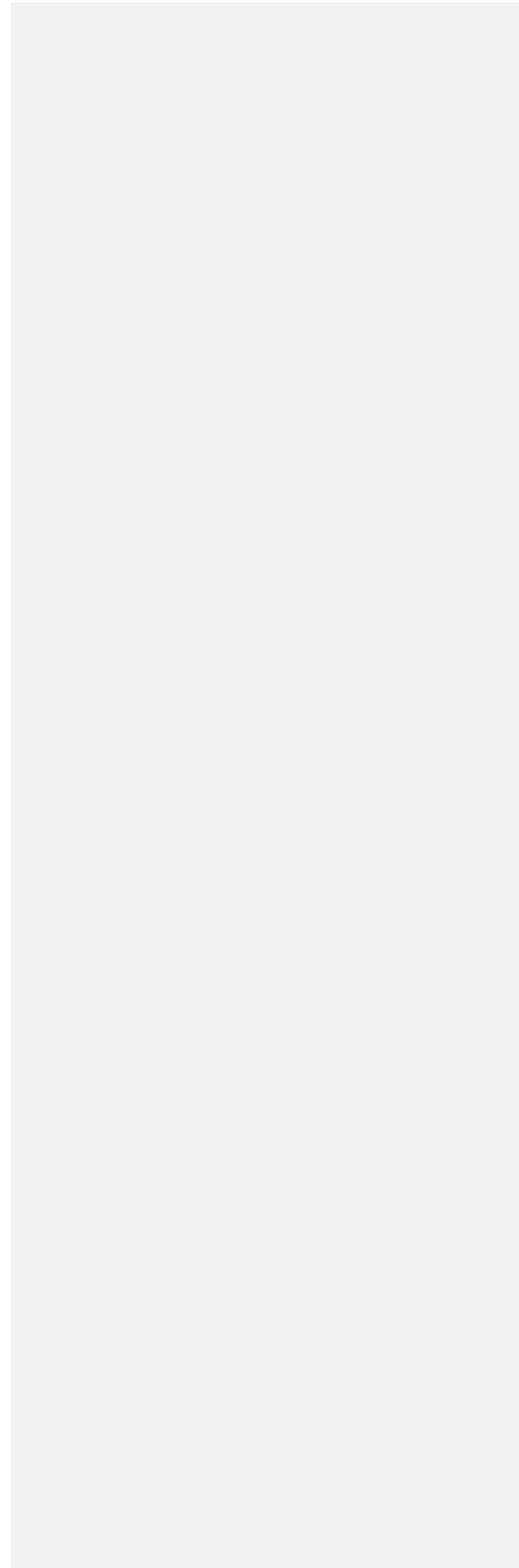
Bylaw 0165.2 for special meetings and the Sunshine Law (R.C. 121.22 and R.C. 3313.16) apply to the Governing Board, as well as its designees, committees, and sub-committees.



# **ADMINISTRATION**

December 16, 2021 Proposed Amendments

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## 1100 - ESC ORGANIZATION

The organization of this ESC shall be designed to meet the objectives set by the Governing Board, ensure clear lines of authority and responsibility, and define each position with clarity.

The Superintendent shall be the chief executive officer of the ESC. The Superintendent shall define and establish those administrative positions required to implement the educational system and program of learning established by the Governing Board. In each case, the Governing Board shall approve the broad purpose and function of the position in harmony with applicable laws and regulations.

Responsibility shall flow clearly from the Superintendent through the administrative staff to the operational personnel.

It shall be the responsibility of the Superintendent to determine the need for and define operational requirements sufficient to ensure the smooth functioning of the ESC.

On occasion, the Superintendent may find it necessary to recommend to the Governing Board the employment of specialists or consultants to maintain or support programs implemented by the Governing Board in areas requiring specialized knowledge. These positions shall be considered by the Governing Board on the merits of their potential contribution to the ESC and the specific conditions of the stated contract or agreement.

## 1110 - ASSESSMENT OF ESC GOALS

One of the major functions of the Governing Board is to work with the administration to establish the goals by which the ESC can accomplish its mission and to provide the resources necessary for their accomplishment. Because of the importance the Governing Board places on accomplishing goals, it has established the following policy for effective assessment of the ESC's progress toward their realization.

In conjunction with its evaluation(s) of the Superintendent, the Governing Board shall also provide the time for both the Governing Board and the Superintendent/Treasurer to assess the progress of the ESC, during the previous year, toward the achievement of current goals. Both the Superintendent/Treasurer's evaluation(s) and the progress-assessment of goals shall take place at a time of the year when the following conditions are most favorable to assure this policy operates as intended:

- A. There is adequate and reliable data available on results-to-date of each ESC goal so assessment and evaluation can focus on how well the ESC is accomplishing its goals;
- B. Evaluations or progress assessments of the ESC's learning programs as well as evaluations of key administrators and other staff have been completed so such data is available for reference by the Superintendent/Treasurer and Governing Board during the assessment of ESC goals and the evaluation(s) of the Superintendent/Treasurer;
- C. The Governing Board uses this assessment/evaluation time period to assess the effectiveness of the Governing Board; and
- D. Summaries and synthesized data, compiled from the evaluation(s) of the Superintendent/Treasurer, the Governing Board's self- assessment, and the evaluation data on programs and staff, are available to serve as reference information when determining the reasons for progress and/or lack of progress toward the accomplishment of ESC goals.

This annual process of assessing/evaluating the Governing Board, the Superintendent, the Treasurer, programs, and resources shall not be considered finished until:

- A. ESC goals and the strategies and actions being used to accomplish them have been reviewed and reprioritized;
- B. Revisions have been made in light of what all of the evaluation data for that year has indicated should be changed should be continued in order to improve the accomplishment of ESC goals; and

- C. The Governing Board develops and implements a plan to improve its own performance as the body charged with the responsibility for the governing of the ESC.

#### 1121 - CRIMINAL HISTORY RECORD CHECK

In accordance with applicable laws and regulations, the Governing Board requires a criminal background check including information from the Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI) of each applicant the Superintendent recommends for employment on the ESC's non-teaching staff as well as for all current non-teaching employees on a periodic basis. These requirements apply to any non-teaching employee, including individuals employed by a private company under contract with the Governing Board to provide essential school services, and all substitutes and persons employed on a part-time basis such as coaches or activity supervisors.

## 1130 - CONFLICT OF INTEREST

- A. The proper performance of school business is dependent upon the maintenance of unquestionably high standards of honesty, integrity, impartiality, and professional conduct by Governing Board's members, and the Governing Board's employees, officers, and agents. Further, such characteristics are essential to the Governing Board's commitment to earn and keep the public's confidence in the ESC. For these reasons, the Governing Board adopts the following guidance to assure that conflicts of interest do not occur. This guidance applies to all Governing Board employees, officers, and agents, including members of the Governing Board. This guidance is not intended to be all inclusive, nor to substitute for good judgment on the part of all employees, officers, and agents.
1. No employee, officer, or agent shall engage in or have a financial or other interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his/her duties and responsibilities in the school system.
  2. Employees, officers, 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 Governing Board.

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, officer's or agent's employment or professional relationship with the Governing Board through his/her access to ESC records;
- c. the referral of any student or client/vendor 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; and/or
- d. the requirement of students or clients to purchase any private goods or services provided by an employee, officer or agent or any business or professional practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations.

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3. Employees, officers and agents shall not make use of materials, equipment, or facilities of the ESC 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.
- B. Exceptions to Part A of this policy shall be approved by the Superintendent **before** entering into any private relationship within the boundaries of the law. The Superintendent shall seek appropriate consultation before approving any exception.
- C. Employees, officers, and agents cannot participate in the selection, award, or administration of a contract supported by a Federal grant/award if s/he has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties described in this section, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- Employees, officers, and agents can not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- D. To the extent that the ESC has a parent, affiliate or subsidiary organization that is not a State, local government or Indian tribe, the ESC may not conduct a procurement action involving the parent, affiliate, or subsidiary organization if the ESC is unable, or appears to be unable, to be impartial.
- E. Employees, officers, and agents shall disclose any potential conflict of interest which may lead to a violation of this policy to the ESC. Upon discovery of any potential conflict of interest, the ESC shall disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity.
- F. The ESC shall also 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.
- G. Employees, officers and agents found to be in violation of this conflict-of-interest policy shall be subject to disciplinary action up to and including termination, as permitted by applicable Governing Board policy.

## 1200 - STAFF ETHICS

The proper performance of school business and administration of an effective educational program requires the services of individuals of integrity, high ideals, and human understanding. To maintain and promote these essentials, the Governing Board expects all administrators to maintain high standards in their working relationships, provide professional leadership in the ESC and community, and in the performance of their duties, to:

- A. recognize basic dignities of all individuals with whom they interact in the performance of duties;
- B. represent accurately their qualifications;
- C. exercise due care to protect the mental and physical safety of students, colleagues, and subordinates;
- D. seek and apply the knowledge and skills appropriate to assigned responsibilities;
- E. keep in confidence legally confidential information;
- F. pledge that their actions and/or those of another on their behalf are not made with specific intent of advancing private economic interests;
- G. refuse to accept anything of value offered by another for the purpose of influencing judgment;
- H. refuse to accept compensation from any other source, other than the Governing Board, for the performance of his/her official duties, any other act or service in his/her public capacity, for the general performance of the duties of his/her public employment, or as a supplement to his/her public compensation; and
- I. refrain from using his/her position or public property or permitting another person to use an employee's position or public property for partisan political or religious purposes. (This shall in no way limit constitutionally or legally protected rights as a citizen.)

In addition, the Governing Board believes that each administrator should maintain standards of exemplary professional conduct by:

- A. making the well-being of students the fundamental value of all decision making and actions;
- B. fulfilling professional responsibilities with honesty and integrity;

- C. supporting the principle of due process and protecting the civil and human rights of all individuals;
- D. obeying local, State, and national laws;
- E. implementing the Governing Board's policies, rules, and regulations;
- F. pursuing appropriate measure to correct those laws, policies, and regulations that are not consistent with sound educational goals;
- G. avoiding the use of his/her position for personal gain through political, social, religious, economic, or other influences;
- H. accepting academic degrees or professional certification only from duly accredited institutions;
- I. maintaining the standards and seeking to improve the effectiveness of the profession through research and continuing professional development; and
- J. honoring all contracts until fulfillment, release or dissolution mutually agreed upon by all parties to the contract.

## 1210 - GOVERNING BOARD - SUPERINTENDENT RELATIONSHIP

The Governing Board believes that, in general, it is the primary duty of the Governing Board to establish policies and that of the Superintendent to administer such policies. The Superintendent should be given the latitude to determine the best method of implementing the policies of the Governing Board.

The Superintendent, as the chief executive officer of the ESC, is the primary professional advisor to the Governing Board. S/He is responsible for the development, supervision, and operation of the school program and facilities.

The Governing Board is responsible for determining the success of the Superintendent in meeting the goals established by the Governing Board through evaluation(s) of the Superintendent's performance.

## 1214 - STAFF GIFTS

The Governing Board considers the presentation of gifts to professional staff members by students and their parents an undesirable practice because it tends to embarrass students with limited means and gives the appearance of currying favor.

Based on the foregoing premise, it is the policy of the Governing Board that professional staff members may accept gifts of nominal value from students or parents provided the total value is nominal.

The Superintendent may approve acts of generosity to individual staff members in unusual situations. However, at no time may a staff member accept compensation from any other source, other than the Governing Board, for the performance of his/her official duties, any other act or service in his/her public capacity, for the general performance of the duties of his/her public employment, or as a supplement to his/her public compensation.

Professional staff members shall not accept any form of compensation from vendors that might influence their recommendations on the eventual purchase of equipment, supplies, or services. Furthermore, professional 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, professional staff members who recommend purchases shall not enter into a contractual arrangement with a vendor seeking to do business with the ESC, or a vendor with whom the ESC is doing business, whereby an individual professional 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 professional staff member receives such compensation, albeit unsolicited, from a vendor, the professional staff member shall notify the Treasurer, in writing, that s/he received such compensation and shall thereafter promptly transmit said compensation to the Treasurer.

## 1216 - STAFF DRESS AND GROOMING

The Governing Board believes that professional staff members set an example in dress and grooming for their students to follow. A professional staff member who understands this precept and adheres to it enlarges the importance of his/her task, presents an image of dignity, and encourages respect for authority. These factors act in a positive manner toward the maintenance of discipline.

The Governing Board retains the authority to specify the following dress and grooming guidelines for staff that shall prevent such matters from having an adverse impact on the educational process. When assigned to ESC duty, all professional staff members shall:

- A. be physically clean, neat, and well groomed;
- B. dress in a manner consistent with their professional responsibilities;
- C. dress in a manner that communicates to students a pride in personal appearance;
- D. dress in a manner that does not cause damage to ESC property; and
- E. be groomed in such a way that their hair style or dress does not disrupt the educational process nor cause a health or safety hazard.

## 1217 - WEAPONS

The Governing Board prohibits professional staff members from possessing, storing, making, or using a weapon, including a concealed weapon, in a school safety zone and any setting that is under the control and supervision of the Governing Board for the purpose of school activities approved and authorized by the Governing Board including, but not limited to, property leased, owned, or contracted by the Governing Board, a school-sponsored event, or in a Governing Board-owned vehicle.

The term “weapon” means any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to, firearms, guns of any type, including air and gas-powered guns (whether loaded or unloaded), knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

The Superintendent shall refer a staff member who violates this policy to law enforcement officials, regardless of whether such staff member possesses a valid concealed weapon license. The staff member shall also be subject to disciplinary action, up to and including termination, as permitted by applicable Governing Board policy.

Exceptions to this policy include:

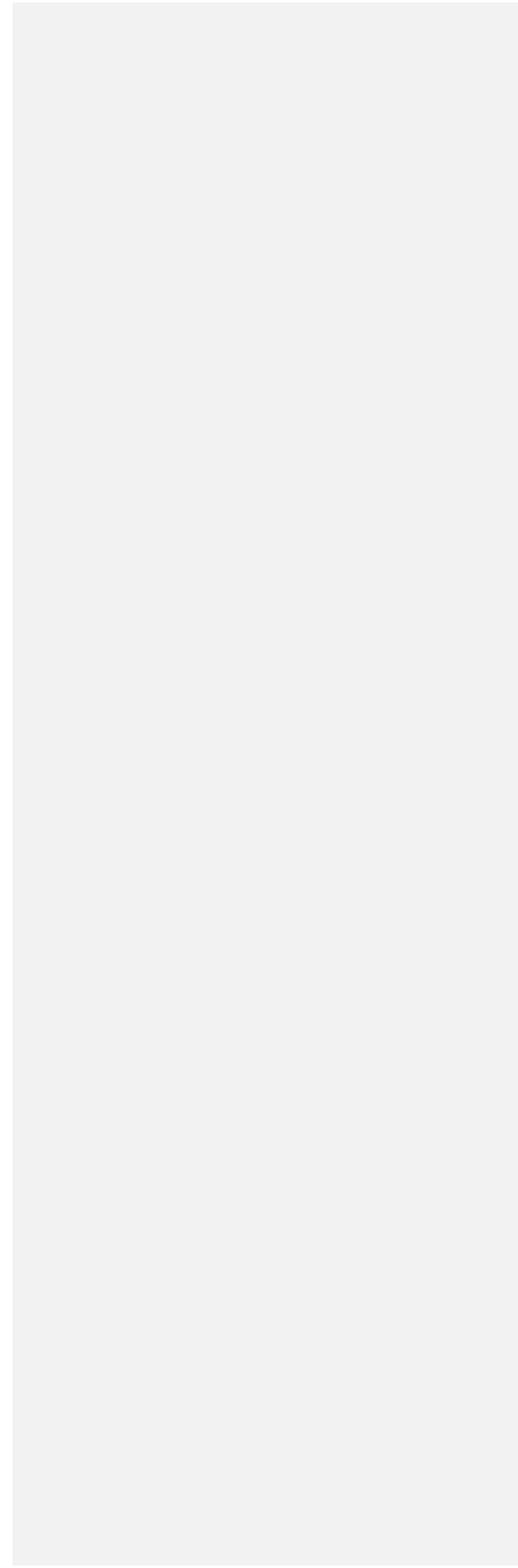
- A. weapons under the control of law enforcement personnel;
- B. items approved by the Superintendent as part of a class or individual presentation under adult supervision, if used for the purpose of and in the manner approved (Working firearms and ammunition shall never be approved.);
- C. theatrical props used in appropriate settings; and
- D. starter pistols used in appropriate sporting events.

Staff members shall report any information concerning weapons and/or threats of violence by students, staff members, or visitors to the Superintendent. Failure to report such information may subject the staff member to disciplinary action, up to and including termination.

The Governing Board directs the Superintendent to post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities. The notices shall contain a statement substantially in the following form:

Unless otherwise authorized by law, pursuant to Ohio Revised Code 2923.122, no person shall knowingly possess, have under the person’s control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone.

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. Further, notices shall be posted in each school bus and other Governing Board-owned vehicle, including a school van.



## 1220 - EMPLOYMENT OF THE SUPERINTENDENT

The Governing Board vests the primary responsibility for administration of this ESC in the Superintendent. The appointment of the Superintendent is, therefore, one of the most important functions the Governing Board can perform.

Whenever the position of Superintendent shall be vacant, the Governing Board shall appoint a Superintendent as chief executive officer.

The Governing Board shall appoint a Superintendent who meets the qualifications established by the Governing Board.

The Superintendent so appointed shall devote himself/herself exclusively to the duties of his/her office.

Any candidate's intentional misstatement of fact material to his/her qualification for employment or the determination of his/her salary shall be considered by this Governing Board to constitute grounds for his/her dismissal.

Prior to employment, the candidate selected shall also pass a background check performed by the Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation.

## 1230 - RESPONSIBILITIES OF THE SUPERINTENDENT

The Superintendent's job duties and responsibilities shall be determined by R.C. 3319.01 and the Governing Board.

The Superintendent shall be the Governing Board's chief executive for the matters identified by the Governing Board's policies and those matters assigned to the Superintendent by the Governing Board. The Governing Board expects that at all times, the Superintendent shall work in good faith with the Governing Board to maintain a professional, collaborative Governing Board-Superintendent working relationship.

The Governing Board expects that the Superintendent shall at all times:

- A. demonstrate professionalism, integrity, accountability, and educational leadership;
- B. collaborate with the Governing Board and the ESC's Treasurer/CFO in the achievement of ESC goals and priorities;
- C. not cause or allow any ESC practice, activity, decision, or circumstance that is either imprudent, dishonest, unlawful or in violation of commonly accepted educational, management or professional ethics and practices;
- D. retain employees in accordance with Governing Board approved salary schedules on a temporary basis pending the next meeting at which the Governing Board can act; and
- E. maintain and expand programs, services, and opportunities.

### **Communication with the Governing Board**

The Governing Board expects that, at all times, the Superintendent shall keep the Governing Board informed and supported in the Governing Board's work. The Governing Board shall expect the Superintendent to:

- A. submit data to the Governing Board in a timely, accurate and understandable fashion, directly addressing the matter at issue and including the Superintendent's analysis and interpretations;
- B. make the Governing Board aware of any actual or anticipated noncompliance with any of the Governing Board's policies, or applicable law, regardless of the Governing Board's meeting schedule;
- C. provide the Governing Board with decision information required periodically by the Governing Board and make the Governing Board aware of relevant events or trends;

- D. present information to the Governing Board in a concise and useable form; and
- E. deal with the Governing Board in a way that does not favor or privilege certain Governing Board members over others, except when responding to Governing Board officers or committees duly charged by the Governing Board.

**1230.01 - DEVELOPMENT OF ADMINISTRATIVE GUIDELINES**

The bylaws and policies established by the Governing Board shall govern the operation of the ESC consistent with the law. There shall be no administrative guidelines.

The Superintendent may develop procedures for the efficient operation of the ESC but any such procedures shall not constitute Governing Board bylaws or policies. Nor shall any such procedures be binding upon the Governing Board as a matter of law by virtue of creating a duty, contractual obligation, right, or other legal obligation upon the Governing Board.

## 1231 - OUTSIDE ACTIVITIES OF STAFF

Staff members should avoid situations in which their personal interests, activities, and associations conflict with the interests of the ESC. If such situations threaten a staff member's effectiveness within the school system, the Superintendent and/or Governing Board shall evaluate the impact of such interest, activity, or association upon the professional staff member's responsibilities.

Staff members may not dedicate work time to an outside interest, activity, or association.

Staff members may not use school property or school time to solicit or accept customers for private enterprises.

Staff members may not engage in business transactions on behalf of private enterprises in which s/he may profit by virtue of his/her official position or authority or benefit financially from confidential information that the employee has obtained or may obtain by reason of his/her position or authority.

Staff members may not campaign on school property during working hours on behalf of any political issue, or candidate for local, State, or National office. The constitutional right to express political and other opinions as citizens is reserved to all employees.

Staff members should refrain from expressions that disrupt the efficient operation of the school and/or interfere with the maintenance of discipline by school officials.

Unless expressly approved by the Superintendent, staff members may not accept fees for tutoring when such tutoring is conducted during the normal workday.

Similarly, unless expressly approved by the Superintendent, staff members may not accept fees for remedial tutoring of students currently enrolled in one (1) or more of their classes.

## 1231.01 - RESEARCH AND PUBLISHING

- A. Staff members are encouraged to contribute articles to professional publications and to engage in approved professional research.
- B. Materials that are considered for publication and/or production, which identify the ESC in any manner, shall be cleared with the Superintendent prior to publication and/or production.
- C. Publications and productions shall be subject to the following copyright provisions:
  - 1. Rights to copyrights or patents of books, materials, devices, etc. developed by staff members on their own time shall be relinquished by the Governing Board upon request of the staff member provided that:
    - a. the books, materials, devices, etc. were prepared without the use of Governing Board data, facilities, and/or equipment;
    - b. the Governing Board 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 Governing Board.

The final decision regarding whether materials were produced independent of any work assignment, and/or without using school equipment, facilities, data, or equipment rests with the Superintendent.

Staff members who desire to publish or produce 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 Governing Board interests and the interests of the staff member are protected.

- 2. All books, materials, devices, or products that result from the paid work time and/or prescribed duties of staff members shall remain the property of the Governing Board. The Governing Board 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. that protect the Governing Board's ownership of the product.

The Superintendent is authorized to negotiate with appropriate agencies for the production and distribution of products with commercial appeal. Such

negotiations shall seek fair and appropriate compensation, including sharing of royalties, for the staff member(s) who developed the products.

## 1240 - EVALUATION OF THE SUPERINTENDENT

The performance of the Superintendent shall be monitored systematically.

### **Performance Monitoring**

The Governing Board, as in its discretion it judges appropriate, may periodically monitor the Superintendent's performance throughout the evaluation year. Monitoring shall:

- A. determine the degree to which the Governing Board's expectations and the Superintendent's annual performance goals are being met; and
- B. provide the opportunity for dialogue between the Governing Board and the Superintendent on performance-related matters.

The Governing Board may acquire monitoring data by one (1) or more of three (3) methods:

- A. by Superintendent report, in which the Superintendent reports information and documents performance-related matters to the Governing Board;
- B. by external verification, in which an external, disinterested third party selected by the Governing Board assesses performance and compliance with Governing Board policies; or
- C. by direct Governing Board evaluation, in which the Governing Board assesses performance and compliance with the Governing Board's policies.

The Governing Board may monitor performance at any time, by any of the three (3) methods cited above.

### **Annual Performance Evaluation**

The Governing Board shall conduct a formal summative evaluation of the Superintendent. The summative evaluation shall utilize information collected during the year from performance monitoring.

As part of the evaluation, the Governing Board and Superintendent shall engage in dialogue on the Superintendent's performance towards the annual performance goals and the Governing Board's expectations.

The Governing Board shall prepare a written evaluation document, consisting of:

- A. the Governing Board's consensus conclusion on whether or not each annual performance goal has been achieved or reasonable progress has been made towards its achievement;

- B. the Governing Board's consensus conclusions whether or not each expectation has been achieved or reasonable progress has been made towards its achievement; and
- C. the Governing Board's consensus comments regarding the Superintendent's performance during the year.

The Governing Board shall make the final determination as to whether or not any performance goal or expectation has been achieved or reasonable progress has been made.

**Development of Evaluation Procedures**

The Governing Board shall develop procedures to carry out this policy. The evaluation procedures may be amended at any time as determined by the Governing Board.

The Governing Board shall periodically monitor and discuss the evaluation procedures. Self-monitoring shall include comparison of the Governing Board's activity and procedures with the principles set forth in the Governing Board's policies.

The establishment of an evaluation procedure shall not create the expectation of continued employment. The Governing Board shall be responsible for any final determination regarding the Superintendent's employment.

**1240.01 - NON-REEMPLOYMENT OF THE SUPERINTENDENT**

The non-reemployment of the Superintendent shall be consistent with the law.

If the Superintendent fails to maintain required licensure throughout the term of employment, the Superintendent shall be immediately suspended without pay and such failure is grounds for termination.

**1260 - INCAPACITY OF THE SUPERINTENDENT**

The incapacity of the Superintendent shall be determined consistent with the law as shall the appointment of a Superintendent Pro Tempore.

## 1266 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

### **Introduction**

The Governing Board does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The Governing Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Governing Board prohibits Sexual Harassment that occurs within its education programs and activities. When the Governing Board has actual knowledge of Sexual Harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Governing Board is committed to eliminating Sexual Harassment and will take appropriate action when an individual is determined responsible for violating this policy. Governing Board employees, students, third-party vendors and contractors, guests, and other members of the School Governing Board community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. The Governing Board will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the Governing Board's education programs and activities.

### **Coverage**

This policy applies to Sexual Harassment that occurs within the Governing Board's education programs and activities and that is committed by a member of the School Governing Board community or a Third Party.

This policy does not apply to Sexual Harassment that occurs off school grounds, in a private setting, and outside the scope of the Governing Board's education programs and activities; such Sexual Misconduct/Sexual Activity may be prohibited by the Student Code of Conduct if committed by a student, or by Governing Board policies and administrative guidelines, applicable State and/or Federal laws.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the Governing Board's education programs or activities. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by Governing Board policies and administrative guidelines, applicable State and/or Federal laws if committed by a Governing Board employee.

## Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

**Sexual Harassment:** “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

- A. A Governing Board employee conditioning the provision of an aid, benefit, or service of the Governing Board on an individual’s participation in unwelcome sexual conduct (often called “quid pro quo” harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Governing Board’s education program or activity; or
- C. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)A(v), or “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). “Sexual assault” means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
  - 1. Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Attempted rape is included.
  - 2. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - 3. Sexual Assault with an Object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
  - 4. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including

instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

5. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.
  6. Statutory Rape is sexual intercourse with a person who is under the statutory age of consent as defined by State law.
  7. Consent refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.
  8. Incapacitated refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.
- D. “Domestic violence” includes felony or misdemeanor crimes of violence committed by:
1. A current or former spouse or intimate partner of the victim;
  2. A person with whom the victim shares a child in common;
  3. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
  5. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.
- E. “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- F. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person’s safety or the safety of others; or (2) suffer substantial emotional distress.

**Complainant:** “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Respondent:** “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Formal Complaint:** “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the Governing Board investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint with the Governing Board, a Complainant must be participating in or attempting to participate in the Governing Board’s education program or activity. A “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal that the Governing Board provides for this purpose) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party to the Formal Complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

**Actual Knowledge:** “Actual knowledge” means notice of Sexual Harassment or allegations of Sexual Harassment to the Governing Board’s Title IX Coordinator, or any Governing Board official who has authority to institute corrective measures on behalf of the Governing Board, or any Governing Board employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the Governing Board. “Notice” includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. This standard is not met when the only Governing Board official with actual knowledge is the Respondent.

**Supportive Measures:** “Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Center’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Governing Board’s educational environment, or deter Sexual Harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations), leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), and other similar measures.

**Education Program or Activity:** “Education program or activity” refers to all operations of the Governing Board, including but not limited to in-person and online educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Governing Board. It also includes locations, events and circumstances that take place off-school property/grounds over which the Governing Board exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

**School Governing Board community:** “School Governing Board community” refers to students and Governing Board employees (i.e., administrators, and professional and classified staff), as well as Governing Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Governing Board.

**Third Parties:** “Third Parties” include, but are not limited to, guests and/or visitors on School Governing Board property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the Governing Board, and other individuals who come in contact with members of the School Governing Board community at school-related events/activities (whether on or off Governing Board property).

**Inculpatory Evidence:** “Inculpatory evidence” is evidence that tends to establish a Respondent’s responsibility for alleged Sexual Harassment.

**Exculpatory Evidence:** “Exculpatory evidence” is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

**Day(s):** Unless expressly stated otherwise, the term “day” or “days” as used in this policy means business day(s) (i.e., a day(s) that the Governing Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays),

**Eligible Student:** “Eligible Student” means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

**Title IX Coordinator(s)**

The Governing Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

The Title IX Coordinator shall report directly to the Superintendent. Questions about this policy should be directed to the Title IX Coordinator.

The Superintendent shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, and Governing Board employees with the Governing Board of the following information:

The Governing Board of the Ohio Valley Educational Service Center does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The Governing Board's Title IX Coordinator is:

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

Any inquiries about the application of Title IX and its implementing regulations to the Governing Board may be referred to the Title IX Coordinator, the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in Policy 1266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: <https://www.ovesc.org/governingboardpolicies>. The grievance process and procedures specifically address how to report or file a complaint of sex discrimination, how to report

or file a formal complaint of Sexual Harassment, and how the Governing Board will respond.

The Superintendent shall also prominently display the Title IX Coordinator's(s') contact information – including name(s) and/or title(s), phone number(s), office address(es), and e-mail address(es) – and this policy on the Governing Board's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, and Board employees.

### **Grievance Process and Procedures**

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The Governing Board's response to allegations of Sexual Harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this Grievance Process before imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for Sexual Harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the Governing Board's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

### **Report of Sexual Discrimination/Harassment**

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s). Anonymous reports may be submitted using the online reporting form posted at <https://www.ovesc.org/onlinereportingform>.

Students, Board members, and Board employees are required, and other members of the School Governing Board community, and Third Parties) are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Board employee, who will in turn notify the/a Title IX Coordinator. Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent

known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the person making the report should submit it to the Superintendent, or another Board employee who, in turn, will notify the Superintendent of the report. The Superintendent will then serve in place of the Title IX Coordinator for purposes of addressing that report of Sexual Harassment.

The Board does business with various vendors, contractors, and other third parties who who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the Board retains the right to limit any vendor's, contractor's, or third-party's access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a Formal Complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of Sexual Misconduct/Sexual Activity not involving Sexual Harassment will be addressed through the procedures outlined in Board policies, the applicable Student Code of Conduct, and/or applicable Employee/Administrator Handbook.

Because the Board is considered to have actual knowledge of Sexual Harassment or allegations of Sexual Harassment if any Board employee has such knowledge, and because the Board must take specific actions when it has notice of Sexual Harassment or allegations of Sexual Harassment, a Board employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or Sexual Harassment must notify the/a Title IX Coordinator within two (2) days of learning the information or receiving the report. The Board employee must also comply with mandatory reporting responsibilities pursuant to R.C. 2151.412 and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board employee's knowledge is based on another individual bringing the information to the Board employee's attention and the reporting individual submitted a written complaint to the Board employee, the Board employee must provide the written complaint to the Title IX Coordinator.

If a Board employee fails to report an incident of Sexual Harassment of which the Board employee is aware, the Board employee may be subject to disciplinary action, up to and including termination.

When a report of Sexual Harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days of the Title IX Coordinator's receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under 18 years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of

supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the Governing Board to provide the supportive measures.

**Emergency Removal:** Subject to limitations and/or procedures imposed by State and/or Federal law, the Governing Board may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the Governing Board determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. See Policy 5610 – Removal, Suspension, Expulsion, and Permanent Exclusion of Student, Policy 5610.03 – Emergency Removal of Students, and Policy 5611 – Due Process Rights.

If the Respondent is a non-student employee, the Governing Board may place the Respondent on administrative leave during the pendency of the grievance process.

For all other Respondents, including other members of the School Governing Board community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

### **Formal Complaint of Sexual Harassment**

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above and by using the online reporting form posted at <https://www.ovesc.org/onlinereportingform>.

When the Title IX Coordinator receives a Formal Complaint or signs a Formal Complaint, the Governing Board will follow its Grievance Process and Procedures, as set forth herein. Specifically, the Governing Board will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of Sexual Harassment or submitting a false Formal Complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct and the Employee/Administrator Handbook.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

### **Timeline**

The Governing Board will seek to conclude the grievance process, including resolving any appeals, within sixty (60) days of receipt of the Formal Complaint.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or accommodation of disabilities.

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known. The written notice must:
  1. Include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  2. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
  3. Inform the parties of any provision in the Student Code of Conduct, this policy, and/or Employee/Administrator Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the

investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

#### **Dismissal of a Formal Complaint**

The Governing Board shall investigate the allegations in a Formal Complaint, unless the conduct alleged in the Formal Complaint:

- A. Would not constitute Sexual Harassment (as defined in this policy) even if proved;
- B. Did not occur in the Governing Board's education program or activity; and/or
- C. Did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator shall dismiss the Formal Complaint. If the Title IX Coordinator dismisses the Formal Complaint due to one of the preceding reasons, the Governing Board may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee/Administrator Handbook.

The Title IX Coordinator may dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation:

- A. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- B. The Respondent is no longer enrolled in the Governing Board or employed by the Board; or
- C. Specific circumstances prevent the Governing Board from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator dismisses a Formal Complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

#### **Consolidation of Formal Complaints**

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

### **Informal Resolution Process**

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a Formal Complaint of Sexual Harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a Formal Complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur have stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Board employee sexually harassed a student.

The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent.

### **Investigation of a Formal Complaint of Sexual Harassment**

In conducting the investigation of a Formal Complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the Governing Board, not the parties.

In making the determination of responsibility, the decision-maker(s) is(are) directed to use the clear and convincing evidence standard. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

The Governing Board is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the Governing Board with voluntary, written consent to do so; if a student party is not an Eligible Student, the Governing Board must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. Have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The Governing Board may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

Board Policy 2461 – Recording of Governing Board Meetings Involving Students and/or Parents controls whether a person is allowed to audio record or video record any meeting or grievance proceeding.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The Governing Board will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator(s) and

decision-maker(s) must provide a minimum of one (1) days' notice with respect to investigative interviews.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the Governing Board does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior the decision-maker(s) issuing a determination regarding responsibility.

#### **Determination of Responsibility**

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

**Determination regarding responsibility:** The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the clear and convincing evidence standard.

The written determination will include the following content:

- A. Identification of the allegations potentially constituting Sexual Harassment pursuant to this policy;
- B. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the Governing Board impose on the Respondent(s), and whether remedies designed to restore or preserve equal access to the Governing Board's education program or activity should be provided by the Governing Board to the Complainant(s); and
- F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

The following disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. Informal Discipline
  - 1. Writing assignments;
  - 2. Changing of seating or location;
  - 3. Pre-school, lunchtime, and/or after-school detention;
  - 4. In-school discipline; and
  - 5. Saturday school.
- B. Formal Discipline
  - 1. Suspension of bus riding/transportation privileges;

2. Removal from co-curricular and/or extra-curricular activity(ies), including athletics;
3. Emergency removal;
4. Suspension for up to ten (10) school days;
5. Expulsion for up to eighty (80) school days or the number of school days remaining in a semester, whichever is greater;
6. Expulsion for up to one (1) year;
7. Permanent exclusion; and/or
8. Any other sanction authorized by the Student Code of Conduct.

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5600 – Student Discipline, Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Removal, Suspension, Expulsion, and Permanent Exclusion of Students, Policy 5601.01 – Permanent Exclusion of Nondisabled Students, Policy 5610.02 – In-School Discipline, Policy 5610.03 – Emergency Removal of Students, Policy 5610.04 – Suspension of Bus Riding/Transportation Privileges, Policy 5610.05 – Prohibition from Extra-Curricular Activities, and Policy 5611 – Due Process Rights. Discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

The following disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. Verbal or written warning;
- B. Written reprimands;
- C. Performance improvement plan;
- D. Required counseling;
- E. Required training or education;
- F. Demotion;

- G. Suspension with pay;
- H. Suspension without pay; and/or
- I. Termination, and any other sanction authorized by any applicable Employee/Administrator Handbook.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual.

Discipline of an employee will be implemented in accordance with Federal and State law, and Board policy.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School Governing Board community or Third Party who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. Verbal or written warning;
- B. Suspension or termination/cancellation of the Board's contract with the third-party vendor or contractor;
- C. Mandatory monitoring of the third-party while on school property and/or while working/interacting with students;
- D. Restriction/prohibition on the third-party's ability to be on school property; and
- E. Any combination of the same.

If the decision-maker(s) determines the third-party Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including imposition of sanctions. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately, imposing a disciplinary sanction/consequence, the Superintendent will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.

The Governing Board's resolution of a Formal Complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process and procedures, the Superintendent may involve local law enforcement and/or file criminal charges related to allegations of Sexual Harassment that involve a sexual assault.

The Title IX Coordinator is responsible for effective implementation of any remedies.

### **Appeal**

Both parties have the right to file an appeal from a determination regarding responsibility, or from the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter; and
- D. The recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the Sexual Harassment).

The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker(s)'s determination of responsibility, or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein.

Nothing herein shall prevent the Superintendent from imposing any remedy, including disciplinary sanction, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The decision-maker(s) for the appeal shall determine when each party's written statement is due. The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker(s)' determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

The determination of responsibility associated with a Formal Complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. No further review beyond the appeal is permitted.

### **Retaliation**

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of Sexual Harassment, filing a Formal Complaint, or participating in an investigation is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance procedures set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### **Confidentiality**

The Governing Board will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the Governing Board's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled related to the investigative record and determination of responsibility).

### **Application of the First Amendment**

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution and the principles of academic freedom. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment and/or the principles of academic freedom.

### **Training**

The Governing Board's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. The definition of Sexual Harassment (as that term is used in this policy);
- B. The scope of the Governing Board's education program or activity;
- C. How to conduct an investigation and implement the grievance process, appeals and informal resolution processes, as applicable; and
- D. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

### **Recordkeeping**

As part of its response to alleged violations of this policy, the Governing Board shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the Governing Board shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Governing Board's education program or activity. If the Governing Board does not provide a Complainant with supportive measures, then the Governing Board will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the Governing Board in the future from providing additional explanations or detailing additional measures taken.

The Governing Board shall maintain for a period of seven (7) calendar years the following records:

- A. Each Sexual Harassment investigation including any determination regarding responsibility, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the Governing Board's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process.

The Governing Board will make its training materials publicly available on its website. If a person is unable to access the Governing Board's website, the Title IX Coordinator will make the training materials available upon request for inspection by members of the public.

#### **Outside Appointments, Dual Appointments, and Delegations**

The Board retains discretion to appoint suitably qualified persons who are not Board employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Board also retains discretion to appoint two or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Superintendent may delegate functions assigned to a specific Board employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and

advisor, to any suitably qualified individual and such delegation may be rescinded by the Superintendent at any time.

**Discretion in Application**

The Board retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board’s interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the Board’s reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the Board retains discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

**1310 - EMPLOYMENT OF THE TREASURER**

The Governing Board vests the primary responsibility for the financial affairs of the ESC in the Treasurer. The appointment of the Treasurer is, therefore, one of the most important functions the Governing Board can perform.

Whenever the position of Treasurer shall be vacant, the Governing Board shall appoint a Treasurer as Chief Financial Officer. The Governing Board shall appoint a Treasurer who meets the qualifications established by the Governing Board.

The Treasurer so appointed shall devote himself/herself exclusively to the affairs of his/her duties, unless otherwise approved by the Governing Board.

In lieu of executing a surety bond, the Governing Board may authorize the Treasurer to be covered by an insurance policy issued by a Governing Board-approved and accredited insurance carrier or joint self-insurance pool. The policy must cover the Governing Board from losses caused by the fraudulent or dishonest actions of, and the failure to perform a duty prescribed by law of the Treasurer or other employee. Coverage must be equal to or greater than the amount required by the Governing Board for a surety bond. The Treasurer shall deposit with the President of the Governing Board a certified copy of documentation from the insurance provider that evidence proof of coverage before the employee is considered qualified for the position or undertakes official duties.

### 1320 - DUTIES OF THE TREASURER

The Treasurer's job duties and responsibilities shall be determined by R.C. 3313.22, applicable laws and regulations, and the Governing Board.

The Treasurer shall be the Governing Board's chief fiscal officer for the matters identified by the Governing Board's policies and those matters assigned to the Treasurer by the Governing Board and law. The Governing Board expects that at all times, the Superintendent shall work in good faith with the Governing Board to maintain a professional, collaborative Governing Board-Treasurer working relationship.

The Governing Board expects that the Treasurer shall at all times:

- A. demonstrate professionalism, integrity, accountability, and fiscal leadership;
- B. collaborate with the Governing Board and the ESC's Superintendent/CEO in the achievement of ESC goals and priorities;
- C. not cause or allow any ESC practice, activity, decision, or circumstance that is either imprudent, dishonest, unlawful or in violation of commonly accepted educational, management or professional ethics and practices;
- D. pursuant to applicable laws and regulations and Governing Board policy, to make investments on interim and inactive funds;
- E. pursuant to applicable laws and regulations and without further action by the Governing Board, pay bills within allocated appropriations as approved by the Governing Board;
- F. transfer and advance monies among the accounts of any fund and between accounts of differing funds pursuant to applicable laws and regulations; and
- G. maintain and expand programs, services, and opportunities.

### **Communication with the Governing Board**

The Governing Board expects that the Treasurer shall at all times keep the Governing Board informed and supported in the Governing Board's work. The Governing Board shall expect the Treasurer to:

- A. submit data to the Governing Board in a timely, accurate and understandable fashion, directly addressing the matter at issue and including the Superintendent's analysis and interpretations;
- B. make the Governing Board aware of any actual or anticipated noncompliance with any of the Governing Board's policies, or applicable law, regardless of the Governing Board's meeting schedule;
- C. provide the Governing Board with decision information required periodically by the Governing Board and make the Governing Board aware of relevant events or trends;
- D. present information to the Governing Board in a concise and useable form;
- E. deal with the Governing Board in a way that does not favor or privilege certain Governing Board members over others, except when responding to Governing Board officers or committees duly charged by the Governing Board.

## 1330 - EVALUATION OF THE TREASURER

The performance of the Treasurer shall be monitored systematically.

### **Performance Monitoring**

The Governing Board, as in its discretion it judges appropriate, may periodically monitor the Treasurer's performance throughout the evaluation year. Monitoring shall:

- A. determine the degree to which the Governing Board's expectations and the Treasurer's annual performance goals are being met; and
- B. provide the opportunity for dialogue between the Governing Board and the Treasurer on performance-related matters.

The Governing Board may acquire monitoring data by one (1) or more of three (3) methods:

- A. by Treasurer report, in which the Treasurer reports information and documents performance-related matters to the Governing Board;
- B. by external verification, in which an external, disinterested third party selected by the Governing Board assesses performance and compliance with Governing Board policies; or
- C. by direct Governing Board evaluation, in which the Governing Board assesses performance and compliance with the Governing Board's policies.

The Governing Board may monitor performance at any time, by any of the three (3) methods cited above.

### **Annual Performance Evaluation**

The Governing Board shall conduct a formal summative evaluation of the Treasurer. The summative evaluation shall utilize information collected during the year from performance monitoring.

As part of the evaluation, the Governing Board and Treasurer shall engage in dialogue on the Treasurer's performance towards the annual performance goals and the Governing Board's expectations for the Treasurer.

The Governing Board shall prepare a written evaluation document, consisting of:

- A. the Governing Board's consensus conclusion on whether or not each annual performance goal has been achieved or reasonable progress has been made towards its achievement;

- B. the Governing Board's consensus conclusions whether or not each Global Expectation has been achieved or reasonable progress has been made towards its achievement; and
- C. the Governing Board's consensus comments regarding the Treasurer's performance during the year.

The Governing Board shall make the final determination as to whether or not any performance goal or expectation has been achieved or reasonable progress has been made.

**Development of Evaluation Procedures**

The Governing Board shall develop procedures to carry out this policy. The evaluation procedures may be amended at any time as determined by the Governing Board.

The Governing Board shall periodically monitor and discuss the evaluation procedures. Self-monitoring shall include comparison of the Governing Board's activity and procedures with the principles set forth in the Governing Board's policies.

The establishment of an evaluation procedure shall not create the expectation of continued employment. The Governing Board shall be responsible for any final determination regarding the Treasurer's employment.

**1340 - NON-REEMPLOYMENT OF THE TREASURER**

The non-reemployment of the Treasurer shall be consistent with the law.

If the Treasurer fails to maintain required licensure throughout the term of employment, the Treasurer shall be immediately suspended without pay and such failure is grounds for termination.

A Treasurer is automatically disqualified from service for failing to hold a valid Treasurer's license. In addition, a Treasurer who is unable to secure a surety bond or insurance policy as required by law is not considered an "otherwise qualified Treasurer," and is similarly disqualified from service. Otherwise, the termination of the Treasurer's contract shall be in accordance with R.C. 3319.16 for good and just cause.

**1350 - INCAPACITY OF THE TREASURER**

The incapacity of the Treasurer shall be determined consistent with the law as shall the appointment of a Treasurer Pro Tempore.

## 1400 - **JOB DESCRIPTIONS**

The Governing Board recognizes that it is essential for ESC and employee accountability for each administrator to be fully aware of the duties and responsibilities of the administrator's position. Job descriptions document and describe the essential functions for administrative positions and thereby promote organizational effectiveness and efficiency. Therefore, the Governing Board shall maintain continuously a comprehensive, coordinated set of job descriptions for administrative positions.

#### 1411 - WHISTLEBLOWER PROTECTION

The Governing Board expects all its employees to be honest and ethical in their conduct, and to comply with applicable laws and regulations, Governing Board policies. The Governing Board encourages staff to report possible violations of these Governing Board expectations to their immediate supervisors.

It is the responsibility of an employee who is aware of conduct on the part of any Governing Board member or employee that possibly violates applicable laws and regulations, or Governing Board policy, to call this conduct to the attention of his/her immediate supervisor. If the employee's immediate supervisor is not responsive or is the employee whose behavior is in question, the employee may report to the Superintendent. If the reported conduct relates to the Superintendent, the report may be filed directly with the Governing Board President.

After such a report is made, the immediate supervisor shall ask that employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Governing Board has the authority to correct, and they do not make a report confirmed in writing to their immediate supervisor.

In the case of reporting suspected fraud or fraudulent activity, an employee may file a report using the Auditor of State's system for reporting of fraud. This reporting mechanism may be used either in addition to or instead of filing a written report with the employee's supervisor or other ESC authority.

## 1415 - SEVERANCE

### **Treasurer**

Pursuant to R.C. 124.39(C), the Governing Board provides more severance benefits than those set forth in R.C. 124.39(B) for the Treasurer. Specifically, the Treasurer shall, upon separation from service with the Governing Board for any reason other than termination for cause, be paid one-fourth (.25) of the value of the Treasurer's accrued but unused sick leave up to a maximum of two hundred forty (240) days.

Pursuant to R.C. 124.39(C), if the Treasurer dies during employment with the Governing Board, the Treasurer's unused sick leave shall be paid in accordance with R.C. 2113.04 and applicable laws or to the Treasurer's estate with the "date of passing" serving as the "date of retirement" for the purposes of this severance payment.

This policy shall become null and void effective August 1, 2024, with respect to the Treasurer at which date the Treasurer shall receive severance in accordance with the Superintendent, Administrators, Teachers, and Non-Teaching Employees in this policy unless this policy is otherwise amended or repealed.

### **Superintendent**

Pursuant to R.C. 124.39(C), the Governing Board provides more severance benefits than those set forth in R.C. 124.39(B) for the Superintendent with five (5) or more years of service with the Governing Board. Specifically, the Superintendent covered under either R.C. 124.38 and/or R.C. 3319.141, who qualifies and accepts retirement benefits under STRS/SERS and has five (5) or more years of service with the Governing Board, shall qualify for a one-time severance payment. The severance payment shall be in the amount of one-fourth (.25) of the value of the employee's accrued but unused sick leave up to a maximum of forty five (45) days times the calculated daily rate.

Pursuant to R.C. 124.39(C), if the Superintendent dies during employment with the Governing Board, the Superintendent's unused sick leave shall be paid in accordance with R.C. 2113.04 and applicable laws or to the Superintendent's estate with the "date of passing" serving as the "date of retirement" for the purposes of this severance payment.

This policy shall become null and void effective August 1, ~~2021~~2025, with respect to the Superintendent at which date the Superintendent shall receive severance in accordance with the Treasurer, Administrators, Teachers, and Non-Teaching Employees in this policy unless this policy is otherwise amended or repealed.

### **Administrators**

Pursuant to R.C. 124.39(C), the Governing Board provides more severance benefits than those set forth in R.C. 124.39(B) for Administrators with five (5) or more years of service with the Governing Board. Specifically, Administrators covered under either R.C. 124.38 and/or R.C. 3319.141, who qualify and accept retirement benefits under STRS/SERS and have five (5) or more years of service with the Governing Board, shall qualify for a one-time severance payment. The severance payment shall be in the amount of one-fourth (.25) of the value of the employee's accrued but unused sick leave up to a maximum of forty five (45) days times the calculated daily rate.

Pursuant to R.C. 124.39(C), if the Administrator dies during employment with the Governing Board, the Administrator's unused sick leave shall be paid in accordance with R.C. 2113.04 and applicable laws or to the Administrator's estate with the "date of passing" serving as the "date of retirement" for the purposes of this severance payment.

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#### 1416 - "PICK-UP ON THE PICK-UP" PLAN

The Governing Board has adopted a "pick-up on the pick-up" plan under both the State Teachers Retirement System of Ohio ("STRS") and State Employees Retirement System of Ohio ("SERS").

This "pick-up on the pick-up" plan shall only apply to the following class of employees:

1. The Superintendent; and
2. The Treasurer.

For the above class of employees:

1. The Governing Board shall pay the employee's entire share of the employee/member contribution of any and all STRS/SERS contributions as required by the laws of the State of Ohio;
2. Payment of the entire employee/member STRS/SERS contribution by the Governing Board shall be considered as compensation to the employee;
3. Payment of the employee's entire employee/member STRS/SERS contribution by the Governing Board shall be considered in the employee's salary for STRS/SERS retirement purposes;
4. The "pick-up on the pick-up" plan shall be a mandatory condition of employment; and
5. The employee is prohibited from opting out of the "pick-up on the pick-up" plan.

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**1417 - HOLIDAY**

**Treasurer**

The Treasurer shall be entitled to the seven (7) paid holidays outlined under R.C. 3319.087.

This policy shall become null and void effective August 1, 2024, with respect to the Treasurer at which date the Treasurer shall not receive any paid holidays unless this policy is otherwise amended or repealed.

**Superintendent and Administrators**

The Superintendent and Administrators shall not be entitled to paid holidays.

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#### 1419.02 - PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS

The Governing Board provides coverage to eligible employees under fully insured group health plans. The Governing Board has established the following fully insured group health plans:

- A. Medical Plan;
- B. Prescription Drug Plan;
- C. Dental Plan;
- D. Vision Plan; and
- E. Life Insurance.

The Governing Board acknowledges that these group health plans are required to comply with the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy Rule as amended by Title I of the Genetic Information Nondiscrimination Act (“GINA”). Fully insured group health plans generally are exempt from many of the requirements imposed upon self-funded group health plans.

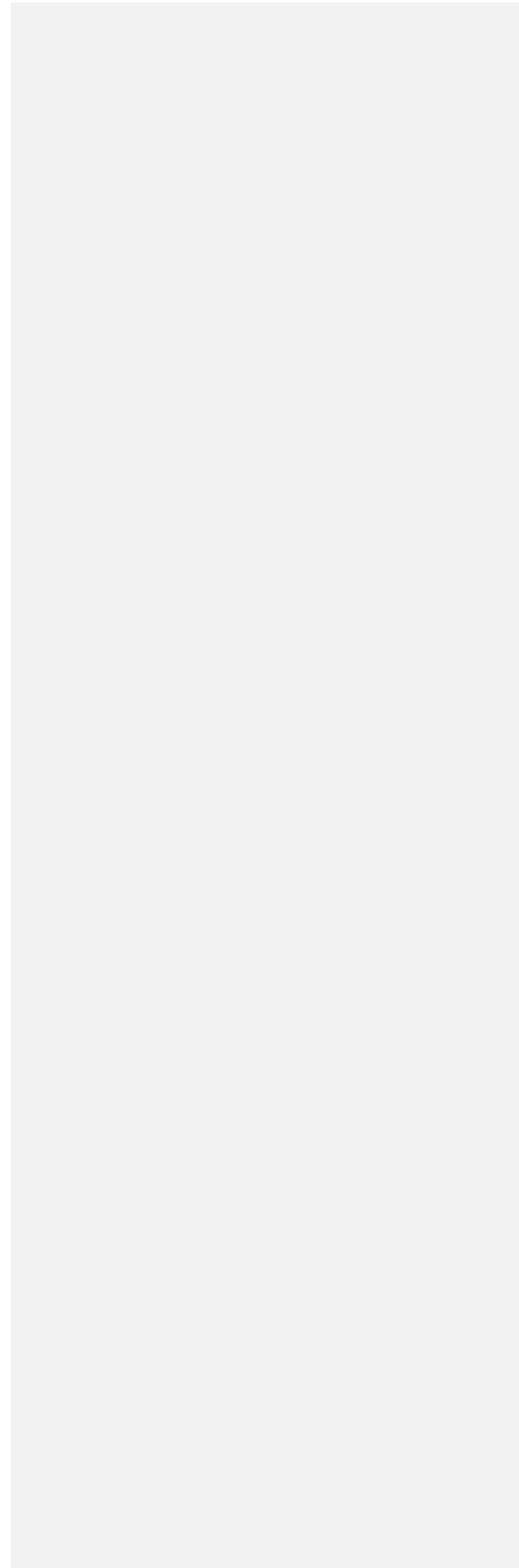
The fully insured group health plans established by the Governing Board shall:

- A. Refrain from taking any retaliatory action against any individual from exercising any right under the plan, filing a complaint with Health and Human Services, participating in any proceeding under Part C of Title XI of the Social Security Act, or opposing any act or practice made unlawful by the Privacy Rule provided that the individual has a good faith belief that the practice opposed is unlawful.
- B. Not impose a requirement that participants waive their rights under the Privacy Rule as a condition of the provision of payment, enrollment in a health plan, or eligibility of benefits.
- C. If the plan document is amended in accordance with the Privacy Rule, the plan shall retain a copy of the plan document as amended for six (6) years from the date of its amendment or the date when it last was in effect, whichever is later.

Fully insured group health plans established by the Governing Board shall not create or receive protected health information, except for:

- A. Summary health information. Summary health information is de-identified information that summarizes claims history, claims expenses, or type of claims experienced by health plan participants.

Information on whether an individual is participating in a group health plan or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan.



## 1422 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The Governing Board does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

### **Definitions:**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School Educational Service Center community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on ESC 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 ESC community at school-related events/activities (whether on or off ESC property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

### **ESC Compliance Officer(s)**

The Governing Board designates the following individual(s) to serve as the ESC's "Compliance Officer" (also known as "Civil Rights Coordinator").

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

The Compliance Officer is responsible for coordinating the ESC's efforts to comply with applicable Federal and State laws and regulations, including the ESC's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The Compliance Officer shall also 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, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public.

#### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Employees are required to report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other ESC-level official so that the Governing Board may address the conduct. Any administrator, supervisor, or other ESC-level employee or official who receives such a report shall file it with the Compliance Officer within two (2) school days if possible.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, shall not adversely affect the Complainant's employment. 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 shall be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. The Compliance Officer shall accept reports of unlawful discrimination/retaliation directly from any member of the ESC community or a Third Party, or receive reports that are initially filed with another Governing Board employee. Upon receipt of a report of alleged discrimination/retaliation, the Compliance Officer will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the Compliance Officer shall designate a specific individual to conduct such a process. The Compliance Officer shall provide a copy of this policy to the Complainant and the Respondent. In the case of a formal

complaint, the Compliance Officer shall prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the ESC community shall report incidents of discrimination/retaliation that are reported to them to the Compliance Officer within two (2) business days of learning of the incident/conduct.

Any Governing Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to the Compliance Officer within two (2) business days. Additionally, any Governing Board 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 Governing Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the Compliance Officer or designee must contact the Complainant within two (2) business days to advise of the Governing Board's intent to investigate the wrongdoing.

### **Investigation and Complaint Procedure**

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to unlawful discrimination or retaliation may seek resolution of the complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

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

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to promptly stop 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 who alleges unlawful discrimination or retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.

The Complainant may proceed immediately to the formal complaint process and individuals who participate in the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving an ESC employee or any other adult member of the ESC community and a student shall be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe doing so, the individual should tell or otherwise inform the Respondent that the allegedly discriminatory/retaliatory conduct that it is inappropriate and shall stop. The Complainant should address the alleged misconduct as soon after it occurs as possible. The Compliance Officer is available to support and counsel the Complainant when taking this initial step or to intervene on behalf of the individual if requested to do so. A complainant who is uncomfortable or unwilling to directly approach the Respondent about the inappropriate conduct may file an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination (e.g., sex discrimination) Compliance Officer may advise against the use of the informal complaint process.

A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing to the Compliance Officer and/or the Superintendent or designee.

All informal complaints shall be reported to the Compliance Officer who shall either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The ESC's informal complaint procedure is designed to provide the Complainant 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 Complainant, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant about how to communicate concerns to the Respondent
- B. Distributing a copy of this policy as a reminder to the individuals in the school building or office where the Respondent works.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. .

While there are no set time limits within which an informal complaint shall be resolved, the Compliance Officer or designee is directed to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process shall be retained by the Compliance Officer in accordance with the Governing Board's records retention policy.

### **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 Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

A Complainant may file a formal complaint, either orally or in writing, with the Compliance Officer and/or the Superintendent or designee. 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 formal complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs the Superintendent or designee, either orally or in writing, about any complaint of discrimination/retaliation, that employee shall report such information to the Compliance Officer within two (2) business days.

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

All formal complaints shall include the following information to the extent known: the identity of the Respondent ; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 shall prepare a written summary of the oral interview, and the Complainant shall be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer shall 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 whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions the Compliance Officer deems appropriate in consultation with the Superintendent or designee.

Within two (2) business days of receiving the complaint, the Compliance Officer or designee shall initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the Compliance Officer shall inform the Respondent that a formal complaint has been received. The Respondent shall be informed about the nature of the allegations and provided with a copy of any relevant policies, including this policy. The Respondent shall 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, the Compliance Officer or a designee shall attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation shall include:

- A. Interviews with the Complainant;
- B. Interviews 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 witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or designee shall prepare and deliver a written report to the Superintendent or designee 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 Governing Board policy and applicable law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant. The Compliance Officer or designee's recommendations shall be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard shall be used. The Compliance Officer or designee may consult with the Governing Board's legal counsel before finalizing the report to the Superintendent or designee.

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

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

If the Superintendent or designee determines that the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent or designee shall identify what corrective action shall be taken to stop, remedy, and prevent the recurrence of the

discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

The decision of the Superintendent or designee shall be final.

The Governing Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee alleging the unlawful discrimination/retaliation pursues the complaint. The Governing 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 Governing Board or its designee.

The parties may be represented, at their 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, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

#### **Privacy/Confidentiality**

The ESC shall employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform 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. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the Compliance Officer or designee shall 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 is learned or provided learns and/or provides during the course of the investigation.

#### **Sanctions and Monitoring**

The Governing Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. 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 shall be taken in accordance with applicable laws. When imposing discipline, the Superintendent or designee shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Governing Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Governing Board policies.

Where the Governing Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Governing Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### **Education and Training**

In support of this policy, the Governing Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the ESC community related to the implementation of this policy and shall provide training for ESC students and staff where appropriate. All training, as well as all information provided regarding the Governing Board's policy and discrimination in general, shall be age and content appropriate.

### **Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media created and/or received as part of an investigation, which may include, but is not limited to:

- A. all written reports/allegations/complaints/grievances/ statements/responses pertaining to an alleged violation of this policy;

- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by ESC personnel or individuals contracted or appointed by the Governing Board to fulfill its responsibilities related to the investigation and/or the ESC's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Governing Board policy used by the ESC to conduct the investigation, and any documents used by the ESC at the time of the alleged violation to communicate the Governing Board's expectations to students and staff with respect

to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- N. documentation of any training provided to ESC personnel related to this policy including, but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all ESC personnel involved in enforcing this policy including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;
- O. documentation that any rights or opportunities that the ESC made available to one party during the investigation were made available to the other party on equal terms;
- P. copies of any notices sent to the alleged Respondent of the allegations constituting a potential violation of this policy;
- Q. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings including the investigation report and any written responses submitted by the Complainant or the Respondent.

The documents, ESI, and electronic media retained may include public records and records exempt from disclosure under applicable state and federal laws. The documents, ESI, and electronic media created or received as part of an investigation shall be retained in accordance with applicable state and federal laws for not less than three (3) years but longer if required by the ESC's records retention schedule.

## **1422.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE**

The Governing 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 Governing Board also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Harassment of a person because of his/her genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

In accordance with the Genetic Information Nondiscrimination Act (GINA), the Governing Board shall not request, require, or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with this Act, employees are directed not to provide any genetic information, including the individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be acquired as part of the certification process for FMLA leave 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 ESC's application process.

"Genetic information," as defined by GINA, 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 (i.e., 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.

If the ESC either legally and/or inadvertently receives genetic information about an employee or applicant for employment from the employee, applicant for employment or a medical provider it shall be treated as a confidential medical record in accordance with law.

The Superintendent shall appoint a compliance officer who shall be responsible for overseeing the ESC's compliance with Federal regulations and promptly dealing with any inquiries or complaints. The Superintendent shall also verify that proper notice of nondiscrimination for Title II of the Genetic Information Nondiscrimination Act of 2008 is provided to staff members, and that all ESC requests for health-related information (e.g., to support an employee's request for reasonable accommodation under the ADA or a request for sick leave) is accompanied by a written warning that directs the employee or health care provider not to collect or provide genetic information. The warning shall read as follows:

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II, including the Governing Board, from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by law. To comply with this law, do not provide any genetic information when responding to this request for medical information (unless the request pertains to a request for FMLA leave for purposes of caring for an immediate family member with a serious health condition). “Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic test, the fact that an individual or an individual’s family member sought or received genetic services or participated in clinical research that includes genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

1432 - SICK LEAVE

**Superintendent, Treasurer, and Administrators**

The Superintendent, Treasurer, and all full-time Administrators shall be granted sick leave at the rate of one and one-fourth (1.25) days per month in accordance with R.C. 124.38 and R.C. 3319.141 as applicable. Employees who work less than full-time shall be granted sick leave for the time actually worked at the rate of one and one-fourth (1.25) days per month. Employees who work full-time or part-time shall receive the following number of sick days per month:

<u>Days Scheduled to Be Worked per Week</u>	<u>Sick Days Received</u>
5 days (full-time)	1.25 days
4 days	1.00 day
3 days	0.75 day
2 days	0.50 day
1 day	0.25 day

Sick leave must be taken in increments of one-half (.5) or one (1) whole day.

Sick leave may be used for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family. For absence of the employee due to illness or injury in the immediate family, immediate family is defined as spouse, child, parent, brother, sister, grandparents, and grandchildren. ("Child" includes biological, adopted, foster, and step-children as well as legal wards and children to whom the employee is acting "in loco parentis.")

For the absence of the employee due to the death in the immediate family, immediate family is defined as parent, spouse, child, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law, and any other relative of the employee as approved by the Superintendent or the Governing Board. The exact number of days granted shall be determined by the familial relationship and the circumstances surrounding the death, but more than three (3) consecutive days require the Superintendent's or the Governing Board's approval.

Newly hired Superintendent, Treasurer, and full-time Administrators may be advanced five (5) sick leave days if requested, provided that all accumulated sick leave has been exhausted. In cases where sick leave is advanced, the Governing Board shall make a deduction for the unearned, advanced sick leave days from the final pay of the individual for that contract year.

In all absences, the employee must fill out a report of absence form and file it with the Superintendent, Superintendent's designee, or the Governing Board in order to be compensated.

For absences of five (5) consecutive days or more, the employee must submit with the report of absence form a statement from the treating physician documenting the need for sick leave.

Unused sick leave shall be cumulative up to a maximum of two hundred forty (240) days.

New employees of the Governing Board who have previously been employed by a public agency not more than ten (10) years prior to their employment with the Governing Board and who have accrued sick leave balances under R.C. 124.38 and/or R.C. 3319.141 shall receive a credit for their existing balances up to two hundred forty (240) days.

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## 1433 - VACATION

### **Superintendent**

The Superintendent, Treasurer, and Assistant Superintendents shall be entitled to accrue twenty-five (25) days of paid vacation leave during each contract year (i.e., August 1 to July 31). Unused vacation leave may be carried over from one contract year to another up to a maximum of sixty (60) vacation days.

This policy shall become null and void effective August 1, 2021, with respect to the Superintendent at which date the Superintendent shall not receive any vacation leave unless this policy is otherwise amended or repealed.

### **Treasurer**

The Treasurer shall be entitled to accrue thirty (30) days of paid vacation leave during each contract year (i.e., August 1 to July 31). Unused vacation leave may be carried over from one contract year to another up to a total of ninety (90) vacation days. The Treasurer does not need to request vacation leave.

This policy shall become null and void effective August 1, 2024, with respect to the Treasurer at which date the Treasurer shall not receive any vacation leave unless this policy is otherwise amended or repealed.

### **Administrators**

Administrators who are employed at least two hundred forty (240) days per school year (i.e., July 1 to June 30) and have completed one (1) full month of employment are entitled to paid vacation leave at the rate of 1.67 days per month (20 days per year).

Vacation days may be accumulated up to a maximum of thirty (30) days.

Upon separation from employment, employees are entitled to payment for up to twenty five (25) unused vacation leave at the prorated portion of the current year as required under Ohio law.

Employees requesting leave must submit the request for such leave to their immediate supervisor at least two (2) weeks in advance of the week or weeks in which the vacation leave is requested, unless otherwise approved by the Superintendent or Superintendent's designee.

Vacation must be taken in increments of one-half (.5) or one (1) whole day.

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December 16, 2021 Proposed Amendments

1436 - PERSONAL LEAVE

**Superintendent, Treasurer, and Administrators**

The Superintendent, Treasurer, and all Administrators who are scheduled to work for one hundred twenty (120) or more days regardless of number of hours/days are entitled to up to three (3) days per year of paid personal leave, starting July 1 of each year, for the purpose of fulfilling legal or personal business that conflicts with the employee's regular work schedule. Personal leave must be taken in increments of one-half (.5) or one (1) whole day.

The Superintendent, the Treasurer, and all Administrators are entitled to the following number of personal days according to the following start date of employment:

- July, August, September – 3 days
- October, November, December – 2 days
- January, February, March – 1 day
- April, May, June – 0 days

Unless otherwise approved by the Superintendent or designee, personal leave must be requested, in writing, at least five (5) calendar days in advance of the requested leave, except in the case of emergencies, and approved by the Superintendent or designee. Neither the Superintendent nor the Treasurer is required to request personal leave.

Effective July 1, 2019, personal leave shall not accumulate and must be used by June 30 of the contract year or it shall be converted to sick leave.

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#### 1440 - JOB-RELATED EXPENSES

The Governing Board may provide for the payment of the actual and necessary expenses, including traveling expenses, of any staff member of the ESC incurred in the course of performing services for the ESC, whether within or outside the ESC, under the direction of the Governing Board.

The validity of payments for job-related expenses shall be determined by the Superintendent. Pre-approval for estimated travel expenses by Treasurer is required.

The Governing Board may pay the expenses of staff members when they attend professional meetings (as defined in Governing Board Policy 3243) with prior approval in accordance with the policy of this Governing Board. Job-related expenses incurred by the Superintendent shall be reimbursed in accordance with this policy when authorized by Governing Board.

The Governing Board may only make expenditures of public funds if the expenditure is for a valid public purpose. Expenditures are for a valid public purpose if the expenditure is required for the general good of all ESC inhabitants. Second, the primary objective of the expenditure must be to further a public purpose, even if an incidental private end is advanced.

The expenditure of public funds for alcoholic beverages is not a proper public purpose. Therefore, neither Governing Board members nor ESC staff will be reimbursed for alcoholic beverages.

Staff members are expected to exercise the same care incurring travel expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Unauthorized costs and additional expenses incurred for personal preference or convenience shall not be reimbursed.

Unauthorized expenses include but are not limited to alcohol, movies, supplemental insurance on rental cars, fines for traffic violations, and the entertainment/meals/lodging of spouses or guests.

Further, the Auditor of State has concluded that if prior authorization has been given for an expense, the Auditor will not question an expense reimbursement in the course of an audit for coffee, meals, refreshments or other amenities unless there is a clear indication that the reimbursement is arbitrary or incorrect. For this reason, the Governing Board establishes the following expense reimbursement limits. The Governing Board will reimburse up to \$50 per day for allowable meals (including gratuities) or as approved or deemed appropriate by Superintendent. **An itemized receipt must be submitted with the request for reimbursement for the request to be considered.** When traveling on school business, an employee is expected to use the same care in incurring expenses as a prudent person would on personal business.

The Governing Board will reimburse for lodging up to \$175 per day or at a reasonable per diem rate as deemed appropriate by the Superintendent.

The Governing Board shall reimburse employees engaged in ESC business for driving a personally-owned vehicle at the current I.R.S. rate.

The Governing Board shall issue credit cards to employees for use in ESC business on a case-by-case basis. ESC credit cards may not be used for such things as gratuities (except in connection with a meal), entertainment, or room service charges. An employee wanting to use an ESC credit card for ESC business expenses shall submit a requisition form to the Treasurer at least two (2) weeks in advance of the intended use, or, if less notice is available, as soon as practicable. The Treasurer may request additional information from the employee or the employee's supervisor before approving or denying the use of the ESC credit card. Employees who use ESC credit cards shall submit receipts and/or other documentation of any charges placed on the card. The Treasurer shall maintain the requisition forms, purchase orders, receipts, and other documentation of charges placed on ESC credit cards in accordance with accepted auditing standards. The Treasurer may develop additional guidelines for the use of ESC credit cards as he or she deems necessary to provide for the proper supervision and use of such cards.

Accrual of personal frequent-flyer miles, hotel "bonus points", credit card "rewards," or any other reward under similar affinity programs (including credit points or rewards directed to non-profit organizations) is strictly prohibited.

This policy does not address every issue, exception, or contingency that may arise in the course of travel.

**1481 - USE OF EMPLOYEE'S PERSONAL PROPERTY AT ESC FACILITIES**

From time-to-time Governing Board employees may wish to bring personal property to school either for reasons associated with administrative responsibilities or for use during off-duty time. This practice is permitted provided it is understood that the Governing Board is not responsible for any loss, damage, or misuse of said property.

Other individuals may wish to bring personal property onto ESC premises. The owner of the personal property bears all responsibility and assumes all risk for loss, damage, or misuse of said personal property while it is on Governing Board property. This provision applies, without limitation, to trespassers, invitees, visitors, and independent contractors.

The limitation of liabilities set forth in the previous paragraphs applies to all personal property, regardless of any benefit the Governing Board receives from its use.

## 1520 - EMPLOYMENT OF ADMINISTRATORS

All administrative employees are employed under R.C. 3319.02.

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

As a prerequisite to employee pay, the Superintendent must first issue to the Treasurer a written statement that confirms each administrator has filed with the Superintendent both a copy of all valid licenses as well as copies of any reports required by the State Board of Education or the Governing Board to demonstrate the administrator's qualification to assume an educational administrator position. No administrator employed in a position for which licensure is required may be paid until evidence of such appropriate licensure for the position has been received by the Superintendent and transmitted to the Treasurer.

**1530 - EVALUATION OF PRINCIPALS AND OTHER ADMINISTRATORS**

Administrators employed under R.C. 3319.02 and/or R.C. 3319.03 shall be evaluated pursuant to R.C. 3319.02 and applicable laws and regulations.

**1530.01 - NON-REEMPLOYMENT OF AN ADMINISTRATOR**

The non-reemployment of an Administrator shall be consistent with the law.

If an Administrator fails to maintain required licensure throughout the term of employment, the Administrator shall be immediately suspended without pay and such failure is grounds for termination.

## 1540 - SUSPENSION OF ADMINISTRATIVE CONTRACTS

This policy shall govern the suspension of all contracts of R.C. 3319.02 administrators and was adopted with input from the ESC's administrative staff from May 23, 2019, through June 17, 2019.

The Governing Board may consider one or more of the following reasons in suspending any contract of employment entered into under R.C. 3319.02:

- A. the financial conditions of the ESC;
- B. the financial conditions of one or more school districts and/or clients for which the ESC provides services to;
- C. any financial reasons;
- D. the return to duty of one or more administrators after a leave of absence;
- E. the suspension of one or more schools and/or programs in one or more school districts and/or clients for which the ESC provides services to;
- F. the suspension of one or more schools and/or programs offered by the Governing Board;
- G. any territorial changes affecting one or more school districts and/or clients for which the ESC provides services to;
- H. any territorial changes affecting the ESC;
- I. the termination of one or more alignment agreements;
- J. any decreased enrollment of pupils in the schools and/or programs in one or more school districts and/or clients for which the ESC provides services to;
- K. in the case of the Governing Board providing any particular service directly to pupils pursuant to one or more interdistrict contracts, service agreements, and/or contracts requiring such service; reduction in the total number of pupils the Governing Board is required to provide with the service under all interdistrict contracts, service agreements, and/or contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts, service agreements, and/or contracts;

- L. in the case of the Governing Board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts, service agreements, and/or contracts requiring such service; reduction in the total level of the service the Governing Board is required to provide under all interdistrict contracts, service agreements, and/or contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts, service agreements, and/or contracts;
- M. the termination of any interdistrict contract, service agreement, and/or contract between the ESC and any school district and/or client for any reason including, not limited to, (1) school district/client dissatisfaction with the performance of the individual ESC employee assigned to provide services to the school district/client; (2) school district/client rejection of the individual ESC employee providing services to the school district/client; (3) school district/client dissatisfaction with the contractual performance by the ESC; and (4) school district/client discretionary determinations; and/or
- N. any reorganization and/or consolidation of administrative functions.

The following procedures shall be used for determining the order of suspension of contracts within the employment service areas affected:

- A. If it is necessary to achieve a reduction in the administrative staff, the Governing Board may proceed to suspend contracts in accordance with the recommendation of the Superintendent within the employment service areas affected. The Governing Board shall not be required to give preference to any administrator based on seniority. The Governing Board shall not be required to give preference to any administrator based upon comparable evaluations. Given that administrative positions are not interchangeable, the primary factor in any reduction of administrators shall be the best interest of the ESC as determined solely by the Governing Board.
- B. On a case-by-case basis, in lieu of suspending a contract in whole, the Governing Board may suspend a contract in part, so that an individual is required to work a percentage of the time the administrator otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

Administrators whose contracts are suspended shall be on the administrative recall list for a period of fourteen (14) calendar days from the last day of active employment by the ESC, unless the administrator has accepted, prior to such time, other employment.

Administrators who are on the administrative recall list shall have the right of recall only to their prior position **and** only if both of the following apply: (1) the Governing Board re-institutes that same position and (2) the position was not abolished due to school district/client dissatisfaction with the performance the administrator and/or school district/client rejection of the administrator. The primary factor in filling administrative positions shall be the best interests of the ESC.

An administrator may be notified of a recall by regular mail and/or electronic mail and shall accept, in writing, the employment within fourteen (14) calendar days after the recall notice was sent by the ESC to the administrator. It is the administrator's responsibility to maintain a current personal mailing address and personal electronic mail address with the Governing Board.

Failure to accept recall within fourteen (14) calendar days shall be interpreted as an indication that the administrator does not wish to return to active employment in the ESC and shall result in the removal of the administrator from the recall list. If the recall occurs after July 1<sup>st</sup>, the administrator shall respond in writing within seven (7) calendar days, or s/he shall be removed from the recall list.

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**1541 - TERMINATION AND RESIGNATION**

The employment contract of a Superintendent, Treasurer, or R.C. 3319.02 employee may be terminated pursuant to R.C. 3319.16.

A Superintendent, Treasurer, or R.C. 3319.02 employee may resign in accordance with law and any applicable terms of his/her employment contract.

## 1613 - STUDENT SUPERVISION AND WELFARE

Pursuant to the laws of the State and Governing Board Policy 8462, each administrator shall report to the proper legal authorities, immediately, any sign of suspected child abuse or neglect.

Each administrator shall report immediately to the Superintendent any accident, safety hazard, or other potentially harmful condition or situation s/he detects. Suspected child abuse or neglect shall first be reported to the proper legal authorities, immediately.

Each administrator shall immediately report to the Superintendent any knowledge of threats or violence by or to students. An administrator shall not send students on any personal errands.

An administrator 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 may 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 administrator shall subject the offender to potential criminal prosecution and disciplinary action by the Governing Board up to and including termination of employment.

If a student approaches an administrator to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the administrator may attempt to assist the student by facilitating contact with certified or licensed individuals in the ESC or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. However, under no circumstances should an administrator attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such administrator inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.

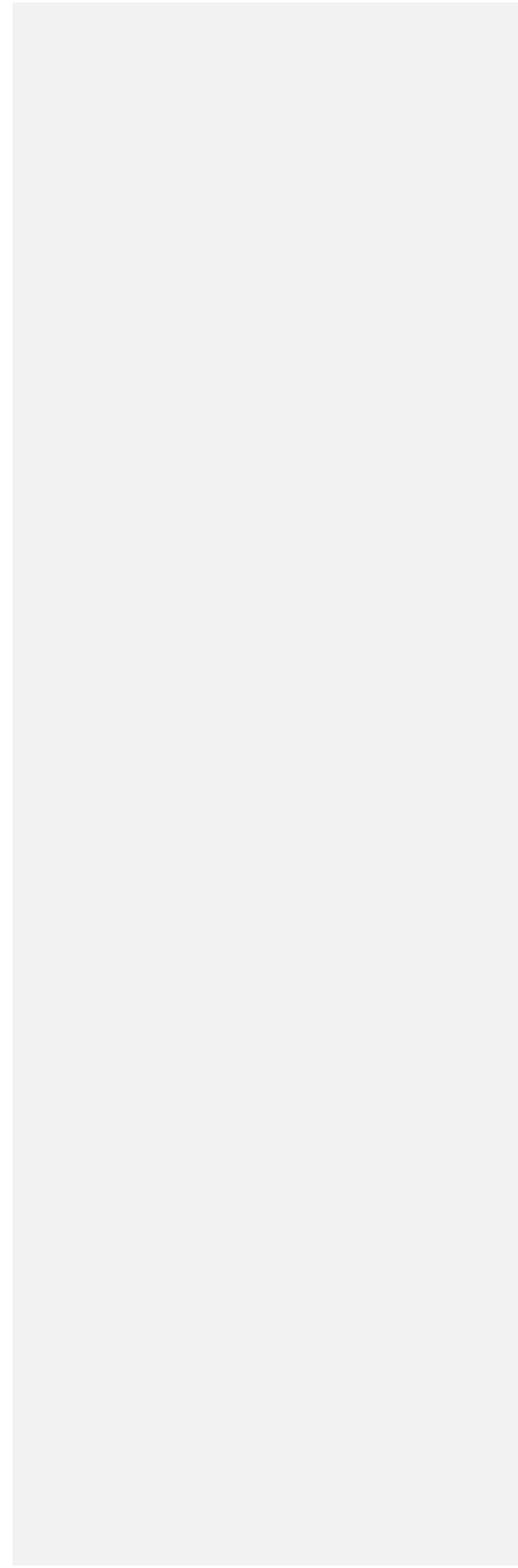
An administrator shall not transport students in a private vehicle unless authorized by law.

Administrators shall only engage in electronic communication with students via email, texting, social media and/or online networking media, such as Facebook, Twitter, YouTube, Instagram, Snapchat, Skype, blogs, etc., when such communication is directly related to curricular matters or co-curricular/extracurricular events or activities with prior approval of the Superintendent.

Administrators 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, Instagram, Snapchat, 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 is confidential under applicable laws and regulations, any administrator 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, and alleged child abuse.



**1623 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT**

The Governing Board prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Governing Board shall 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 Governing Board further shall not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Governing Board shall 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 shall 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 Governing Board shall 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 ESC's program and/or activities. A reasonable accommodation is not necessarily required for an individual who is merely regarded as having a disability.

### **ESC Compliance Officer**

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

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750

1-740-373-6669 (telephone)  
1-740-376-5809 (facsimile)

The ESC Compliance Officer is responsible for coordinating the ESC'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 ESC Compliance Officer.

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

### **Training**

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

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

The Governing Board shall 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 shall, because the ESC'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 ESC shall comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the ESC is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

**Notice**

Notice of the Governing Board's policy on nondiscrimination in employment practices and the identity of the ESC's Compliance Officer(s) will be posted throughout the ESC and included in the ESC's recruitment statements or general information publications.

## 1630 - UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY

The Governing Board may place a staff member on unrequested leave of absence for physical or mental inability when the staff member is unable to perform assigned duties.

If the Superintendent believes the staff member is unable to perform assigned duties, the professional staff member shall be offered the opportunity for a meeting to discuss these issues.

Prior to placing a staff member on unrequested leave, the Governing Board may require the staff member to submit to an appropriate examination by a health provider designated and compensated by the ESC. The results of any such examination shall be treated as a confidential medical record and shall be used only in compliance with law.

The staff member shall 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 Governing 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 shall be grounds for disciplinary action, up to and including termination.

As required by Federal law and regulation and Governing Board Policy, the Superintendent shall direct the provider designated by the Governing 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 Applicable laws and regulations 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 shall be exempt from release, except as provided by law. If the ESC 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 and no reasonable accommodations are available, the staff member may be placed on involuntary leave of absence for a period not to exceed two (2) consecutive school years.

A staff member subject to an unrequested leave of absence is entitled to a hearing as provided for in applicable laws and regulations.

## 1630.01 - FMLA LEAVE

### Qualifying Reasons for FMLA and Military Family Leave

### Qualifying Reasons for FMLA and Military Family Leave

In accordance with the Family and Medical Leave Act of 1993, as amended, (“FMLA”), eligible staff members may take up to twelve (12) work weeks of job-protected, unpaid leave, or substitute appropriate paid leave if the staff member has earned or accrued it, for the following reasons:

- A. the birth and/or care of a newborn child of the staff member, within one (1) year of the child’s birth;
- B. the placement with the staff member of a child for adoption or foster care, within one (1) year of the child’s placement;
- C. the staff member is needed to provide physical and/or psychological care for a spouse, child, or parent with a serious health condition;
- D. the staff member’s own serious health condition makes him/her unable to perform the functions of his/her position; or
- E. any qualifying exigency (as defined in applicable Federal regulations) arising out of the fact that the staff member’s spouse, son, daughter, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces (“Qualifying Exigency Leave”). The term “covered active duty” or “call to covered active duty status” for purposes of Qualified Exigency Leave means duty for a member of the Regular Armed Forces during deployment of the member with the Armed Forces to a foreign country, and, in the case of a member of the Reserve components of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to Sections 688, 12301(a), 12302, 12304, 12305, 12406, or Chapter 15 of Title 10 of the United States Code or any other provision of law during a war or during a national emergency declared by the President or Congress as long as it is in support of a contingency operation.

In addition, an eligible staff member who is a spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness may take up to a total of twenty-six (26) work weeks of job-protected, unpaid leave, or substitute appropriate paid leave if the staff member has earned or accrued it, during a “single twelve (12) month period” to provide physical and/or psychological care for the covered service member (“Military Caregiver Leave”). For purposes of Military Caregiver Leave, the covered service member may be a (1) current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the

temporary disability retired list, for a serious injury or illness, or (2) a veteran 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) and was discharged or released under conditions other than dishonorable at any time during the period of five (5) years prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. For an individual who was a member of the Armed Forces and who was discharged or released under conditions other than dishonorable prior to March 8, 2013, the period between October 28, 2009, and March 8, 2013, shall not count towards the determination of the five-year period for covered veteran status.

### **Eligible Employees**

Staff members are “eligible” if they have worked for the Governing Board for at least twelve (12) months, **and** for at least 1,250 hours over the twelve (12) months prior to the leave request. Months and hours that members of the National Guard or Reserve would have worked if they had not been called up for military service count towards the staff member’s eligibility for FMLA leave.

### **Twelve (12) Month Period**

Twelve (12) month period is defined as a “rolling” 12-month period measured backward – i.e., 12-month period measured backward from the date an employee uses any FMLA leave. Under the “rolling” 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

### **Serious Health Condition**

Serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider. As utilized in this policy, the term “incapacity” means an inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom. The term “treatment” includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. (Treatment does not include routine physical examinations, eye examinations, or dental examinations.)

- A. Inpatient care means an overnight stay in a hospital, hospice, or residential medical-care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.
- B. Continuing treatment by a healthcare provider, includes any one or more of the following: (1) “incapacity and treatment;” (2) any incapacity related to pregnancy, or for prenatal care; (3) any incapacity experienced by an expectant mother or treatment for such incapacity due to a chronic serious health condition; (4) a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer’s, a severe stroke, terminal stages of a

disease); or (5) any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare provider for (a) restorative surgery after an accident or (b) other injury or a condition that would likely result in a period of incapacity of more than three (3) consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

1. “Incapacity and treatment” involves a period of incapacity of more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves a.) treatment two (2) or more times, within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a healthcare provider, by a nurse under direct supervision of a healthcare provider, or by a provider of healthcare services (e.g. physical therapist) under (a) orders of, or on referral by a healthcare provider or (b) treatment by a healthcare provider on at least one (1) occasion that results in a regimen of continuing treatment under the supervision of the healthcare provider.
  - a. Treatment by a healthcare provider as referenced above involves an in-person visit to a healthcare provider. The first (or only) in-person treatment visit shall take place within seven (7) days of the first day of incapacity. The healthcare provider is responsible for determining whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period.
  - b. Regimen of continuing treatment includes a course of prescription medication (e.g., antibiotics), or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen).
  - c. A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a healthcare provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.
2. An expectant mother is entitled to FMLA leave for incapacity due to pregnancy even if she does not receive treatment from a healthcare provider during the absence, and even if the absence does not last for more than three (3) consecutive, full calendar days.
3. A chronic serious health condition is one that: (a) requires periodic visits (i.e., at least twice a year) for treatment by a healthcare provider, or by a

nurse under direct supervision of a healthcare provider; (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). A visit to a healthcare provider is not necessary for each absence, and each absence need not last more than three (3) consecutive, full calendar days.

4. With regard to permanent or long-term conditions, the employee or family member shall be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider.
- C. Conditions for which cosmetic treatment are administered (e.g., most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or complications develop. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomachs, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, periodontal disease, etc., are conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave.

#### **Intermittent and Reduced Schedule Leave**

The Superintendent may allow a staff member to take FMLA leave intermittently (i.e., leave in separate blocks of time for a single qualifying reason) or on a reduced schedule leave (i.e., reducing the employee’s usual weekly or daily work schedule) for reason (A) or (B) on page one. A staff member is entitled to take FMLA leave on an intermittent or reduced schedule leave when medically necessary as indicated in reasons (C) and (D) on page one. A staff member may also take FMLA leave on an intermittent or reduced schedule leave for Qualifying Exigency Leave (i.e., reason (E) on page one). Finally, Military Caregiver Leave may be taken on an intermittent or reduced schedule leave when medically necessary. Regardless, the taking of FMLA leave intermittently or on a reduced schedule 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 schedule leave is foreseeable based on planned medical treatment for the employee, a family member or a covered service member, the Superintendent may require the staff member to transfer temporarily, during the period the intermittent or reduced schedule leave is required, to an available alternative position for which the staff member is qualified and which better accommodates recurring periods of leave than the staff member’s regular position. The alternative position shall have equivalent pay and benefits but not necessarily equivalent duties. The Superintendent may also transfer the staff member to a part-time job with the same hourly rate of pay and benefits, provided the staff member is not required to take more leave than is medically necessary. Instructional staff members (i.e., individuals whose principal function is to teach and instruct students in a class, a small group, or an individual setting) who request intermittent leave or a reduced schedule leave because of reasons (C) or (D) on page one or pursuant to Military Caregiver Leave and the leave would exceed twenty percent (20%) of the total number of working days over the period of anticipated leave shall elect either to:

- 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.

When leave is needed for planned medical treatment, the staff member shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the ESC's operations, subject to the approval of the healthcare provider.

If the Superintendent agrees to permit FMLA leave intermittently or on a reduced schedule leave for reason (A) or (B) on page one, the Governing Board may also require the staff member to transfer temporarily, during the period the intermittent or reduced schedule leave is required, to an available alternative position for which the staff member is qualified and which better accommodates recurring periods of leave than does the staff member's regular position.

#### **Staff Member Notice Requirements**

Staff members seeking to use FMLA leave (including Military Caregiver Leave) are required to provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than thirty (30) days in advance, the staff member shall provide notice as soon as practicable - generally, either the same or next business day. When the need for leave is not foreseeable, the staff member shall provide notice as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, staff members shall comply with the Governing Board's usual and customary notice and procedural requirements for requesting leave. Failure to provide timely notice may result in the leave being delayed or denied, and/or possible disciplinary action.

Staff members shall provide "sufficient information" for the Superintendent to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, that the staff member or his/her qualifying family member is under the continuing care of a healthcare provider, that the requested leave is for a particular qualifying exigency related to a qualifying family member's covered active duty or call to covered active duty status, or that the leave due to a qualifying family member who is a covered service member with a serious injury or illness. The information may also include the anticipated timing and duration of the leave.

When a staff member seeks leave for a FMLA-qualifying reason for the first time, the staff member need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the ESC has previously provided the staff member FMLA-protected leave, the staff member shall specifically reference either the qualifying reason for leave or the need for FMLA leave.

### **Substitution of Paid Leave**

The Governing Board shall require the staff member to “substitute” (i.e., run concurrently) any of his/her earned or accrued paid leave (e.g., sick leave, personal leave, assault leave, vacation leave, compensatory time, family leave) for unpaid FMLA leave. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the ESC’s normal leave policy. A staff member electing to use any type of paid leave concurrently with FMLA leave shall follow the same terms and conditions of the Governing Board’s policy that apply to other employees for use of such leave. The staff member is always entitled to unpaid FMLA leave if s/he does not meet the Governing Board’s conditions for taking paid leave. On occasion the Governing Board may waive any procedural requirements for the taking of any type of paid leave.

If a staff member requests and is permitted to use accrued compensatory time to receive pay for time taken off for an FMLA reason, or if the Superintendent requires such use pursuant to the Fair Labor Standards Act, the time taken shall be counted against the staff member’s FMLA leave entitlement.

If the staff member has not earned or accrued adequate paid leave to encompass the entire twelve (12) work week period of FMLA leave or a twenty-six (26) work week period of Military Caregiver Leave, the additional weeks of leave to obtain the twelve (12) work weeks of FMLA leave or twenty-six (26) work weeks of Military Caregiver Leave the staff member is entitled to shall be unpaid.

Whenever a staff member uses paid leave in substitution for unpaid FMLA leave/Military Caregiver Leave, such leave counts toward the twelve (12) work week/twenty-six (26) work week maximum leave allowance provided by this policy and Federal law.

### **ESC Notice Requirements**

The Superintendent is directed to post the Department of Labor approved Notice explaining employees’ rights and responsibilities under the FMLA. Additionally, this general notice shall be included in employee handbooks or other written guidance to staff members concerning benefits or leave rights or, in the alternative, distributed to each new staff member upon hiring.

When a staff member requests FMLA leave or the ESC acquires knowledge that leave may be for a FMLA purpose, the Superintendent shall notify the staff member of his/her eligibility to take leave and inform the staff member of his/her rights and responsibilities under the FMLA (including the consequences of failing to meet those obligations). Along with the Notice of Rights and Responsibilities, the Superintendent shall attach any medical certification that may be required, and a copy of the employee’s essential job functions. If the Superintendent determines the staff member is not eligible for FMLA leave, the Superintendent shall state at least one (1) reason why the staff member is not eligible. Such notice may be given orally or in writing and should be given within five (5) business days of the request for FMLA leave, absent extenuating circumstances. When oral notice is given, it shall be followed by written notice within five (5) business days. Staff

member eligibility is determined (and notice provided) at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable twelve (12) month period. All FMLA absences for the same qualifying reason are considered a single leave and staff member eligibility as to that reason for leave does not change during the applicable twelve (12) month period. If at the time a staff member provides notice of a subsequent need for FMLA leave during the applicable twelve (12) month period due to a different FMLA-qualifying reason and the staff member's eligibility status has not changed, no additional eligibility notice is required. If, however, the staff member's eligibility status has changed, the Superintendent shall notify the staff member of the change in eligibility status within five (5) business days, absent extenuating circumstances.

If the specific information provided by the Notice of Rights and Responsibilities changes, the Superintendent shall, within five (5) business days of receipt of the staff member's first notice of need for leave subsequent to any changes, provide written notice referencing the prior notice and setting forth any of the information in the Notice of Rights and Responsibilities that has changed.

When the Superintendent has sufficient information to determine that leave is being taken for a FMLA-qualifying reason (e.g., after receiving certification), the Superintendent shall notify the staff member whether the leave shall be designated and counted as FMLA leave. Leave that qualifies as **both** Military Caregiver Leave and leave to care for a qualifying family member with a serious health condition (i.e., reason (C)) shall be considered as Military Caregiver Leave in the first instance. This designation shall be in writing and shall be given within five (5) business days of the determination, absent extenuating circumstances. Additionally, when appropriate, the Superintendent shall notify the staff member of the number of hours, days and weeks that shall be counted against the employee's FMLA entitlement, and whether the employee shall be required to provide a fitness-for-duty certification to return to work.

Only one Designation Notice is required for each FMLA-qualifying reason per applicable twelve (12) month period, regardless of whether the leave taken due to the qualifying reason shall be a continuous block of leave or as intermittent or on a reduced schedule leave. If the Superintendent determines the leave shall not be designated as FMLA-qualifying (e.g., if the leave is not for a reason covered by the FMLA or the staff member's FMLA leave entitlement has been exhausted), the Superintendent shall notify the staff member of that determination. If the staff member is required to substitute paid leave for unpaid FMLA leave, or if paid leave taken under an existing leave plan is being counted as FMLA leave, the "Designation Notice" shall include this information. Additionally, the "Designation Notice" shall notify the staff member if s/he is required to present a fitness-for-duty certification to be restored to employment. Further, if the fitness-for-duty certification is required to address the staff member's ability to perform the essential functions of his/her job, that shall be indicated on the Designation Notice, and a list of the essential functions of the staff member's position shall be included.

If the information provided to the staff member in the Designation Notice changes, the Superintendent shall provide, within five (5) business days of receipt of the staff member's first notice of need for leave subsequent to any change, written notice of the change.

In the case of intermittent or reduced-leave schedule leave, only one such notice is required unless the circumstances regarding the leave have changed.

**Limits on FMLA When Both Spouses are employed by the Governing Board**

When eligible spouses are both employed by the Governing Board, they are limited to a combined total of twelve (12) workweeks of FMLA leave during any twelve (12) month period if the leave is taken for reason (A) or (B) on page one, or to care for the staff member’s parent who has a serious health condition.

Where the spouses both use a portion of the total twelve (12) week FMLA leave entitlement for reason (A) or (B) on page one, or to care for a parent, the spouses are each entitled to the difference between the amount s/he has taken individually and the twelve (12) weeks of FMLA leave for other purposes.

When eligible spouses are both employed by the Governing Board, they are limited to a combined total of twenty-six (26) workweeks of Military Caregiver Leave during the “single twelve (12) month period” if the leave is taken for reason (A) or (B) on page one, or to care for the staff member’s parent who has a serious health condition, or to care for a covered service member with a serious injury or illness.

**Certification**

When FMLA leave is taken for either reason (C) or (D) on page one, the staff member shall provide medical certification from the healthcare provider of the eligible staff member or his/her immediate family member. The staff member may either:

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

If the staff member fails to provide appropriate medical certification, any leave taken by the employee shall not constitute FMLA leave.

When the need for FMLA leave is foreseeable and at least thirty (30) day notice has been provided, the staff member shall provide the medical certification before the leave begins. When this is not possible, the employee shall 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.

The Governing Board reserves the right to require second or third opinions (at the Governing Board’s expense), and periodic recertification of a serious health condition. If a third opinion is sought, that opinion shall be binding and final. The staff member may either:

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

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

### **Recertification**

Recertification may be required no more often than every thirty (30) days in connection with an absence by the staff member unless the condition shall last for more than thirty (30) days. For conditions that are certified as having a minimum duration of more than thirty (30) days, the ESC shall not request recertification until the specified period has passed, except that in all cases the staff member shall submit recertification every six (6) months in connection with an absence by the employee. Additionally, the Superintendent may require a staff member to provide recertification in less than thirty (30) days if the staff member requests an extension of leave, the circumstances described in the previous certification have changed significantly, or if the ESC receives information that casts doubt upon the staff member's stated reason for the absence or the continuing validity of the certification. Finally, staff members shall provide a new medical certification each leave year for medical conditions that last longer than one (1) year.

Staff members requesting Qualifying Exigency Leave are required to submit to the Superintendent a copy of the covered military member's active-duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party.

Staff members requesting Military Caregiver Leave are required to submit to the Superintendent certification completed by an authorized healthcare provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

The Governing Board authorizes its healthcare provider, human resource professional, leave administrator, and/or management official – but not the staff member's direct supervisor – to authenticate or clarify a medical certification of a serious health condition, or an ITO or ITA (i.e., medical certification provided for reasons (C) or (D) on page one or Military Caregiver Leave). Additionally, the Superintendent is authorized to contact the individual or entity named in the Qualified Exigency Leave certification for purposes of verifying the existence and nature of the meeting.

A staff member who takes leave for reason (D) on page one, prior to returning to work, shall provide the Superintendent with a fitness- for-duty certification that specifically addresses the staff member's ability to perform the essential functions of his/her job. The fitness- for-duty certification shall only apply to the particular health condition that caused the staff member's need for FMLA leave. If reasonable safety concerns exist, the Superintendent may, under certain circumstances, require a staff member to submit a fitness- for-duty certification before s/he returns to work from intermittent FMLA leave. The cost of the certification shall be borne by the staff member.

### **Job Restoration & Maintenance of Health Benefits**

Upon return from FMLA leave, the Governing Board shall restore the staff member to his/her former position, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. During FMLA leave, the Governing Board shall maintain the staff member's current coverage under the Governing 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 shall continue to pay his/her share during the leave.

Any 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 shall not result in the loss of any employment benefit that the staff member earned or was entitled to before using FMLA leave. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked or perfect attendance, and the employee does not meet the goal due to FMLA leave, payment shall be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

A staff member shall have no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

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) or (D) on page one or Military Caregiver Leave, or for circumstances beyond the control of the staff member, the staff member shall reimburse the Governing Board for the health insurance premiums paid by the Governing Board during the unpaid FMLA leave period.

Generally, a staff member may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave.

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 verify that the policy is posted properly.

Copies of this policy shall be available to staff members upon request.

#### **1630.02 - LEAVE OF ABSENCE FOR EMPLOYMENT BY A COMMUNITY SCHOOL**

An administrator, who is employed by the Governing Board and is seeking to be employed by a conversion or new start-up community school sponsored by the Governing Board, shall be provided with a leave of absence from the ESC of up to three (3) years for service in the community school.

Upon request of the administrator, additional leave may be granted at the discretion of the Governing Board.

To maintain eligibility for this leave, the administrator shall be continuously employed by the community school during the leave of absence.

#### **Eligibility for Benefits while on Leave of Absence**

During the leave of absence, an administrator shall remain eligible for the insurance benefits that are provided to regularly employed staff members, as well as STRS benefits, provided such staff member pays the entire cost associated with such benefits.

A staff member shall not be permitted to accrue personal leave or vacation leave for use as an employee of the Governing Board while s/he is on a leave of absence.

A staff member who is employed by a conversion community school shall be permitted to use any and all sick leave which was accrued during the staff member's employment with the Governing Board prior to his/her leave of absence for sick leave in accordance with applicable laws and regulations. If a staff member uses his/her accrued sick leave while working with the conversion community school under this Policy, the costs of the staff member's salary paid by the community school shall be reported to the State Department of Education. The cost of employing a substitute while the staff member is on sick leave shall be paid by the community school.

#### **Return to Employment in the ESC**

When the leave of absence period has expired or at such time when the administrator has been discharged from his/her employment with the community school, the administrator shall be entitled to return to employment with the Governing Board. Upon the administrator's return to employment, any and all applicable seniority shall be calculated to include all employment by the:

- A. Governing Board prior to leave of absence;
- B. community school during the leave of absence; and
- C. Governing Board after the leave of absence.

The staff member shall also be restored to his/her previous position and salary or to a similar position and salary, provided that the staff member possesses valid certification/licensure.

The right to return to employment in the ESC does not apply to those staff members whose employment with the community school was terminated for a reason for which the Governing Board would have sought to terminate the administrator in accordance with applicable laws and regulations; in which event the Governing Board may proceed to terminate the staff member's employment in accordance with the procedures set forth in applicable laws and regulations.

**Reduction in Force**

If the Governing Board reduces the number of teachers it employs as a result of the return of an administrator(s), the Governing Board shall make the necessary reductions in accordance with the Governing Board's Administrative Suspension Policy.

**Liability of Governing Board**

The Governing Board is not liable for any action of a staff member while s/he is on a leave of absence and employed by a community school.

## 1662 - ANTI-HARASSMENT

### **General Policy Statement**

It is the policy of the Governing Board to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all ESC operations, 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. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Governing Board.

The Governing Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex, disability, age (except as authorized by law), religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment), and encourages those within the ESC community as well as Third Parties, who feel aggrieved to seek assistance to rectify such problems. The Governing Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Governing Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

### **Other Violations of the Anti-Harassment Policy**

The Governing Board will also 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, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

### **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

ESC community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Governing Board.

Third Parties include, but are not limited to, guests and/or visitors on ESC property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Governing Board, and other individuals who come in contact with members of the ESC community at school-related events/activities (whether on or off ESC property).

Day(s): Unless expressly stated otherwise, the term “day” or “days” as used in this policy means business day(s) (i.e., a day(s) that the Governing Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

**Bullying**

Bullying rises to the level of unlawful harassment when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, 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 or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual’s school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;

- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

### **Harassment**

Harassment means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against a student or ESC employee that:

- A. places a student or ESC employee 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 an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of an ESC school/program/activity.

### **Sexual Harassment**

For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, "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 any gender against a person of the same or another gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy 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. Unwanted physical and/or sexual contact.
- 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, activities, 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, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship.

- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
- K. 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.
- L. Inappropriate boundary invasions by an ESC employee or other adult member of the ESC community into a student's personal space and personal life.
- M. 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 shall be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

Sexual conduct/relationships with students by ESC employees or any other adult member of the ESC community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to ESC employees or other adult members of the ESC community.

#### **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 occur where conduct is 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 occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

#### **National Origin/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry 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 occur where conduct is directed at the characteristics of a person's national origin or ancestry, 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 occur where conduct is 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.

#### **Reports and Complaints of Harassing Conduct**

Students and all other members of the ESC community and third parties are encouraged to promptly report incidents of harassing conduct to a teacher, administrator, supervisor, or other ESC official so that the Governing Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other ESC employee or official who receives such a complaint shall file it with the ESC's Anti-Harassment Compliance Officer within two (2) business days.

Members of the ESC community, which includes students, or third parties who believe they have been unlawfully harassed are entitled to utilize the Governing Board's complaint process that is 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. While there are no time limits for initiating complaints of harassment 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.

If, during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Governing Board Policy 5517.01 – Bullying and Other Forms of Aggressive

Behavior, the Superintendent or designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Superintendent or designee shall report the act of bullying, aggressive, behavior and/or harassment to the Compliance Officer who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Superintendent or designee shall suspend any Governing Board Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Superintendent or designee informed of the status of the Governing Board Policy 5517 investigation and provide the Superintendent or designee with a copy of the resulting written report.

**Anti-Harassment Compliance Officers**

The Governing Board designates the following individual(s) to serve as "Anti-Harassment Compliance Officers" for the ESC (hereinafter referred to as the "Compliance Officer"):

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

The Compliance Officer shall be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the ESC 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, other member of the ESC community or third party in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

The Compliance Officer shall accept complaints of unlawful harassment directly from any member of the ESC community or a visitor to the ESC. Upon receipt of a complaint either directly or through an ESC employee, a Compliance Officer shall begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer shall designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer shall prepare recommendations for the Superintendent or designee or shall oversee the preparation of such recommendations by a

designee. All members of the ESC community shall report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Governing Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officer within two (2) business days. Additionally, any Governing Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Governing Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee shall contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise the student/parent(s) of the Governing Board'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.

### **Investigation and Complaint Procedure**

Any student who believes that the student has been subjected to unlawful harassment may seek resolution of the student's complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment 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 while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation shall 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 a student to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Students who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Students who believe that they have been unlawfully harassed 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.

However, all complaints of harassment involving an ESC employee or any other adult member of the ESC community against a student shall be formally investigated. Similarly, any allegations of sexual violence shall be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully harassed 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 shall 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 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.

A student who believes the student has been unlawfully harassed may make an informal complaint, either orally or in writing, to (1) to an ESC employee; (2) the Superintendent or designee; and/or (3) directly to the Compliance Officer.

All informal complaints shall be reported to the Compliance Officer who shall either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The ESC's informal complaint procedure is designed to provide students who believe they are being unlawfully harassed 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 student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the student 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 Officer may arrange and facilitate a meeting between the student 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 shall be resolved, the Compliance Officer or designee shall 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.

#### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

The Complainant may file a formal complaint, either orally or in writing, with the Compliance Officer, Superintendent or designee, or another ESC official. Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs the Superintendent or designee or another ESC official, either orally or in writing, about any complaint of harassment, that employee shall report such information to the Compliance Officer within two (2) 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 shall include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 shall prepare a written summary of the oral interview, and the Complainant shall be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer shall 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 Respondent. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions the Compliance Officer deemed appropriate in consultation with the Superintendent or designee.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee shall initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation.

Simultaneously, the Compliance Officer will inform the Respondent that a formal complaint has been received. The Respondent shall be informed about the nature of the allegations and provided with a copy of any relevant policies, including the Governing Board's Anti-Harassment policy. The Respondent shall 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, the Compliance Officer/designee shall attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation shall include:

- A. interviews with the Complainant;
- B. interviews 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 witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or 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 Governing Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations shall be based upon the totality of the circumstances. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard shall be

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

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer/designee, the Superintendent or designee shall either issue a written decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent or designee's written decision shall be delivered to both the Complainant and the Respondent.

If the Superintendent or designee requests additional investigation, the Superintendent or designee shall specify the additional information that is to be gathered and such additional investigation shall be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent or designee shall issue a final written decision as described above.

The decision of the Superintendent or designee shall be final.

The Governing Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the student alleging the unlawful harassment/retaliation pursues the complaint. The Governing 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 Governing Board or its designee.

The parties may be represented, at their 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, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

#### **Privacy/Confidentiality**

The ESC shall employ all reasonable efforts to protect the rights of the Complainant, the Respondent, and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related policies shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the Compliance Officer or designee shall instruct all members of the ESC 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 is learned or provided during the course of the investigation.

### **Sanctions and Monitoring**

The Governing Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. 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 shall be taken in accordance with applicable State law. When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where unlawful harassment is not substantiated, the Governing Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Governing Board policies.

Where the Governing Board becomes aware that a prior remedial action has been taken against a member of the ESC community, all subsequent sanctions imposed by the Governing Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person from making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanction/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any school teacher or ESC employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge

or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge shall be made in accordance with State law and Governing Board Policy.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or 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 without good cause after consultation with the Superintendent or designee.

#### **Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension**

The Superintendent shall report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and shall suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

#### **Education and Training**

In support of this Anti-Harassment Policy, the Governing Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the ESC community related to the implementation of this policy and shall provide training for ESC students and staff where appropriate. All training, as well as all information, provided regarding the Governing Board's policy and harassment in general, shall be age and content appropriate.

#### **Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media created and/or received as part of an investigation, which may include, but is not limited to:

- A. all written reports/allegations/complaints/grievances/ statements/responses pertaining to an alleged violation of this policy;

- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by ESC personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the ESC's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Governing Board policy used by the ESC to conduct the investigation, and any documents used by the ESC at the time of the alleged violation to communicate the Governing Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);

- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- N. documentation of any training provided to ESC personnel related to this policy including, but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all ESC personnel involved in enforcing this policy including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;
- O. documentation that any rights or opportunities that the ESC made available to one party during the investigation were made available to the other party on equal terms;
- P. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- Q. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing; and
- R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings including the investigation report and any written responses submitted by the Complainant or the Respondent.

The documents, ESI, and electronic media retained may include public records and records exempt from disclosure under applicable state and federal laws. The documents, ESI, and electronic media created or received as part of an investigation shall be retained in accordance with applicable state and federal laws for not less than three (3) years but longer if required by the ESC's records retention schedule.

**1662.01 - THREATENING BEHAVIOR TOWARD STAFF MEMBERS**

The Governing Board believes that a staff member should be able to work in an environment free of threatening 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 Governing Board who is found to have threatened a member of the staff shall be subject to discipline or reported to the authorities.

## 1662.02 - BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR

The Governing Board is committed to providing a safe, positive, productive, and nurturing educational environment for all of its students. The Governing Board encourages the promotion of positive interpersonal relations between members of the school community.

Harassment, intimidation, or bullying toward a student, whether by other students, staff, or third parties is strictly prohibited and shall not be tolerated. This prohibition includes aggressive behavior, physical, verbal, and psychological abuse, sexual violence, stalking, and violence within a dating relationship. The Governing Board shall not tolerate any gestures, comments, threats, or actions which cause or threaten to cause bodily harm or personal degradation. This policy applies to all activities in the ESC, including activities on school property, on a school bus, or while en route to or from school, and those occurring off school property if the student or employee is at any school-sponsored, school-approved or school-related activity or function, such as field trips or athletic events where students are under the school's control, in a school vehicle, or where an employee is engaged in school business.

This policy has been developed in consultation with parents, ESC employees, volunteers, students, and community members as prescribed in R.C. 3313.666 and the State Governing Board's Model Policy (as adopted per HB 276 and HB 19).

Harassment, intimidation, or bullying means:

- A. any intentional written, verbal, electronic, or physical act that a student or group of students exhibits toward another particular student(s) more than once and the behavior both causes mental or physical harm to the other student(s) and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s); or
- B. sexual violence, stalking, and violence within a dating relationship.

"Electronic act" means an act committed through the use of a cellular telephone, computer, pager, personal communication device, or other electronic communication device.

Aggressive behavior is defined as inappropriate conduct that is repeated enough, or serious enough, to negatively impact a student's educational, physical, or emotional well-being. This type of behavior is a form of intimidation and harassment, although it need not be based on any of the legally protected characteristics, such as sex, race, color, national origin, marital status, or disability. It would include, but not be limited to, such behaviors as stalking, bullying/cyberbullying, intimidating, menacing, coercion, name calling, taunting, making threats, and hazing. This policy's use of the terms intimidation, harassment and bullying includes aggressive behavior, as set forth above.

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees

and that bullying is based upon one (1) or more Protected Classes, 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 or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

Harassment, intimidation, or bullying also means cyberbullying or electronically transmitted acts (i.e., internet, e-mail, cellular telephone, personal digital assistance (PDA), or wireless hand-held device) that a student(s) or a group of students exhibits toward another particular student(s) more than once and the behavior both causes mental or physical harm to the other student and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s).

Any student or student's parent/guardian who believes s/he has been or is the victim of harassment, intimidation, bullying or aggressive behavior should immediately report the situation to the building principal or assistant principal, or the Superintendent. The student may also report concerns to teachers and other school staff who shall be responsible for notifying the appropriate administrator or Governing Board official. Complaints against the building principal should be filed with the Superintendent. Complaints against the Superintendent should be filed with the Governing Board President.

Every student is encouraged, and every staff member is required, to report any situation that they believe to be harassment, intimidation, bullying or aggressive behavior directed toward a student. Reports may be made to those identified above.

All complaints about harassment, intimidation, bullying or aggressive behavior that may violate this policy shall be promptly investigated. The building principal or appropriate administrator shall prepare a written report of the investigation upon completion. Such report shall include findings of fact, a determination of whether acts of harassment, intimidation, or bullying were verified, and, when prohibited acts are verified, a recommendation for intervention, including disciplinary action shall be included in the report. Where appropriate, written witness statements shall be attached to the report.

If the investigation finds an instance of harassment, intimidation, bullying/cyberbullying by an electronic act or otherwise, has occurred, it shall result in prompt and appropriate remedial and/or disciplinary action. This may include suspension or cyberbullying) or up to expulsion for students, up to discharge for employees, exclusion for parents, guests, volunteers, and contractors, and removal from any official position and/or a request to resign for Governing Board members. Individuals may also be referred to law enforcement officials.

If, during an investigation of a reported act of harassment, intimidation and/or bullying/cyberbullying, the Principal or appropriate administrator believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying and/or harassment to one of the Anti-Harassment Compliance Officer so that it may be investigated in accordance with the procedures set forth in Governing Board Policy 5517 - Anti-Harassment.

Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of harassment, intimidation, or bullying is prohibited and shall not be tolerated. Such retaliation shall be considered a serious violation of Governing Board policy and independent of whether a complaint is substantiated. Suspected retaliation should be reported in the same manner as harassment, intimidation, or bullying. Deliberately or making intentionally false reports about harassment, intimidation, or bullying for the purpose of getting someone in trouble is similarly prohibited and shall not be tolerated. Retaliation and deliberate or intentionally false reports may result in disciplinary action as indicated above.

If a student or other individual believes there has been harassment, intimidation, or bullying, regardless of whether it fits a particular definition, s/he should report it and allow the administration to determine the appropriate course of action.

This policy shall not be interpreted to infringe upon the First Amendment rights of students (i.e., to prohibit a reasoned and civil exchange of opinions, or debate, that is conducted at appropriate times and places during the school day and is protected by State or Federal law).

The complainant shall be notified of the findings of the investigation, and as appropriate, that remedial action has been taken. If after investigation, acts of harassment, intimidation, or bullying against a specific student are verified, the building principal or appropriate administrator shall notify the custodial parent/guardian of the victim of such finding. In providing such notification care shall be taken to respect the statutory privacy rights of the perpetrator of such harassment, intimidation, or bullying.

If after investigation, act(s) of harassment, intimidation, or bullying or cyberbullying by an electronic act or otherwise, by a specific student are verified, the building principal or appropriate administrator shall notify in writing the custodial parent/guardian of the perpetrator of that finding. If disciplinary consequences are imposed against such student, a description of such discipline shall be included in the notification. Discipline, including discipline for cyberbullying, may include suspension or up to expulsion for students.

The ESC shall protect victims from additional harassment, intimidation, bullying, or cyberbullying and shall also protect other students or individuals involved in making a good faith report of harassment, intimidation or bullying (including cyberbullying). Additionally, the ESC shall implement any other necessary intervention strategies to protect a victim or other person from new or additional harassment, intimidation, or bullying and from retaliation following such a report.

### **Complaints**

Students and/or their parents/guardians may file reports regarding suspected harassment, intimidation, or bullying. Such reports shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, or bullying, and the names of any potential student or staff witnesses. Such reports may be filed with any school staff member or administrator, and they shall be promptly forwarded to the building principal for review, investigation, and action.

Students, parents/guardians, and school personnel may make informal complaints or anonymous complaints of conduct that they consider to be harassment, intimidation, or bullying by verbal report to a teacher, school administrator, or other school personnel. Such informal complaints shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, or bullying, and the names of any potential student or staff witnesses. A school staff member or administrator who receives an informal complaint or anonymous complaint shall promptly document the complaint in writing, including the information provided. This written report shall be promptly forwarded by the school staff member and/or administrator to the building principal for review, investigation, and appropriate action.

Individuals who make informal complaints as provided above may request that their name be maintained in confidence by the school staff member(s) and administrator(s) who receive the complaint. Anonymous complaints shall be reviewed and reasonable action shall be taken to address the situation, to the extent such action may be taken that (1) does not disclose the source

of the complaint, and (2) is consistent with the due process rights of the student(s) alleged to have committed acts of harassment, intimidation, and/or bullying.

When an individual making an informal complaint has requested anonymity, the investigation of such complaint shall be limited as is appropriate in view of the anonymity of the complaint. Such limitation of investigation may include restricting action to a simple review of the complaint subject to receipt of further information and/or the withdrawal by the complaining student of the condition that his/her report be anonymous.

### **Privacy/Confidentiality**

The ESC shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under this policy shall be maintained as confidential to the extent permitted by law.

### **Reporting Requirement**

At least semi-annually, the Superintendent shall provide to the President of the Governing Board a written summary of all reported incidents and post the summary on the ESC web site, (if one exists). The list shall be limited to the number of verified acts of harassment, intimidation, and/or bullying, whether in the classroom, on school property, to and from school, or at school-sponsored events.

Allegations of criminal misconduct and suspected child abuse shall be reported to the appropriate law enforcement agency and/or to Child Protective Services in accordance with statute. ESC personnel shall cooperate with investigations by such agencies.

### **Immunity**

An ESC employee, student, or volunteer shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with this policy and R.C. 3313.666 if that person reports an incident of harassment, intimidation, or bullying promptly, in good faith, and in compliance with the procedures specified in this policy. Such immunity from liability shall not apply to an employee, student, or volunteer determined to have made an intentionally false report about harassment, intimidation, or bullying.

### **Notification**

Notice of this policy shall be **annually** circulated to and posted in conspicuous locations in all school buildings and departments within the ESC and discussed with students, as well as incorporated into the teacher, student, and parent/guardian handbooks.

At least once each school year a written statement describing the policy and consequences for violations of the policy shall be sent to each student's custodial parent or guardian.

The statement may be sent with regular student report cards or may be delivered electronically.

The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the ESC and to their custodial parents or guardians.

State and Federal rights posters on discrimination and harassment shall also be posted at each building. All new hires shall be required to review and sign off on this policy and the related complaint procedure.

Employee training materials shall also include information on this policy.

### **Education and Training**

In support of this policy, the Governing Board promotes preventative educational measures to create greater awareness of aggressive behavior, including bullying and violence within a dating relationship. The Superintendent or designee shall provide appropriate training to all members of the ESC community related to the implementation of this policy. All training regarding the Governing Board's policy and aggressive behavior and bullying in general shall be age and content appropriate.

Annually, the ESC shall provide all students enrolled in the ESC with age-appropriate instruction regarding the Governing Board's policy, including a written or verbal discussion of the consequences for violations of the policy, to the extent that State or Federal funds are appropriated for this purpose.

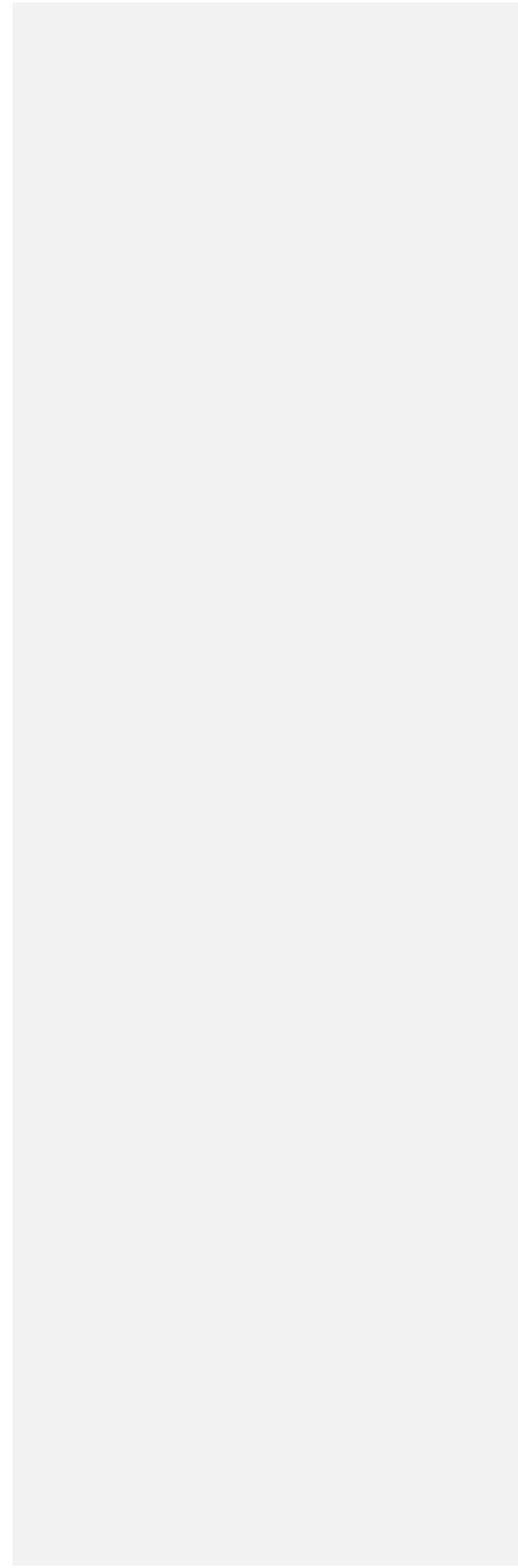
Students in grades seven (7) through twelve (12) shall receive age-appropriate instruction in dating violence prevention education, including instruction in recognizing dating violence warning signs and characteristics of healthy relationships. Parents, who submit a written request to the building principal to examine the dating violence prevention instruction materials used in the school, shall be afforded an opportunity to review the materials within a reasonable period of time.

To the extent that State or Federal funds are appropriated for these purposes, the ESC shall provide training, workshops, and/or courses on this policy for ESC employees and volunteers who have direct contact with students.

In accordance with Governing Board Policy 8462, the Superintendent shall include a review of this policy on bullying and other forms of harassment in the required training. Additionally, the ESC shall provide training on their anti-bullying policies as a part of the in-service training for all teachers, administrators, counselors, nurses, and school psychologists. These designated employees shall receive in-service training in (1) the prevention of child abuse, violence, and substance abuse, (2) school safety, (3) the promotion of positive youth development, and (4) in the case of middle school and high school employees, the prevention of dating violence. Employees

shall complete at least four (4) hours of the in-service training within two (2) years after commencing employment and every five (5) years thereafter.

The complaint procedure established by the Superintendent shall be followed and shall include reporting and investigative procedures, as needed.



**1663 - DRUG-FREE WORKPLACE**

The Governing Board believes that quality education is not possible in an environment affected by drugs. It shall seek, therefore, to establish and maintain an educational setting which is not tainted by the use or evidence of use of any controlled substance.

The Governing Board shall not permit the manufacture, possession, use, distribution, or dispensing of any controlled substance, alcohol, and any drug paraphernalia as the term is defined by law, by any member of the ESC's professional staff at any time while on ESC property or while involved in any ESC-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action

**1663.01 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS**

The Governing Board believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with Governing Board-owned and/or operated (“Governing Board-owned”) vehicles shall be mentally and physically alert at all times while on duty. To that end, the Governing 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 all applicable 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 Governing Board-owned vehicles. This term further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- E. The term *CDL license holder* means all regular and substitute bus drivers, other staff members who may drive students in Governing Board-owned vehicles or inspect, repair, and maintain Governing Board-owned vehicles.
- F. The term *while on duty* means all time from the time the CDL license holder begins to work or is required to be in readiness for work until the time s/he is relieved from work and all responsibility for performing work.

The Governing Board expects all CDL license holders to comply with all drug free policies which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on ESC property at all times. Further, the Governing Board concurs with the Federal requirement that all CDL license holders should be free of any influence of alcohol or controlled substance while on duty.

The Governing Board directs the Superintendent to establish a drug and alcohol testing program whereby each regular and substitute bus driver, as well as any other staff member who holds a CDL license, is tested for the presence of alcohol in the staff member's system as well as for the presence of the following controlled substances:

- A. Marijuana;
- B. Cocaine;
- C. Opioids;
- D. Amphetamines; and
- E. Phencyclidine ("PCP").

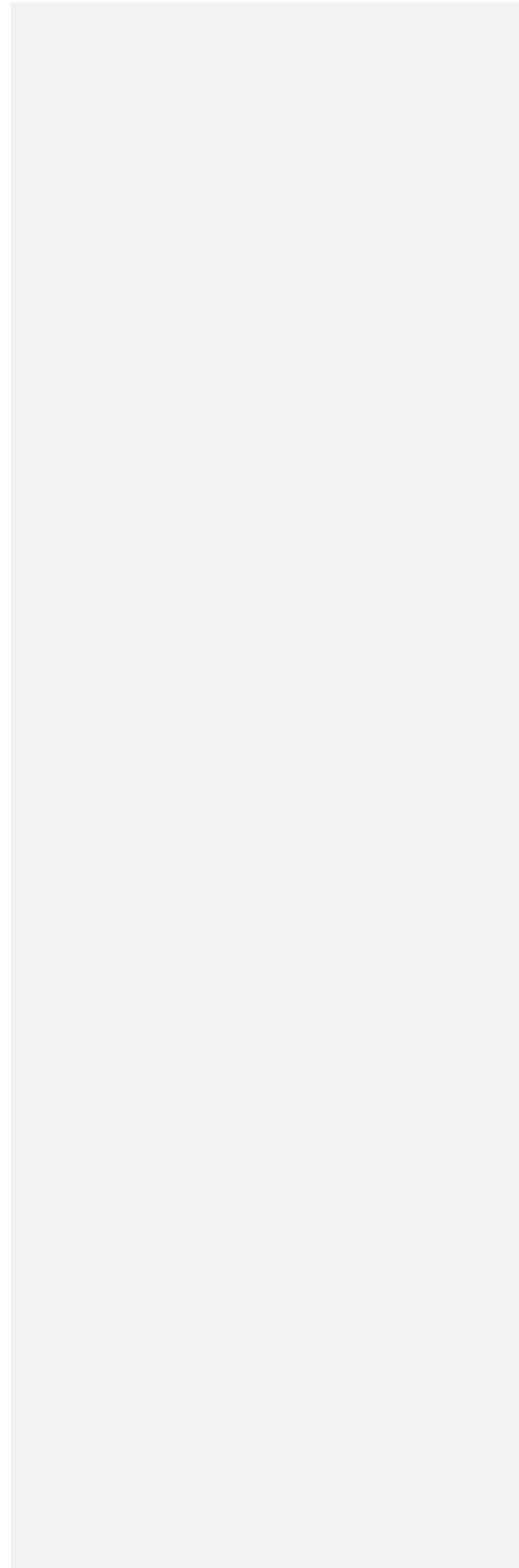
The drug tests are to be conducted in accordance with all applicable laws and regulations prior to employment, for reasonable suspicion, upon return to duty after any alcohol or drug rehabilitation, post-accident, on a random basis, and on a follow-up basis. Candidates shall also be tested for the presence of alcohol in their system prior to employment.

Any staff member who tests positive shall immediately be prohibited from performing or continuing to perform the staff member's safety-sensitive functions (e.g., driving any Governing Board-owned vehicle) and be referred to the ESC's Employee Assistance Program.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

- A. the test will be considered positive, and the employee shall be prohibited from driving any school vehicle and be referred to the ESC's Employee Assistance Program; and
- B. the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.

Any staff member who refuses to submit to a test shall immediately be prohibited from performing or continuing to perform the staff member's safety-sensitive functions (e.g., driving any Governing Board-owned vehicle).



Staff member who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Governing Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Governing Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.

If a staff member admits to failing a previous drug or alcohol test, or has refused to test, the staff member will not be permitted to perform safety-sensitive functions until completing the return-to-duty process.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of 0.04 or greater or performs safety-sensitive functions within four (4) hours after using alcohol;
- B. reports for duty or performs work while testing positive for using a controlled substance, or while being under the influence of a controlled substance;
- C. refuses to disclose any therapeutic drug use or submit to drug and/or alcohol testing;
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results; and/or
- E. fails to remain readily available for post-accident testing (including refraining from the use of alcohol for eight (8) hours following the accident or until undergoing a post-accident alcohol test, whichever occurs first, and notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test, unless the staff member's departure is to obtain necessary emergency medical care).

Prior to the beginning of the testing program, the Governing Board shall provide a drug-free awareness program which will inform each CDL license holder about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;
- B. Drug-Free Workplace, Unrequested Leaves of Absence/Fitness for Duty, Substance Abuse, and Employee Assistance Program policies; and
- C. the sanctions that may be imposed for violations of any drug free policy.

All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at his/her overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Governing Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. Requests for a "split specimen" must be made within seventy-two (72) hours of receipt of the notification of a positive drug test. The Governing Board shall not pay for the employee's time while not on duty, if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under the Federal Law (i.e., test results shall be provided on a right to know basis – the employee, the employer, and the substance abuse professional – and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will be promptly provided copies of to any records relating to the individual's use of drugs and alcohol, including any records pertaining to the individual's drug and alcohol tests. A tested individual shall provide specific written consent before the individual's result can be provided to any other person except as required by law.

All tests shall be conducted in accordance with Federal testing guidelines and be performed by a laboratory that is Federally certified.

The alcohol and drug testing program shall be under the direction of the Superintendent.

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 Governing 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 Governing Board’s Medical Review Officer (“MRO”);
- C. methodology and procedures for conducting random tests for controlled substances and alcohol; and
- D. preparation and submission of all required reports to the Governing Board, the MRO, and to Federal and State governments.

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the ESC’s MRO, and the drug collection site(s) in accordance with the requirements of the law.

**Notification**

A tested candidate shall be notified of the results of a pre-employment controlled substances test conducted under this part, if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

A tested individual shall be notified of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The tested individual shall also be informed which controlled substance or substances were verified as positive.

The Superintendent shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer’s program, regardless of the driver’s employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

The Superintendent shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within seventy-two (72) hours.

Individuals holding a CDL license must notify all current employers of any DOT violations (such as testing positive for the presence of alcohol or a controlled substance in violation of this policy). The notification must be made (1) by the end of the business day following the day the individual first receives notice of the violation or (2) prior to performing any safety-sensitive function, whichever comes first. Individuals are not required to notify the employer that administered the test or that documented the circumstances giving rise to the violation.

In the event that an individual is selected for testing, the Superintendent will inform the individual that the test is required by applicable law.

### **Reporting Test Results**

The Superintendent shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this policy during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers. Such summaries shall be submitted in a manner and timeline as required by law.

### **Educational Materials Related to Certain Federal Regulations, Governing Board Policies, and Procedures**

CDL License Holders and other employees who perform safety-sensitive functions will be provided educational materials that discuss the employer's policies and procedures with respect to post-accident information and positive test results, among other things, at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of applicable Federal regulations and the Governing Board's policies and ESC's procedures with respect to meeting these Federal regulations. The Governing Board designates the Superintendent as the individual responsible for providing educational materials to CDL License Holders and other employees who perform safety-sensitive functions. The educational materials will include, at a minimum, the following:

- A. the contact information for the Superintendent, who is the individual designated by the Governing Board to answer questions about the educational materials;
- B. a statement that all CDL License Holders and other employees who perform safety-sensitive functions are subject to Federal law addressing the misuse of alcohol and other controlled substances;
- C. information sufficient to make clear to employees the period of the workday during which they are required to comply with the regulations
- D. information concerning prohibited conduct;
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances;
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results

- are attributed to the correct employee including post-accident information, procedures, and instructions required under Federal regulations;
- G. the requirement that staff members shall submit to alcohol and controlled substance testing as required by the regulations;
  - H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences;
  - I. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment;
  - J. the consequences for employees found to have an alcohol concentration of 0.02 or greater but less than 0.04;
  - K. information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol and/or controlled substances problem (the employee's or a co-worker's); and available methods of intervening when a controlled substance and/or alcohol problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management), and
  - L. information regarding the requirement that certain personal information collected and maintained under 49 C.F.R. Part 382 be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse.
  - M. indicating that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including alcohol, is prohibited on all school board property and at school-sponsored activities. Individuals are strictly prohibited from reporting to work or being on duty while under the influence of alcohol or a controlled substance.

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member will receive a copy of the educational materials and must sign a statement certifying receipt of such materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety-sensitive functions. Each employee shall receive written notice of the availability of this information, and the identity of the Governing Board's designated representative in charge of answering questions about the materials.

**Return-to-Duty (Safety-Sensitive Positions)**

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Employees who are removed from performing safety-sensitive functions as a result of this policy shall take and pass a return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (“SAP”) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee shall have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. The employee will not be permitted to perform safety-sensitive functions until the start of the employee’s next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the return-to-duty test.

Employees who are eligible to return to performing safety-sensitive functions may not do so without the prior approval of the Superintendent.

## 1663.02 - USE OF TOBACCO

The Governing Board is committed to providing students, staff, and visitors with a tobacco and smoke-free environment. The negative health effects of tobacco use for both users and nonusers, particularly in connection with secondhand smoke, are well established. Further, providing non-smoking and a tobacco-free environment is consistent with the responsibilities of teachers and staff to be our positive role models for students.

For purposes of this policy, “use of tobacco” means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco, or tobacco substitutes, including cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, any other matter or substances that contain tobacco, in addition to papers used to roll cigarettes and/or smoking of electronic, “vapor,” or other substitute forms of cigarettes, clove cigarettes and any other lighted smoking devices for burning tobacco or any other substances.

In order to protect students and staff who choose not to smoke or use tobacco from an environment noxious to them, and because the Governing Board does not condone smoking or the use of tobacco, the Governing Board prohibits the use of tobacco or tobacco substitute products by professional staff members at all times within any enclosed facility owned or leased or contracted for by the Governing Board, and in areas directly or indirectly under the control of the Governing Board immediately adjacent to locations of ingress or egress to such facilities. This prohibition extends to any Governing Board-owned and/or operated vehicles used to transport students and to all other Governing Board-owned and/or operated vehicles. Such prohibition also applies to school grounds and any school-related event.

## 1664 - SUBSTANCE ABUSE

The Governing Board recognizes alcoholism and drug abuse as treatable illnesses. Such illnesses may impair the performance of an employee. When appropriate, the Governing Board may assist such employees in a manner recommended by appropriate specialists in the treatment of those illnesses.

An employee having an illness or other problem relating to the use of alcohol or other drugs including controlled substances, medications not prescribed by the employee's physician, or medications not taken as prescribed, shall receive the same careful consideration and offer of assistance that is presently extended to an employee having any other illness.

The responsibility to correct unsatisfactory job performance, attendance or behavioral problems resulting from a suspected health problem rests with the employee. Additionally, regardless of whether an employee has an illness or other problem relating to the use of alcohol or other drugs it remains the responsibility of the employee to report to work and perform the employee's duties in a fit and appropriate condition at all times. Being under the influence of alcohol or other drugs while on duty, on ESC property, or at an ESC related activity/event is not acceptable. Failure to correct unsatisfactory job performance, attendance or behavior and/or working or reporting to work under the influence of alcohol or other drugs for whatever reason, shall result in appropriate corrective or disciplinary action as determined by the Governing Board, up to and including termination.

If an employee sustains a workplace injury while the employee is under the influence of alcohol or a controlled substance not prescribed by the employee's physician, the employee may be disqualified for compensation and benefits under the Workers Compensation Act. If the employee tests positive or refuses to submit to a test for alcohol and/or other drugs after sustaining a workplace injury, the employee may dispute or prove untrue the presumption or belief that alcohol and/or other drugs are the proximate cause of the injury (i.e., rebuttable presumption). Notice shall be posted advising employees that the results of, or the employee's refusal to submit to an alcohol or other drug test may affect an employee's right to receive workers' compensation benefits.

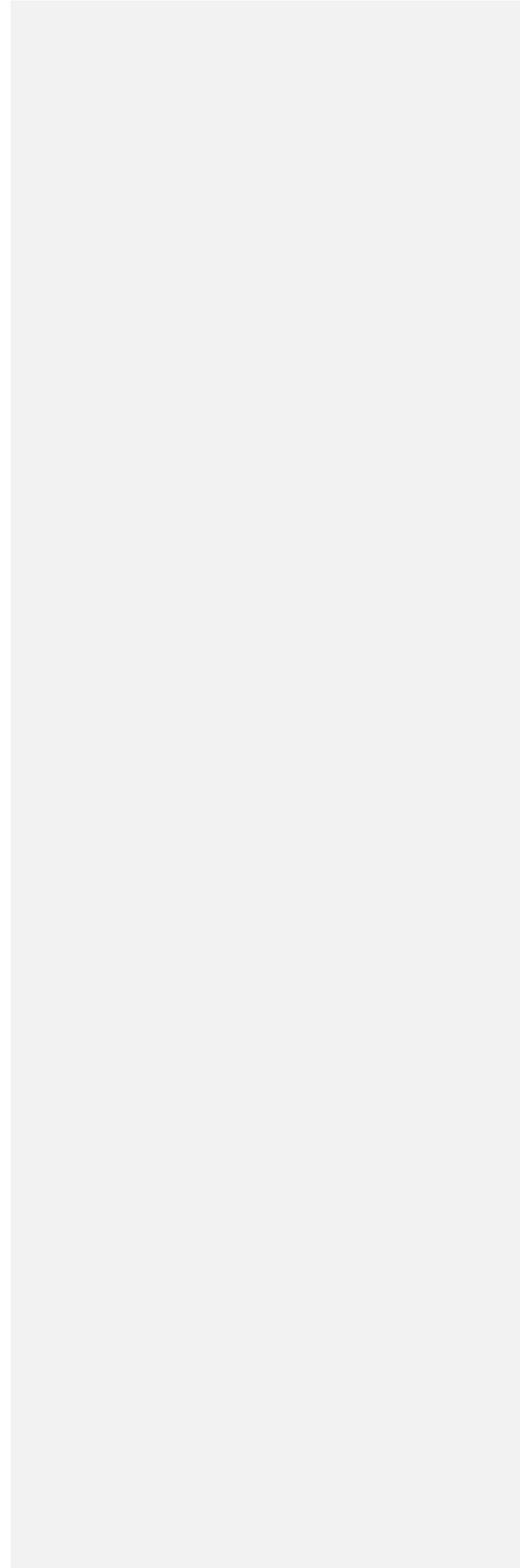
If an employee voluntarily requests counseling or assistance before the Governing Board learns of the employee's substance abuse problem (through a positive test result or otherwise), the employee's job security or promotion opportunities shall not be jeopardized by the employee's request for counseling or referral assistance. An employee may not avoid the consequences of a positive test by requesting counseling or assistance for a substance abuse problem after being instructed to submit to a drug test.

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

# **PROGRAM**

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2105 - **MISSION AND VISION OF THE ESC**

**Our Mission**

The Ohio Valley ESC shall serve our partners, provide leadership, build connections, develop relationships, leverage resources, and enhance learning.

**Our Vision**

The Ohio Valley ESC is dedicated to providing innovative services that value and enhance continuous learning.

## 2111 – PARENT AND FAMILY ENGAGEMENT

The Governing Board recognizes and values parents and families as children’s first teachers and decision-makers in education. The Governing Board believes that student learning is more likely to occur when there is an effective partnership between the school and the student’s parents and family. Such a partnership between the home and school and greater involvement of parents and family members in the education of their children generally result in higher academic achievement, improved student behavior, and reduced absenteeism. This policy shall serve as the Governing Board’s policy, as well as the Parent and Family Engagement policy for each school/program/activity in the ESC.

The Elementary and Secondary Education Act (“ESEA”), as amended by the Every Student Succeeds Act of 2015 (“ESSA”), defines the term “parent” to include a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).

In accordance with statute and the State Board of Education Parent and Family Involvement policy, the term “family” is used in order to include a child’s primary caregivers, who are not the biological parents, such as foster caregivers, grandparents, and other family members and responsible adults who play significant roles in providing for the well-being of the child.

### **Family-School Partnership in Student Learning**

In cultivating a partnership with parents, families, and communities, the Governing Board establishes the following expectations and objectives for meaningful parent and family engagement:

- A. working with parents and families to establish learning goals for their children with the purpose of developing responsible, adult members of society;
- B. working with parents and families to develop and implement appropriate strategies for helping their children accomplish the learning goals;
- C. establishing and supporting a consistent and shared approach to child guidance and discipline in collaboration with parents and families;
- D. providing information to parents and families to support the proper health, safety, and well-being of their children;
- E. providing information related to school policies, procedures, programs, and activities to parents and families in a language and format that is understandable, to the extent practicable;
- F. providing information and involving parents and families in monitoring student progress in a manner that is meaningful and understandable;

- G. helping parents and families to provide a school and home environment which encourages learning and extends, at home, the learning experiences provided by the school; and
- H. “providing parents and families with timely and meaningful information regarding Ohio’s academic standards; State and local assessments; and pertinent legal provision (such as Title I, Section 1118, parents participation rights under IDEIA, gifted student identification and programming, etc.) to assist them in making informed decisions about their children’s academic future.

**Family-School Partnership for Quality Schools**

In cultivating a partnership with parents, families, and communities. The Governing Board is committed to the following:

- A. providing a range of meaningful opportunities for parents and families to volunteer in and support their children’s school activities;
- B. providing engagement activities respective of various cultures, languages, practices, and customs that support relationships among parents, families, and schools that bridge economic and cultural barriers;
- C. promoting regular and open communication between school personnel and students’ parents and family members; and
- D. cultivating school environments that are welcoming, supportive, and children-centered.

**Parent and Family Responsibilities**

It is parents and families who have the ultimate responsibility for their children’s education, health, well-being, and behavior.

Parents and families have a responsibility to encourage and support their children’s education by:

- A. supporting the schools in requiring their children to observe all school rules and regulations;
- B. sending their children to school with proper attention to their health, personal cleanliness, and dress;
- C. maintaining an active interest in their children’s daily work and checking on their children’s progress regularly;

- D. providing a quiet place and suitable conditions for study;
- E. reading all communications from the school, signing, and returning them promptly when required;
- F. attending conferences when practicable or making alternative arrangements to discuss their children's progress; and
- G. working with their children's teachers to find school or community-based academic and behavioral interventions and enrichment supports.

## 2240 - CONTROVERSIAL ISSUES

The Governing Board believes that the consideration of controversial issues has a legitimate place in the instructional program of the schools.

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, carefully weigh the values and factors involved, and develop techniques for formulating and evaluating positions.

For purposes of this policy, a controversial issue is a topic on which opposing points of view have been promulgated by responsible opinion or is likely to arouse both support and opposition in the community.

The Governing Board shall permit the introduction and proper educational use of controversial issues provided that their use in the instructional program:

- A. is related to the instructional goals of the course of study and level of maturity of the students;
- B. does not tend to indoctrinate or persuade students to a particular point of view; and
- C. encourages open-mindedness and is conducted in a spirit of scholarly inquiry.

Controversial issues related to the program may be initiated by the students themselves provided they are presented in the ordinary course of classroom instruction and it is not substantially disruptive to the educational setting.

Controversial issues may not be initiated by a source outside the schools unless prior approval has been given by the principal or program manager.

When controversial issues have not been specified in the course of study, the Governing Board shall permit the instructional use of only those issues which have been approved by the Superintendent.

No classroom teacher shall be prohibited from providing reasonable periods of time for activities of a moral, philosophical, or patriotic theme. No student shall be required to participate in such activities if they are contrary to the religious convictions of the student or his/her parents or guardians.

The Governing Board acknowledges that it may not adopt any policy or rule respecting or promoting an establishment of religion or prohibiting any student from the free, individual, and voluntary exercise or expression of the student's religious beliefs.

The Governing Board also recognizes that a course of study or certain instructional materials may contain content and/or activities that some parents find objectionable. If after careful, personal

review of the program lessons and/or materials, a parent indicates to the school that either the content or activities conflicts with his/her religious beliefs or value system, the school shall honor a written request for his/her child to be excused from a particular class for specified reasons. The student, however, shall not be excused from participating in the course and shall be provided alternate learning activities during times of such parent requested absences.

The Superintendent shall deal with controversial issues and with parental concerns about program content or the use of particular materials.

**2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship and/or personal sense of self-worth. As such, the Governing Board does not discriminate on the basis of race, color, national origin, sex, disability, age (except as authorized by law), religion, military status, ancestry, or genetic information (collectively, "Protected Classes") in its educational programs or activities.

The Governing Board also does not discriminate on the basis of Protected Classes in its employment policies and practices as they relate to students and does not tolerate harassment of any kind.

Equal educational opportunities shall be available to all students, without regard to their membership in the Protected Classes, race, color, national origin, sex, disability, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the ESC, or social or economic background, to learn through the curriculum offered in this ESC. Educational programs shall be designed to meet the varying needs of all students.

In order to achieve the aforesaid goal, the Superintendent shall:

**A. Curriculum Content**

review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc. toward the development of human society;

**B. Staff Training**

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program;

**C. Student Access**

1. review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under applicable laws and regulations;
2. verify that facilities are made available, in accordance with Governing Board Policy 7510 - Use of ESC Facilities, for non-curricular student

activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;

**D. ESC Support**

verify that like aspects of the ESC program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

**E. Student Evaluation**

verify that tests, procedures, and guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the Protected Classes.

**Definitions:**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

ESC community means students and Governing Board employees (i.e., administrators, and professional and classified staff), as well as Governing Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Governing Board.

Third Parties include, but are not limited to, guests and/or visitors on ESC property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Governing Board, and other individuals who come in contact with members of the ESC community at school-related events/activities (whether on or off ESC property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

### **ESC Compliance Officer(s)**

The Governing Board designates the following individual(s) to serve as the ESC’s “Compliance Officer” (also known as “Civil Rights Coordinator”):

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

The Compliance Officer is responsible for coordinating the ESC’s efforts to comply with applicable Federal and State laws and regulations, including the ESC’s duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The Compliance Officer shall also 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, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to students, their parents, staff members, and the general public.

### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Students and all other members of the ESC community, as well as third parties, are required to promptly report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other ESC-level official so that the Governing Board may address the conduct. Any administrator, supervisor, or other ESC-level employee or official who receives such a report shall file it with the Compliance Officer within two (2) days if possible.

Students and all other members of the ESC community, as well as Third Parties , who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, shall not adversely affect the Complainant’s employment. 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 will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. The Compliance Officer shall accept reports of unlawful discrimination/retaliation directly from any member of the ESC community or Third Party, or receive reports that are initially filed with another Governing Board employee. Upon receipt of a report of alleged discrimination/retaliation, the Compliance Officer will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the Compliance Officer shall designate a specific individual to conduct such a process. The Compliance Officer shall provide a copy of this policy the Complainant and the Respondent. In the case of a formal complaint, the Compliance Officer shall prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the ESC community shall report incidents of discrimination/retaliation that are reported to them to the Compliance Officer within two (2) days of learning of the incident/conduct.

Any Governing Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to the Compliance Officer within two (2) business days. Additionally, any Governing Board 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 Governing Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the Compliance Officer/designee shall contact the Complainant within two (2) days to advise the Complainant of the Governing Board's intent to investigate the wrongdoing.

### **Investigation and Complaint Procedure**

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who alleges to have been subjected to unlawful discrimination or retaliation may seek resolution of the student's complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

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

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to promptly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who alleges unlawful discrimination or retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available 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.

The Complainant may proceed immediately to the formal complaint process and individuals who participate in the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving an ESC employee or any other adult member of the ESC community and a student shall be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe doing so, the individual should tell or otherwise inform the Respondent that the alleged harassing conduct is inappropriate and shall stop. The Complainant should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer is available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file 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.

A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing to the Compliance Officer and/or the Superintendent or designee.

All informal complaints shall be reported to the Compliance Officer who shall either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The ESC's informal complaint procedure is designed to provide the Complainant with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the Complainant's wishes, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant about how to communicate concerns to the Respondent
- B. Distributing a copy this policy to the individuals in the school building or office where the Respondent works.

- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution.

While there are no set time limits within which an informal complaint shall be resolved, the Compliance Officer or designee is directed to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

### **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 Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

The Complainant may file a formal complaint, either orally or in writing, with the Compliance Officer and/or the Superintendent or designee. 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 formal complaint within thirty (30) days after the conduct occurs. If a Complainant informs the Superintendent or designee, either orally or in writing, about any complaint of discrimination/retaliation, that student shall report such information to the Compliance Officer within two (2) business days.

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

All formal complaints shall include the following information to the extent known: : the identity of the Respondent t; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 shall prepare a written summary of the oral interview, and the Complainant shall be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer shall 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 Respondent. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with the proposed action.

If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions the Compliance Officer deemed appropriate in consultation with the Superintendent or designee.

Within two (2) business days of receiving the complaint, the Compliance Officer or designee shall initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the Compliance Officer shall inform the Respondent that a complaint has been received. The Respondent shall be informed about the nature of the allegations and provided with a copy of any relevant policies, including this policy. The Respondent shall 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, the Compliance Officer or a designee shall attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation shall include:

- A. Interviews with the Complainant;
- B. Interviews 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 witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or designee shall prepare and deliver a written report to the Superintendent or designee 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 Governing Board policy and applicable law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant. The Compliance Officer or designee's recommendations shall be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard shall be used. The Compliance Officer or designee may consult with the Governing Board's legal counsel before finalizing the report to the Superintendent or designee.

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

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

If the Superintendent or designee determines that the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent or designee shall identify what corrective action shall be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

The decision of the Superintendent or designee shall be final.

The Governing Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Governing 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 Governing Board or its designee.

The parties may be represented, at their 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, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

#### **Privacy/Confidentiality**

The ESC shall employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform 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. Additionally, the Respondent must be provided with the Complainant's identity.

During the course of a formal investigation, the Compliance Officer or designee shall 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 is learned or provided during the course of the investigation.

#### **Sanctions and Monitoring**

The Governing Board shall vigorously enforce its prohibitions against unlawful discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct. 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 shall be taken in accordance with applicable laws. When imposing discipline, the Superintendent or designee shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Governing Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Governing Board policies.

Where the Governing Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Governing Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### **Education and Training**

In support of this policy, the Governing Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the ESC community related to the implementation of this policy and shall provide training for ESC students and staff where appropriate. All training, as well as all information provided regarding the Governing Board's policy and discrimination in general, shall be age and content appropriate.

### **Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information (“ESI”), and electronic media created and/or received as part of an investigation, which may include, but is not limited to:

- A. all written reports/allegations/complaints/grievances/ statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by ESC personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the ESC’s response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;

- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Governing Board policy used by the ESC to conduct the investigation, and any documents used by the ESC at the time of the alleged violation to communicate the Governing Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- N. documentation of any training provided to ESC personnel related to this policy including, but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all ESC personnel involved in enforcing this policy including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;
- O. documentation that any rights or opportunities that the ESC made available to one party during the investigation were made available to the other party on equal terms;
- P. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- Q. copies of any notices sent to the Complainant and Respondent in advance of any interview, meeting, or hearing; and
- R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings including the investigation report and any written responses submitted by the Complainant and Respondent .

The documents, ESI, and electronic media retained may include public records and records exempt from disclosure under applicable state and federal laws. The documents, ESI, and electronic media created or received as part of an investigation shall be retained in accordance with applicable state and federal laws for not less than three (3) years but longer if required by the ESC's records retention schedule.

**2260.01 - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY**

Pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”), the Americans with Disabilities Act of 1990, as amended (“ADA”), and the implementing regulations (collectively “Section 504/ADA”), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Governing Board does not discriminate in admission or access to, or participation in, or treatment in its programs or activities. As such, the Governing Board’s policies and practices shall not discriminate against students with disabilities and the Governing Board shall make its facilities, programs, and activities accessible to qualified individuals with disabilities. No discrimination shall be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the ESC.

“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, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

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 shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. who is of any age during which it is mandatory under Ohio law to provide educational services to disabled persons; or

- C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a person with a disability who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The Governing Board will not deny a student with disabilities access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

### **ESC Compliance Officer**

The following person is designated as the ESC Section 504 Compliance Officer/ADA Coordinator (“ESC Compliance Officer”):

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750

1-740-373-6669 (telephone)  
1-740-376-5809 (facsimile)

The ESC Compliance Officer is/are responsible for coordinating the ESC’s efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the ESC Compliance Officer.

The ESC Compliance Officer shall oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Governing Board’s adopted internal complaint procedure and shall attempt to resolve such complaints.

The Governing Board shall provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Governing Board shall further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing.

### **Training**

The ESC Compliance Officer shall also oversee the training of employees in the ESC so that all employees understand their rights and responsibilities under Section 504 and the ADA and are informed of the Governing Board’s policies and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Governing Board shall 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 shall, because the ESC'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 ESC shall comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the ESC is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities shall be designed and scheduled so that the location and nature of the facility or area shall not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

### **Education**

The Governing Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

If a student has a physical or mental impairment that significantly limits one or more major life activities, the Governing Board shall provide the student with a free appropriate public education. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For students with disabilities who are not eligible for specially designed instruction under the IDEIA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan. Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan. The quality of education services provided to students with disabilities will be equal to the quality of services provided to students without disabilities.

The Governing Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the ESC with persons who are not disabled to the maximum extent appropriate. Generally, the ESC shall place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the ESC places a person in a setting other than the regular educational

environment, it shall take into account the proximity of the alternate setting to the person's home. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

The Governing Board shall provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the ESC, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and non-academic and extracurricular services and activities, including those listed above, the ESC shall verify that persons with disabilities participate with persons without disabilities in such services and activities to the maximum extent appropriate.

**Notice**

Notice of the Governing Board's policy on nondiscrimination in education practices and the identity of the ESC's Compliance Officer shall be posted.

## 2261 - TITLE I SERVICES

The Governing Board elects to augment the educational program of educationally disadvantaged students by the use of Federal funds and in accordance with Title I of the Amendments to the Elementary and Secondary School Improvement Act of 1965.

The Superintendent shall prepare and present to the Ohio Department of Education a plan for the delivery of services which meets the requirements of the law, including those described below. The plan shall be developed by appropriate staff members and parents of students who shall be served by the plan.

### A. **Assessment**

The Governing Board shall annually assess the educational needs of eligible children, as determined by Federal and State criteria. Such assessment shall include performance measures mandated by the Ohio Department of Education as well as those determined by the ESC professional staff that shall assist in the diagnosis, teaching, and learning of the participating students.

### B. **Scope**

Each school shall determine whether the funds shall be used to upgrade the educational program of an entire school and/or to establish or improve programs that provide services only for eligible students in greatest need of assistance. The program, for an entire school and/or a Targeted Assistance School shall include the components required by law as well as those agreed upon by participating staff and parents.

### C. **Participation**

The Title I program shall be developed and evaluated in consultation with parents and professional staff members involved in its implementation. Appropriate training shall be provided to staff members who provide Title I services. Parent participation shall be in accord with Governing Board Policy 2261.01 and shall meet the requirements of Section 1118 of the Act.

### D. **Comparability of Services**

Title I funds shall be used only to supplement, not to supplant, State and local funds. The Superintendent shall use State and local funds to provide educational services in schools receiving Title I assistance that, taken as a whole, are at least comparable to services being provided in schools that are not receiving Title I assistance.

The determination of the comparability of services may exclude, in accordance with Federal regulations, State and local funds spent on compensatory education

programs, bilingual education programs, and programs for educationally- disabled students. The determination of comparability shall not take into account unpredictable changes in student enrollments or personnel assignments.

In order to achieve comparability of services, the Superintendent shall assign teachers, administrators, and auxiliary personnel and provide curriculum materials and instructional supplies in an equitable manner throughout the ESC.

**E. Professional Development**

Members of the professional staff shall participate in the design and implementation of staff development activities that meet the requirements of Section 1119 of the Act and:

1. involve parents in the training, when appropriate;
2. combine and consolidate other available Federal and ESC funds; and
3. foster cooperative training with institutions of higher learning and other educational organizations including other ESCs;
4. allocate part of the staff development to the following types of strategies:
  - a. performance-based student assessment
  - b. use of technology
  - c. working effectively with parents
  - d. early childhood education
  - e. meeting children’s special needs
  - f. fostering gender-equitable education
5. provide opportunities for paraprofessionals to work toward licensing as professional educators.

**F. Simultaneous Services**

In accordance with law, a school offering Title I services may also serve other students with similar needs.

**2261.01 - PARENT PARTICIPATION IN TITLE I PROGRAMS**

In accordance with the requirements of Federal law, programs supported by Title I funds shall be planned and implemented in meaningful consultation with parents of the students being served.

Each year the Superintendent shall work with parents of children served in Title I Programs in order to jointly develop and agree upon a proposed written parent involvement policy to establish expectations for the involvement of such parents in the education of their children. The proposed policy shall be reviewed and approved annually by the Governing Board and distributed to parents of children receiving Title I services. The proposed policy shall describe how the ESC shall:

- A. involve parents in the development of the ESC's Title I plans and in the process of school review and improvement, if necessary;
- B. provide coordination, technical assistance, and other support necessary to assist schools in planning and implementing effective parent involvement activities to improve student achievement and school performance;
- C. build the schools' and parents' capacity for strong parental involvement;
- D. coordinate and integrate parent involvement strategies with parent involvement strategies under other programs such as Head Start, Reading First, Early Reading First, Even Start, Parents and Teachers, and Home Instruction for Preschool Youngsters;
- E. in consultation with parents, annually evaluate the content and effectiveness of the parent involvement policy in improving the academic quality of schools, including:
  - 1. identifying barriers to greater parent participation;
  - 2. designing strategies for more effective parental involvement; and,
  - 3. revising the parental involvement policy if necessary;
- F. involve parents of children receiving Title I services in deciding how Title I funds reserved for parent involvement activities shall be allocated;
- G. provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities and parents of migratory children, including providing information and school reports in a format, and to the extent practicable in a language, such parents can understand;
- H. conduct meetings with parents including provisions for flexible scheduling and assistance to parents to better assure their attendance at meetings;

- I. develop agendas for parent meetings to include review and explanation of the curriculum, means of assessments, and the proficiency levels students are expected to achieve and maintain;
- J. provide opportunities for parents to formulate suggestions, interact and share experiences with other parents, and participate appropriately in the decision-making about the program and revisions in the plan;
- K. involve parents in the planning, review, and improvement of the Title I program;
- L. communicate information concerning school performance profiles and their child's individual performance to parents;
- M. assist parents in helping their children in achieving the objectives of the program by such means as ensuring regular attendance, monitoring television-watching, providing adequate time and the proper environment for homework; guiding nutritional and health practices, and the like;
- N. provide timely responses to parental questions, concerns, and recommendations;
- O. coordinate and provide technical assistance and other support necessary to assist Title I schools to develop effective parent participation activities to improve academic achievement; and
- P. conduct other activities as appropriate to the Title I plan and applicable laws and regulations.

The Superintendent shall also assure that each Title I participating school develops a specific written plan, with parental involvement and agreement, which includes provisions regarding the following:

- A. Each principal shall convene an annual meeting at a convenient time to which all parents of participating children are invited and encouraged to attend to explain the parents' rights to be involved and the school's obligations to develop a parental involvement plan.
- B. Meetings with parents of children receiving Title I services shall be scheduled at flexible times with assistance such as child care, transportation, home visits, or similar aid offered to parents to encourage their involvement.
- C. Parents shall be involved in an organized, on-going and timely way in the development, review, and improvement of parent involvement activities.
- D. Parents of participating students shall be provided with:

1. timely information about the Title I program and the school's parent involvement policy;
  2. a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels expected; and
  3. regular meetings, upon request, for parents to make suggestions, and to participate as appropriate, in decisions relating to the education of their children, and receive responses regarding the parents' suggestions about their student's education as soon as practicably possible.
- E. As a component of the school parental involvement policy, the principal for each school shall coordinate the development of a school-parent compact jointly with parents which outlines how the school staff, the parents, and the student shall share responsibility for academic improvement and the means by which the school and parents shall build and develop a partnership to help students achieve State standards. The compact shall:
1. describe the school's responsibility to provide a high quality curriculum and instruction in a supportive, effective learning environment;
  2. describe the parent's responsibility to support their child's learning environment such as monitoring attendance, homework, extra-curricular activities and excessive television watching; volunteering in the classroom; and participating, as appropriate, in decisions relating to the education of their children; and
  3. address the importance of parent/teacher communication on an on-going basis through at least annual parent teacher conferences to discuss achievement and the compact; frequent progress reports to the parents on their child's progress; and reasonable access to the staff and to observe and participate in classroom activities.
- F. Parents of children receiving Title I services shall be notified about school parent involvement policies in an understandable and uniform format, and to the extent practicable, in a language the parents can understand. These policies shall also be made available to the community.
- G. School parent involvement policies shall be evaluated periodically to consider whether they meet the changing needs of parents and the schools.

In order to involve parents in the education of their children and to support a partnership among the school, parents and the community for improving students achievement, the Superintendent

and building principals shall include provisions in the ESC and school parent involvement policies regarding:

- A. assisting parents of children served under Title I in understanding the State's academic content and assessment standards, and in understanding how to monitor their child's progress and how to work with educators to improve their child's achievement;
- B. providing materials and training to help parents work with their children to improve achievement;
- C. educating teachers, pupil services personnel, and other staff, with the assistance of parents, about the value and utility of contributions of parents, how to reach out to, communicate with, and work with parents as equal partners, how to implement and coordinate parent programs, and how to build ties between parents and the school;
- D. to the extent feasible and appropriate, coordination and integration of parent involvement programs and activities with other Federal programs; and
- E. providing such reasonable support for parent involvement activities as parents may request.

In order to build the ESC's capacity for parent involvement, the Superintendent and building principals may also:

- A. involve parents in the development of training for teachers and administrators to improve the effectiveness of such training;
- B. pay reasonable and necessary expenses associated with parental involvement activities to enable parents to participate in school-related meetings and training sessions, and child care costs;
- C. train parents to enhance the involvement of other parents;
- D. adopt and implement model approaches to improving parental involvement;
- E. establish an ESC-wide parent advisory council to provide advice on all matters related to parental involvement programs; and/or
- F. develop appropriate roles for community-based organizations and businesses in parental involvement activities.

**2261.02 - TITLE I – PARENTS' RIGHT TO KNOW**

In accordance with the requirement of Federal law, for each school receiving Title I funds, the Superintendent shall make sure that all parents of students in that school are notified that they may request, and the Governing Board shall provide the following information on the student's classroom teachers:

- A. Whether the teacher(s) have met the State qualification and licensing criteria for the grade levels and subject areas they are teaching.
- B. Whether the teacher(s) is teaching under any emergency or provisional status in which the State requirements have been waived.
- C. The undergraduate major of the teacher(s) and the area of study and any certificates for any graduate degrees earned.
- D. The qualifications of any paraprofessionals providing services to their child(ren).
- E. In addition, the parents **shall** be provided:
  - 1. information on the level of achievement of their child(ren) on the required State academic assessments; and
  - 2. timely notice if the student is assigned to a teacher who is not "highly qualified" as required, or if the student is taught for more than four (4) weeks by a teacher who is not highly qualified.

The notices and information shall be provided in an understandable and uniform format, and to the extent practicable, in a language the parent(s) understand.

**2262 - CHILD CARE PROGRAMS**

The Governing Board may provide appropriate programs and services for children who are in need of care and supervision when not attending school through the use of ESC staff and facilities and by contracting for ESC facilities to be used by an outside organization specializing in childcare programs.

Program fees and/or tuition shall be charged to participating students at rates as determined by the Governing Board. Such payment shall be due and payable prior to participation in program activities and in at least monthly intervals in advance.

**2266 – NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS  
OR ACTIVITIES**

Governing Board Policy 1266 shall be considered to be incorporated herein.

## 2270 - RELIGION IN THE CURRICULUM

Based on the First Amendment protection against the establishment of religion in the schools, no Governing Board employee shall promote religion in the classroom or in the ESC's curriculum or compel or pressure any student to participate in devotional exercises. ~~Displays of a religious character shall conform with Governing Board Policy 8800.~~ Instructional activities shall not be permitted to advance or inhibit any particular religion or religion generally.

An understanding of religions and their effects on civilization is essential to the thorough education of young people and to their appreciation of a pluralistic society. To that end, curriculum may include as appropriate to the various ages and attainments of the students, instruction about the religions of the world.

The Governing Board acknowledges the degree to which a religious consciousness has permeated the arts, literature, music, and issues of morality. The instructional and resource materials approved for use in the ESC's schools frequently contain religious references or concern moral issues that have traditionally been the focus of religious concern. That such materials may be religious in nature shall not, by itself, bar their use in the ESC. The Governing Board directs that professional staff members employing such materials be neutral in their approach and avoid using them to advance or inhibit religion in any way.

The Governing Board recognizes that religious traditions vary in their perceptions and doctrines regarding the natural world and its processes. The curriculum is chosen for its place in the education of the ESC's students, not for its conformity to religious principles. Students should receive unbiased instruction in ESC schools/programs/activities so they may privately accept or reject the knowledge thus gained in accordance with their own religious tenets.

Accordingly, no student shall be exempted from attendance in a required course of study on the grounds that the instruction therein interferes with the free exercise of his/her religion. However, if after careful, personal review of the program's lessons and/or materials, a parent indicates to the school that either the content or activities conflict with his/her religious beliefs or value system, the school shall honor a written request for his/her child to be excused from particular class periods for specified reasons. The student shall be provided with alternate learning activities during the times of such parent requested absence.

No classroom teacher shall be prohibited from providing reasonable periods of time for activities of a moral, philosophical, or patriotic theme. No student shall be required to participate in such activities if they are contrary to the religious convictions of the student or his/her parents or guardians.

Students shall not be prohibited from engaging in religious expression in the completion of homework, artwork, or other written or oral assignments. Such assignments will be graded in the same manner as any other assignments. Students will neither be penalized nor rewarded based on the religious content of the student's work.

The Governing Board acknowledges that it may not adopt any policy or rule respecting or promoting an establishment of religion or prohibiting any student from the free, individual, and voluntary exercise or expression of the student's religious beliefs. ~~However, such exercise or expression may be limited to lunch periods or other non-instructional time periods when students are free to associate.~~

#### **2280 - PRESCHOOL PROGRAM**

The preschool program shall be located in a facility that accommodates the enrollment of the program, supports the growth and development of children according to program objectives, and meets the requirements of statute.

A child is eligible for entrance into preschool if s/he attains the age of three (3) on or before September 30 of the year in which s/he applies for entrance and has not yet obtained the age at which s/he shall be admitted in kindergarten. Children participating in the preschool program shall have been immunized in accordance with the requirements of the State Governing Board to prevent the spread of communicable disease.

Parents of children enrolled in the program shall be permitted access to the school during its hours of operation, in accordance with ESC procedures, to contact their children, evaluate the care provided by the program, the premises, or for other purposes approved by the director. Upon entering the premises, parents shall report to the school office.

#### **Tuition and Fees**

Tuition and fees may be charged to parents of preschool students, according to a schedule adopted by the Governing Board, which may vary by program(s) and school district(s). Tuition and fees may be graduated in proportion to family income or waived in case of hardship.

**2312 - CLASS SIZE**

The Governing Board requires that class sizes be determined with reference to instructional quality and economy of operation, with consideration given to subject matter, type of instruction, and Federal and State requirements.

## 2330 - HOMEWORK

The Governing Board acknowledges the educational validity of out-of-school assignments as adjuncts to and extensions of the instructional program of the schools.

“Homework” shall refer to those assignments to be prepared outside of the school by the student.

The Superintendent shall develop rules for the assignment of homework which include, but are not limited to:

- A. Homework should be a properly planned part of the curriculum, extending and reinforcing the learning experience of the school.
- B. Homework should help students learn by providing practice in the mastery of skills, experience in data gathering, and integration of knowledge, and an opportunity to remediate learning problems.
- C. As a valid educational tool, homework should be assigned with clear direction and its product carefully evaluated.

## 2340 - FIELD AND OTHER ESC-SPONSORED TRIPS

The Governing Board recognizes that field trips, when used for teaching and learning integral to the curriculum, are an educationally sound and important ingredient in the instructional program of the schools. Properly planned and executed field trips should:

- A. supplement and enrich classroom procedures by providing learning experiences in an environment outside the schools;
- B. help students relate school experiences to the reality of the world outside of school; and
- C. bring the resources of the community - natural, artistic, industrial, commercial, governmental, educational - within the student's learning experience.

For purposes of this policy, a field trip shall be defined as any planned journey by one or more students away from ESC premises, which is an integral part of a course of study and is under the direct supervision and control of a professional staff member or any advisor as designated by the Superintendent.

Other ESC-sponsored trips shall be defined as any planned, student-travel activity which is approved as part of the ESC's total educational program and is under the direct supervision and control of a professional staff member or any advisor as designated by the Superintendent.

School personnel shall not accept any form of compensation from vendors that might influence their recommendation on the eventual selection of a location for, or a vendor that shall provide transportation to, a field or other ESC-sponsored trip. Furthermore, school personnel shall not accept any compensation from a vendor after a decision has been made regarding the location for, or a vendor that shall provide transportation to, a field or other ESC-sponsored trip. In addition, school personnel who recommended the location for, or a vendor that shall provide transportation to, a field or other ESC-sponsored trip shall not enter into a contractual arrangement whereby an individual staff member receives compensation in any form from the vendor that operates the venue for, or provides the transportation to, a field or other ESC-sponsored trip 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 school staff member receives such compensation, albeit unsolicited, from a vendor, the staff member shall notify the Treasurer, in writing, that s/he received such compensation and shall thereafter promptly transmit said compensation to the Treasurer at his/her earliest opportunity.

The Governing Board shall approve those field trips and other ESC-sponsored trips which:

- A. take students out of state; and/or

- B. are planned to keep students out of the ESC overnight or longer or out of the State, except that prior Governing Board approval is not required for overnight trips related to extracurricular competitions that arise at a time when no Governing Board meetings are scheduled prior to the date of the trip.

The Superintendent shall approve all other such trips. The Superintendent may approve overnight trips related to extracurricular competitions that arise at a time when no Governing Board meetings are scheduled prior to the date of the trip.

Students may be charged fees, including, but not limited to, admission fees, for ESC-sponsored trips but no student shall be denied participation for financial inability, nor shall nonparticipation be penalized academically.

Students on all ESC-sponsored trips remain under the supervision of this Governing Board.

The Governing Board does not endorse, support, or assume liability in any way for any staff member, volunteer, or parent of the ESC who takes students on trips not approved by the Governing Board or Superintendent. No staff member may solicit students of this ESC for such trips within the facilities or on the school grounds of the ESC without permission from the Superintendent. Permission to solicit neither grants nor implies approval of the trip.

A professional staff member shall not change a planned itinerary while the trip is in progress, except where the health, safety, or welfare of the students in his/her charge is imperiled or where changes or substitutions beyond his/her control have frustrated the purpose of the trip.

In any instance in which the itinerary of a trip is altered, the professional staff member in charge shall notify the administrative superior immediately.

## 2416 - STUDENT PRIVACY AND PARENTAL ACCESS TO INFORMATION

The Governing Board respects the privacy rights of parents and their children. No student shall be required, as a part of the school program or the ESC's curriculum, without prior written consent of the student (if an adult, or an emancipated minor) or, if an unemancipated minor, his/her parents, to submit to or participate in any survey, analysis, or evaluation that reveals information concerning:

- A. political affiliations or beliefs of the student or his/her parents;
- B. mental or psychological problems of the student or his/her family;
- C. sex behavior or attitudes;
- D. illegal, anti-social, self-incriminating or demeaning behavior;
- E. critical appraisals of other individuals with whom respondents have close family relationships;
- F. legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers;
- G. religious practices, affiliations, or beliefs of the student or his/her parents; or
- H. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program).

The Superintendent shall require that procedures are established whereby parents may inspect any materials used in conjunction with any such survey, analysis, or evaluation.

Further, parents have the right to inspect, upon request, a survey or evaluation created by a third party before the survey/evaluation is administered or distributed by the school to the student. The parent shall have access to the survey/evaluation within a reasonable period of time after the request is received by the building principal.

Additionally, parents have the right to inspect, upon request, any instructional material used as part of the educational curriculum of the student. The parent shall have access to the instructional material within a reasonable period of time after the request is received by the building principal. The term instructional material means instructional content that is provided to a student, regardless of its format, including printed and representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or assessments.

The Governing Board shall not allow the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose).

The Superintendent is directed to provide notice directly to parents of students enrolled in the ESC of the substantive content of this policy at least annually at the beginning of the school year, and within a reasonable period of time after any substantive change in this policy. In addition, the Superintendent is directed to notify parents of students in the ESC, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when the administration of any survey by a third party that contains one or more of the items described in A through H above are scheduled or expected to be scheduled.

For purposes of this policy, the term “parent” includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child).

## 2451 - ALTERNATIVE SCHOOL PLANS/PROGRAMS

The Governing Board recognizes that the regular school program may not be appropriate for all students and that certain students may need special programs to help them overcome attendance, academic, and/or behavioral problems.

The Governing Board authorizes the Superintendent to provide alternative education programs for students who, in the opinion of the Superintendent, shall benefit from this educational option. Participation in an alternative program does not exempt the student from adherence to school attendance rules or the Code of Conduct.

The Superintendent shall develop a plan for the alternative school and submit it to the Governing Board for approval. The plan is to include but not necessarily be limited to:

- A. the criteria for admission that the Governing Board shall use to approve or disapprove a student's assignment to the school;
- B. the criteria and procedures that shall be used to transfer a student from the alternative school back to his/her regular school;
- C. a plan for evaluating the effectiveness of the alternative school and for sharing the results of the evaluation with the community;
- D. appointment of staff including the person who shall function as the chief administrative officer of the school;
- E. any additional time of attendance beyond the minimum school day;
- F. any restrictions on participation in co-curricular or extra-curricular activities; and
- G. any additions to the Code of Conduct or dress code.

## 2461 - RECORDING OF ESC MEETINGS INVOLVING STUDENTS AND/OR PARENTS

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

### **Recording of IEP Team and 504 Team Meetings**

The recording of IEP Team meetings and 504 Team meetings is prohibited unless it is necessary in order for a parent to understand the IEP process or 504 process and/or his/her child's IEP or 504 Plan, or otherwise necessary to implement other parental rights under the IDEIA, Section 504 of the Rehabilitation Act of 1973, as amended, and/or the Americans with Disabilities Act, as amended.

- A. If a parent believes that audio recording an IEP Team or 504 Team meeting is necessary, s/he should notify the Director of Student Services in writing, preferably at least two (2) school days before the IEP Team or 504 Team meeting of his/her desire to audio record the meeting and the reason the recording is required. The Superintendent or designee shall notify the parent at least one (1) school day before the meeting if s/he intends to deny the parent's request to record the meeting.
- B. If the ESC representative denies the request, s/he shall state in writing the reasons for the denial. Authorized exceptions to the general prohibition against the audio recording of IEP Team meetings and 504 Team meetings shall typically involve situations when a parent or other IEP Team or 504 Team member has a disability recognized under Section 504/ADA or a language barrier that would preclude the individual's ability to understand and/or meaningfully participate in the IEP process or 504 process. The ESC representative may ask for documentation of the existence of any such disability or language barrier. If a parent is permitted to audio record the meeting, s/he shall use his/her own recording device and the ESC shall similarly record the meeting.

### **Recording of Other ESC Meetings Involving Students and/or Parents (e.g., Parent-Teacher Conferences)**

Parents are prohibited from audio recording meetings with the ESC unless a parent or ESC staff member has a disability recognized under Section 504/ADA or a language barrier that would preclude the individual's ability to understand and/or participate in the meeting. The ESC representative may ask for documentation of the existence of any such disability or language barrier. If a parent is permitted to audio record the meeting, s/he shall use his/her own recording device and the ESC shall similarly record the meeting.

Video recording any meeting is strictly prohibited.

Parents and students are expressly prohibited from using covert means to listen-in or make a recording (audio or video) of any meeting or activity at school. This includes placing recording devices, or other devices with one- or two-way communication technology (i.e., technology that allows a person off-site to listen to live conversations and sounds taking place in the location where the device is located), within a student's book bag or on the student's person without express written consent of the Superintendent. Any requests to place a recording device or other device with one- or two-way audio communication technology within a student's book bag or on a student's person shall be submitted, in writing, to the Superintendent or designee. The ESC representative shall notify the parent(s), in writing, whether such request is denied or granted within five (5) days.

If the ESC audio records any meeting, the resulting recording shall become a part of the student's educational record and shall be maintained in accordance with applicable laws and regulations.

## 2520 - SELECTION OF INSTRUCTIONAL MATERIALS AND EQUIPMENT

The Governing Board shall provide instructional materials and equipment, within budgetary constraints, to implement the ESC's educational goals and objectives and to meet students' needs. The primary objective of such instructional materials and equipment shall be to enrich, support, and implement the educational program of the school.

The Superintendent shall develop procedures for the selection and maintenance of all educational and instructional materials and equipment. In addition, s/he shall periodically, provide for a systematic review, by the Governing Board, of the ESC's educational resources in order to ensure that they are appropriate for the current educational program. Any revisions that occur should be a result of the school-improvement process.

Students shall be held responsible for the cost of replacing any materials or property which are lost or damaged through their negligence.

Cost of materials may be charged for materials used in those activities beyond the basic curriculum in which a student elects to participate, particularly in shop activities where the product becomes the property of the student.

## 2531 - COPYRIGHTED WORKS

The Governing Board directs its staff and students to use copyrighted works only to the extent that the law permits. The Governing Board recognizes that Federal law applies to public ESCs and the staff and students shall, therefore, avoid acts of copyright infringement under penalty of law.

In order to help the staff and students abide by the laws set forth in Title 17 of the United States Code, the Governing Board directs the Superintendent to provide procedures regarding the copying and distribution of copyrighted materials for instructional purposes and for the appropriate use of copyrighted material on the Governing Board's web site.

Because the Governing Board hosts a web site and stores information on it at the direction of users, it is classified as an on-line service provider for copyright purposes. In order to limit the Governing Board's liability relating to material/information residing, at the direction of a user, on its system or network, the Governing Board directs the Superintendent to annually appoint an individual as the agent to receive notification of claimed infringement. A link to the agent's name, mailing address, telephone number, fax number, and e-mail address shall appear on the home page of the Governing Board's web site. Such contact information, along with the appropriate filing fee, shall also be provided to the Copyright Office of the Library of Congress.

The agent shall be responsible for investigating and responding to any complaints.

## 2605 - PROGRAM ACCOUNTABILITY AND EVALUATION

The Governing Board believes that effective education includes proper evaluation of the results produced from the educational resources provided by the community and the government. As the governing body of the ESC, the Governing Board has the responsibility for assessing how well goals are being accomplished.

The Governing Board shall fulfill this responsibility by establishing a means for the continued evaluation of results which shall be systematic and specific.

The following elements shall be included in its accountability program:

- A. Clear statements of expectations and purposes for each program coupled with specifications of how their successful achievement shall be determined.
- B. Provisions for staff, resources, and support necessary to achieve each program's purposes.
- C. Evaluation of each program to assess the extent to which each program's purposes and objectives are being achieved.
- D. Recommendations for revisions and modifications needed to better fulfill expectations and purposes.

The Superintendent shall maintain a calendar of assessment activities and shall make periodic evaluation reports to the Governing Board. Findings of the assessment program may be used to evaluate the progress of students and:

- A. the effectiveness of the curriculum; and/or
- B. the effectiveness of staff members.

The Superintendent shall recommend improvements in the educational program annually, based on ESC evaluation.

The Governing Board reserves the right to employ experts from outside the ESC to serve in the evaluation process.

The Governing Board shall annually make available to the public the progress of the student body toward the goals of the ESC.

Assessment results obtained under this policy shall not be used for comparison purposes except as required by statute and State Department of Education regulations or internally, as authorized by the Superintendent or Governing Board.

## 2623 - STUDENT ASSESSMENT AND ACADEMIC INTERVENTION SERVICES

The Governing Board shall assess student achievement and needs in all program areas in compliance with applicable laws and regulations and the rules adopted by the State Board. The purpose of such assessments shall be to determine the progress of students and to assist them in attaining student performance objectives and the educational achievement goals of this ESC.

The Governing Board shall administer the State-mandated tests (e.g., diagnostic assessments and achievement tests) to students at the times designated by the State Board. The Governing Board may, for medical reasons or other good cause, excuse a student from taking a State-mandated test on the date scheduled, but any such test shall be administered to such excused student not later than nine (9) days following the scheduled date. The Governing Board shall annually report, not later than June 30th, the number of students who have not taken one (1) or more of the State-mandated tests to the State Board.

The ESC shall require that all appropriate staff have knowledge of the prescribed standards of ethical assessment practice and shall monitor the assessment practices for compliance with these standards. These duties shall include:

- A. communicating standards of ethical assessment practice;
- B. communicating security procedures for assessment;
- C. establishing procedures for reviewing assessment materials and procedures and assessment preparation materials and procedures;
- D. establishing channels of communication that allow teachers, other educators, students, parents, and other members of the community to voice concerns about assessment practices;
- E. establishing written procedures for investigating complaints, allegations, and/or concerns about assessment practices, protecting the rights of an individual, the integrity of an assessment, and the results of an assessment.

The Governing Board shall provide academic intervention services in pertinent subject areas to students who score below the proficient level in reading, writing, mathematics, social studies, or science achievement test, or who do not demonstrate academic performance at their grade level based on the results of a diagnostic assessment.

At least annually, staff members shall assess the academic achievement and learning needs of each student. Procedures for such assessments may include, but need not be limited to, teacher observation techniques, cumulative student records, student performance data collected through standard testing programs, and physical examinations.

The Superintendent shall develop and the Governing Board shall approve a program of testing that includes:

- A. administration of State-mandated tests (e.g., diagnostic assessment and achievement tests), at no cost to students, in accordance with the provisions of A.C. 3301-13-02;
- B. performance-based tests at appropriate grade levels to measure achievement of performance objectives in composition, mathematics, science, social studies, and reading;
- C. aptitude tests;
- D. ESC or teacher-made achievement or performance tests;
- E. vocational inventories;
- F. tests of mental ability;
- G. portfolios; and
- H. demonstrations of student capability in non-school settings.

“Achievement test” means “a test, aligned with the Ohio academic content standards and model curriculum, designed to measure a student’s level of knowledge or skill in a specific subject area that is expected at the end of a designated grade and/or is required as part of the Ohio graduation requirement.”

“Alternate assessment” means “the use of an assessment instrument, other than the Ohio achievement tests or diagnostic assessments that meets the requirements of all applicable laws and regulations and A.C. 3301-13-03.”

“Diagnostic assessment” means “an assessment aligned with Ohio academic content standards and model curriculum, designed to measure student comprehension of academic content and mastery of related skills for a relevant subject area at each grade level, kindergarten through three, as defined in R.C. 3301.079.”

“Ohio graduation tests” means “the achievement tests, aligned with academic content standards and model curriculum, designed to measure a student’s level of academic achievement expected at the end of the tenth grade in writing, reading, mathematics, social studies, and science.”

“Performance standards” means “a score adopted by the State Governing Board indicative of a particular level of academic achievement at a designated grade for each achievement test or alternate assessment.”

“Statewide tests” means “any assessment that is provided by the Ohio Department of Education (ODE) for use in all participating schools in the State.”

The Superintendent shall develop:

- A. procedures for the regular collection of student performance data;
- B. a plan for the design of classroom-based intervention services to meet the instructional needs of individual students as determined by the results of diagnostic assessments; and
- C. procedures for using student performance data to evaluate the effectiveness of intervention services and, if necessary, to modify such services.

For any student who failed to demonstrate at least a score at the proficient level on an achievement test during the preceding school year, the Governing Board shall provide appropriate intervention services commensurate with the student’s test performance in each such test area, including intensive prevention, intervention, or remediation required under R.C. 3301.0711, R.C. 3301.0715, R.C.3313.608, or R.C. 3313.6012.

The Governing Board shall require that:

- A. parents be informed of the testing program of the schools and of the special tests that are to be administered to their children;
- B. data regarding individual test scores be entered on the student’s cumulative record, where it shall be subject to the Governing Board’s student records policy.

Summer remediation services shall meet the following conditions:

- A. the remediation methods are based on reliable educational research;
- B. testing shall be conducted before and after students participate in the program to facilitate monitoring results of the remediation services;
- C. the parents of a participating student shall be involved in programming decisions; and
- D. the services shall be conducted in a school building or community center and not on an at-home basis.

The Governing Board shall keep records for each student including the following:

- A. a unique State student identification code or a student data verification code as required in accordance with R.C. 3301.0714(D)(2);

- B. a list or designation of which tests are required and which tests are not required;
- C. a list or designation of which tests, required or not required, are taken and which are not taken at each test administration period;
- D. score for each test taken, required or not;
- E. whether each student attained the requisite performance standard designated for each required test;
- F. what if any tests shall still be taken;
- G. whether or not intervention shall be provided; and
- H. for each test required for graduation, the date passed shall be recorded on the student's transcript.

No information shall be on the student's transcript for a test not passed.

When a student who has taken State-mandated tests in one (1) school leaves that school to enroll in another school, the school previously attended shall provide, immediately upon request by a school official from the enrolling school, all applicable records set forth above.

For each student required to be offered intervention services, the Governing Board shall involve the student's parent or guardian and classroom teacher in developing the intervention strategy, and shall offer to the parent or guardian the opportunity to be involved in the intervention services.

During the school year following the year in which the tests prescribed by R.C. 3301.0710(A)(1) are administered to any student, the Governing Board shall provide appropriate intervention services, commensurate with the student's test performance, including any intensive prevention, intervention, or remediation required under R.C. 3301.0711, 3301.0715, 3313.608 or R.C. 3313.6012, in any skill in which the student failed to demonstrate at least a score of proficient level on an achievement test.

Except as authorized by Applicable laws and regulations, the Governing Board shall not use any student's failure to attain a specified score on any State-mandated test as a factor in any decision to deny the student promotion to a higher grade level.

All identified students with disabilities in the ESC shall be considered for participation in the State-mandated testing. The extent of the student's participation shall be determined by the IEP Team. Accordingly, the student's IEP shall require that s/he take:

- A. the required assessments in the same manner as other students;

- B. the required assessments with accommodations appropriate for his/her disability;  
or
- C. an alternate assessment that has been approved by the State Department of Education.

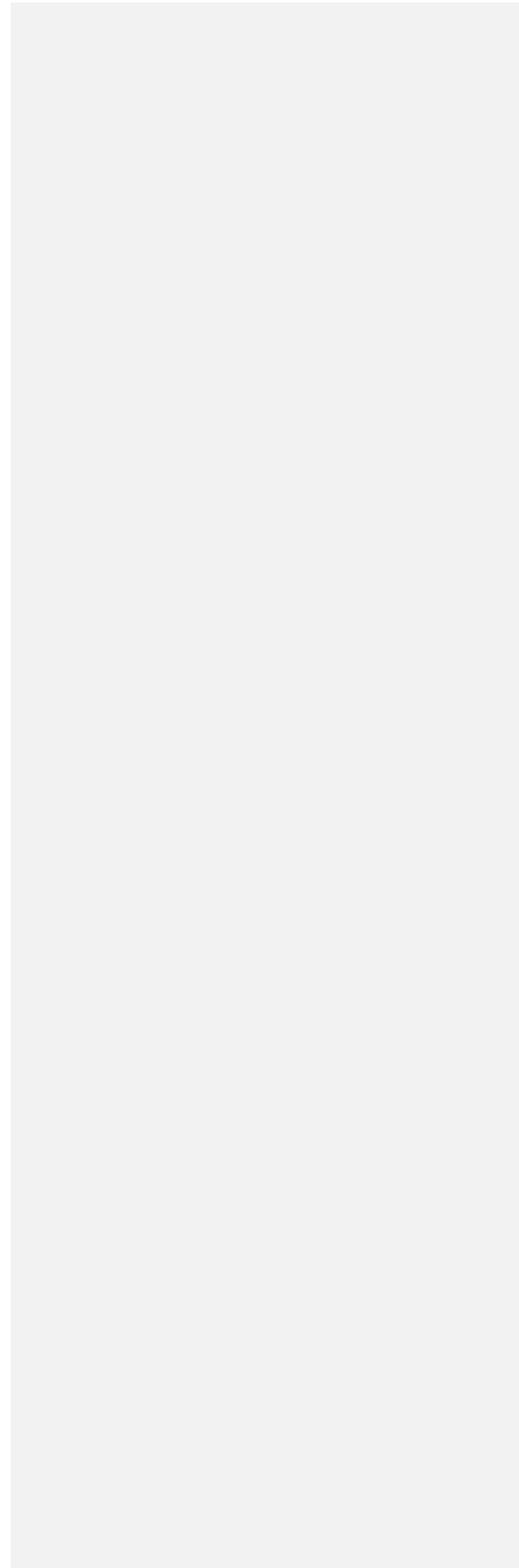
To the extent possible, and in accordance with law, a student with disabilities shall not be excused from taking a required assessment unless no reasonable accommodation can be made to enable the student to take the assessment.

The Superintendent shall comply with the State Department's regulations with regard to the administration of the State-mandated tests, including the reporting of results.

Program evaluations shall be reviewed and updated every five (5) years. A schedule for such shall be developed and implemented by the Superintendent.

This policy shall be reviewed and updated annually.

**PROFESSIONAL STAFF**



### 3112 - GOVERNING BOARD-STAFF COMMUNICATIONS

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

**A. Staff Communications to the Governing Board**

Communications from staff members to the Governing Board or its committees shall be submitted through the Superintendent. The Superintendent shall forward such communications received from staff members to the Governing Board.

**B. Governing Board Communications to Staff**

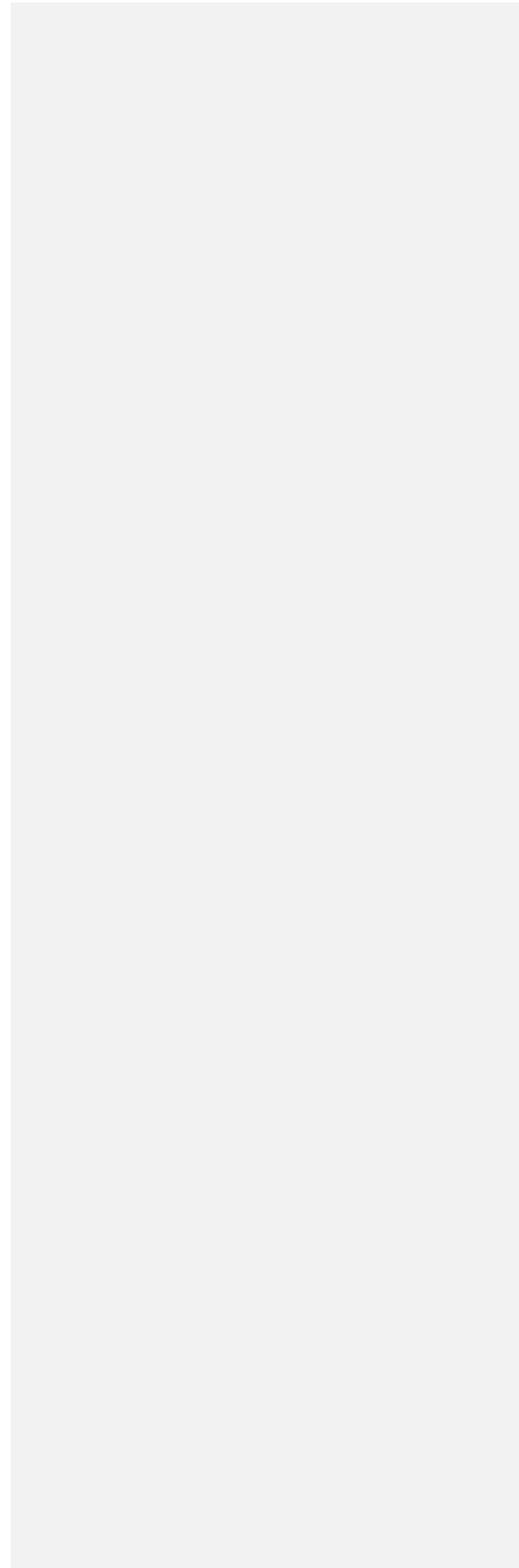
All official communications, policies, and directives of the Governing Board of staff interest and concern to the staff shall be communicated through the Superintendent, who shall also keep staff members informed of the Governing Board's concerns, and actions. Communications shall be submitted to and communicated by the Treasurer with respect to the Treasurer's staff.

**C. Social Interaction**

Since Governing Board members are not authorized to act on behalf of the Governing Board unless in open public session or when specifically vested with such authority, Governing Board members and members of the staff shall not discuss individual personalities, personnel grievances, or other complaints. Instead, such matters should be addressed in accordance with the procedures established in Governing Board Policy.

**3113 - CONFLICT OF INTEREST**

Governing Board Policy 1130 applies to professional staff and shall be considered to be incorporated herein.



**3120 - EMPLOYMENT OF PROFESSIONAL STAFF**

All professional employees are employed under R.C. 3319.07 and/or R.C. 3319.08.

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

As a prerequisite to employee pay, the Superintendent must first issue to the Treasurer a written statement that confirms each teacher and/or professional employee has filed with the Superintendent both a copy of all valid licenses as well as copies of any reports required by the State Board of Education or the Governing Board to demonstrate his/her qualification to teach in all assigned subject and grade levels of instruction and/or a professional educator position. No professional staff member employed in a position for which licensure is required may be paid until evidence of such appropriate licensure for the subject area, grade level, or position, etc. has been received by the Superintendent and transmitted to the Treasurer.

### 3120.01 - **JOB DESCRIPTIONS**

The Governing Board recognizes that it is essential for ESC and employee accountability for each staff member to be fully aware of the duties and responsibilities of his/her position. Job descriptions document and describe the essential functions for professional positions and thereby promote organizational effectiveness and efficiency. Therefore, the Governing Board shall maintain continuously a comprehensive, coordinated set of job descriptions for professional staff positions.

**3120.04 - EMPLOYMENT OF SUBSTITUTES**

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

The Governing Board shall employ substitutes for the Superintendent's assignment as services are required to replace temporarily absent regular staff members and fill new positions. Such assignment of substitutes shall be terminated when their services are no longer required.

**3120.07 - EMPLOYMENT OF CASUAL RESOURCE PERSONNEL**

The Governing Board shall allow the casual employment of personnel in a consulting capacity for assisting the ESC in administration, staff development, and instruction.

### 3120.09 - VOLUNTEERS

The Governing Board recognizes that certain programs and activities can be enhanced through the use of volunteers who have particular knowledge or skills that shall be helpful to members of the professional staff responsible for the conduct of those programs and activities.

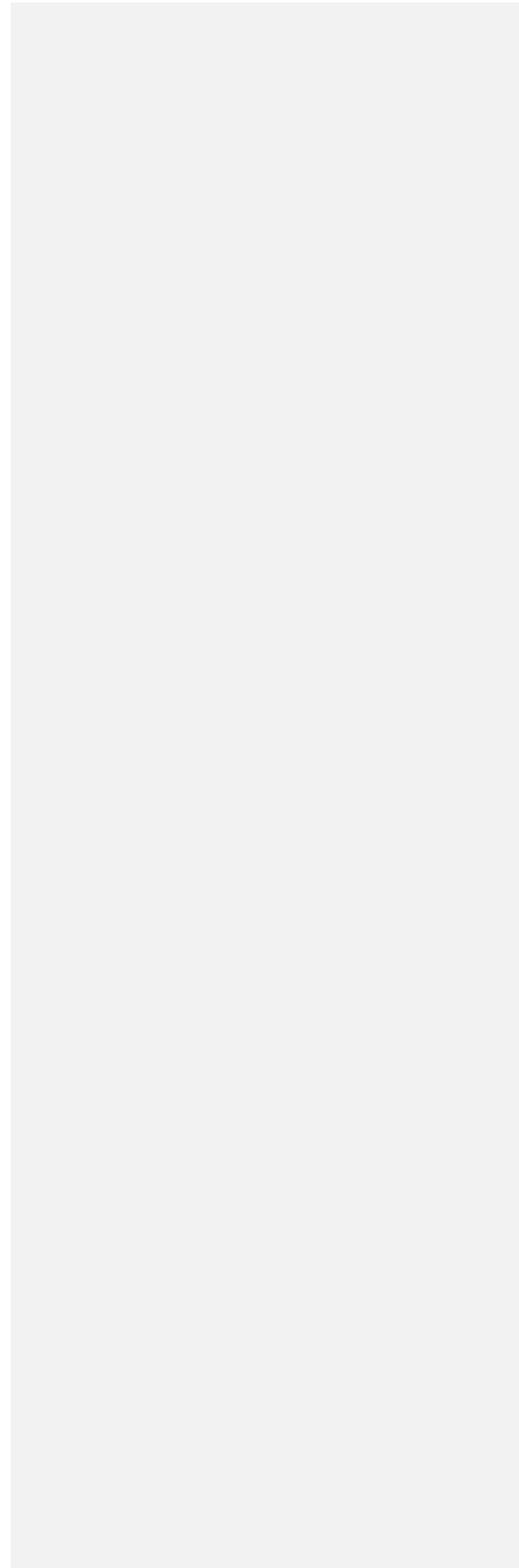
The Superintendent is to inform each volunteer that s/he:

- A. is required to abide by all Governing Board policies while on duty as a volunteer (including, but not limited to, the volunteer's obligation to keep confidential and not release or permit access to any and all student personally identifiable information to which s/he is exposed except as authorized by law);
- B. shall be covered under the ESC's liability policy but the ESC cannot provide any type of health insurance to cover illness or accident incurred while serving as a volunteer, nor is the person eligible for workers' compensation;
- C. shall be asked to sign a form releasing the ESC of any obligation should the volunteer become ill or receive an injury as a result of his/her volunteer services; and
- D. may not accept compensation from any third party or source, including, but not limited to booster, parent, or other ESC support organizations, for the performance of his/her official duties as a volunteer on behalf of the Governing Board.

Furthermore, the Superintendent shall inform all volunteers to display appropriate behavior at all times, and that they shall have to provide a set of fingerprints so that a criminal records check can be conducted at the Governing Board's expense and that they shall have to pay the costs associated with the criminal records check either before they can begin their duties, or as a condition of continued service as a volunteer at the discretion of the Governing Board.

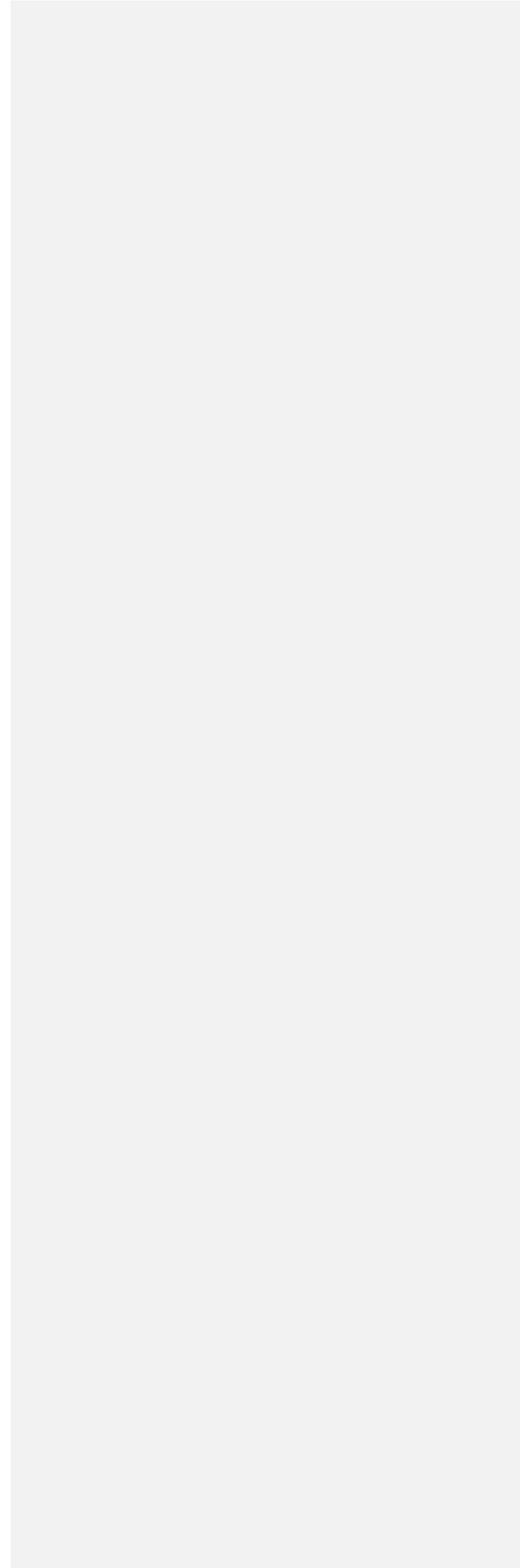
**3120.10 - JOB SHARING**

Job sharing determinations shall be made by the Superintendent.



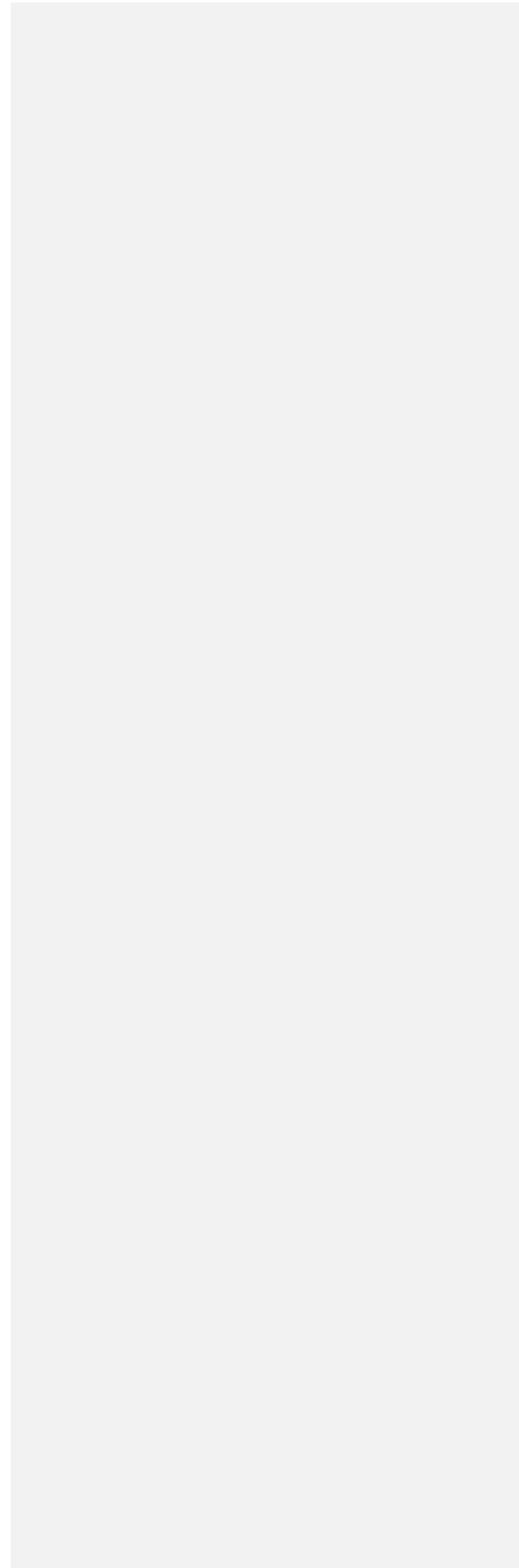
**3121 - CRIMINAL HISTORY RECORD CHECK**

Governing Board Policy 1121 applies to professional staff and shall be considered to be incorporated herein.



**3131 - REDUCTION IN STAFF**

Professional staff contracts shall be suspended in accordance with R.C. 3319.17.



**3139 - STAFF DISCIPLINE**

The Governing Board retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary, such action shall be in proportion to the employee's offense or misconduct, consistent with appropriate procedural and substantive due process, and applicable laws and regulations.

**3140 - TERMINATION AND RESIGNATION**

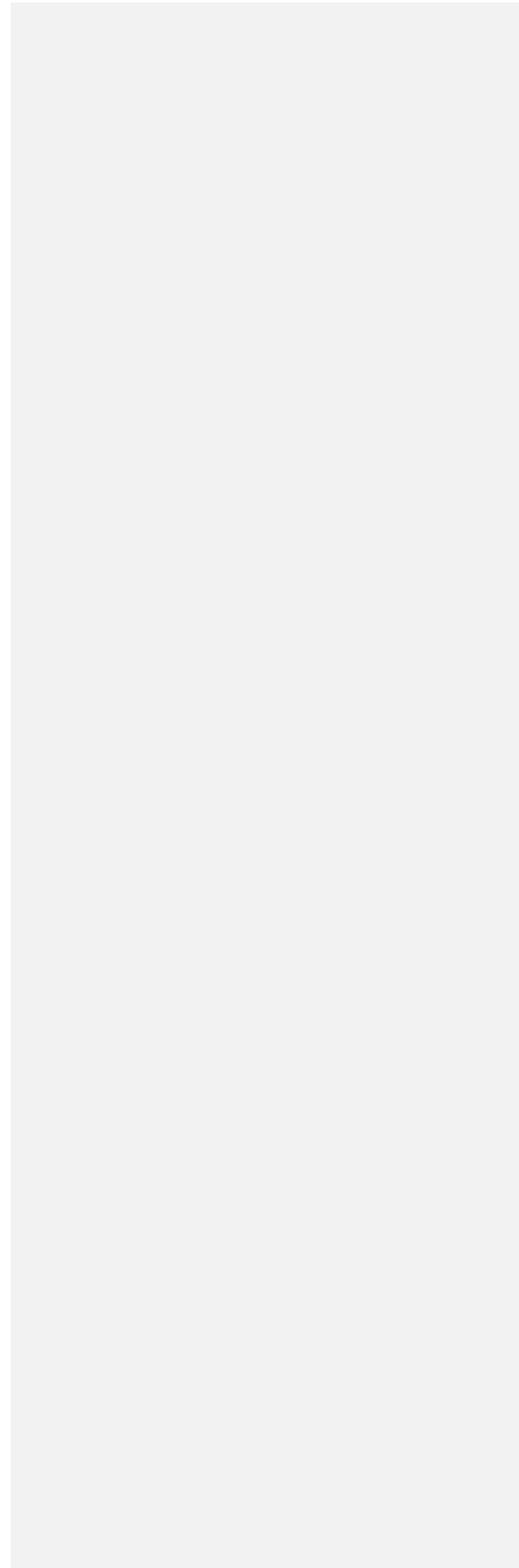
The employment of a professional staff member may be terminated pursuant to R.C. 3319.16.

If a professional staff member fails to maintain required licensure throughout the term of employment, the professional staff member shall be immediately suspended without pay and such failure is grounds for termination.

A professional staff member may resign in accordance with the applicable law.

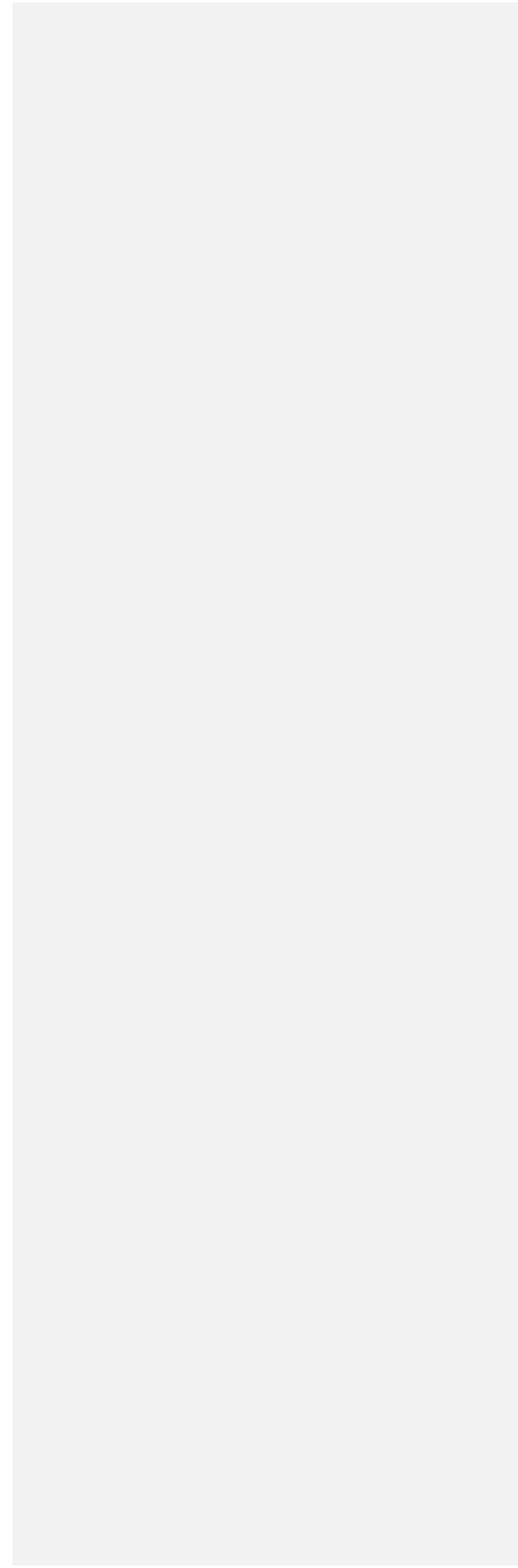
**3200 - STAFF ETHICS**

Governing Board Policy 1200 applies to professional staff and shall be considered to be incorporated herein.



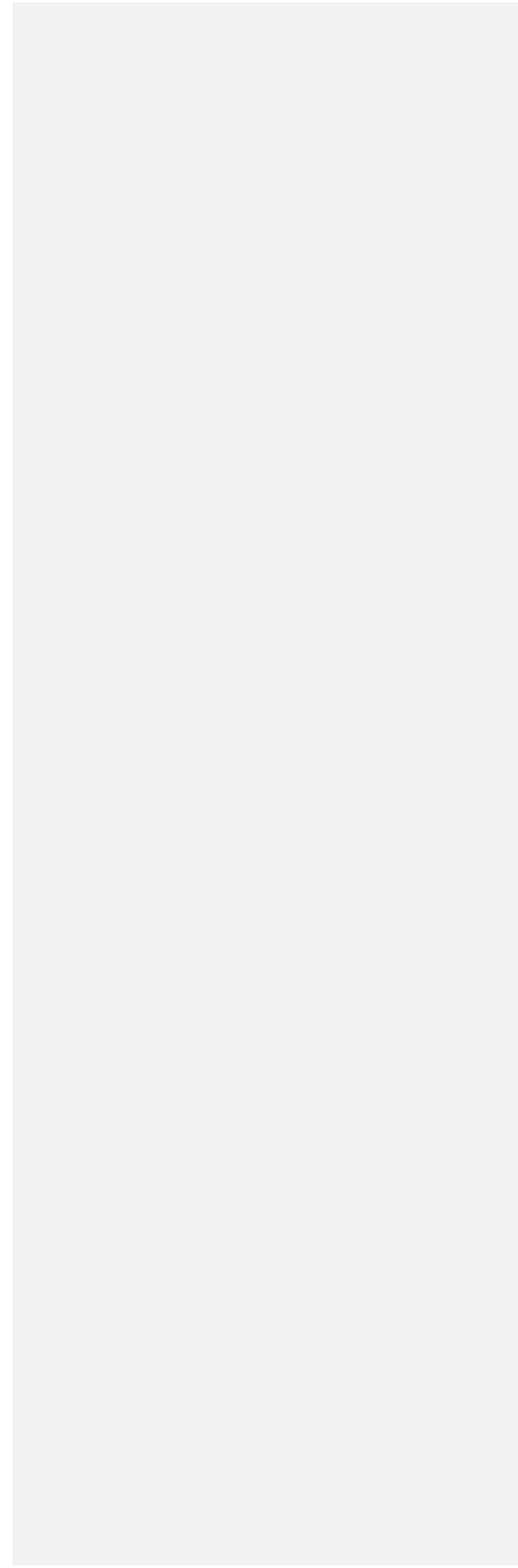
**3214 - STAFF GIFTS**

Governing Board Policy 1214 applies to professional staff and shall be considered to be incorporated herein.



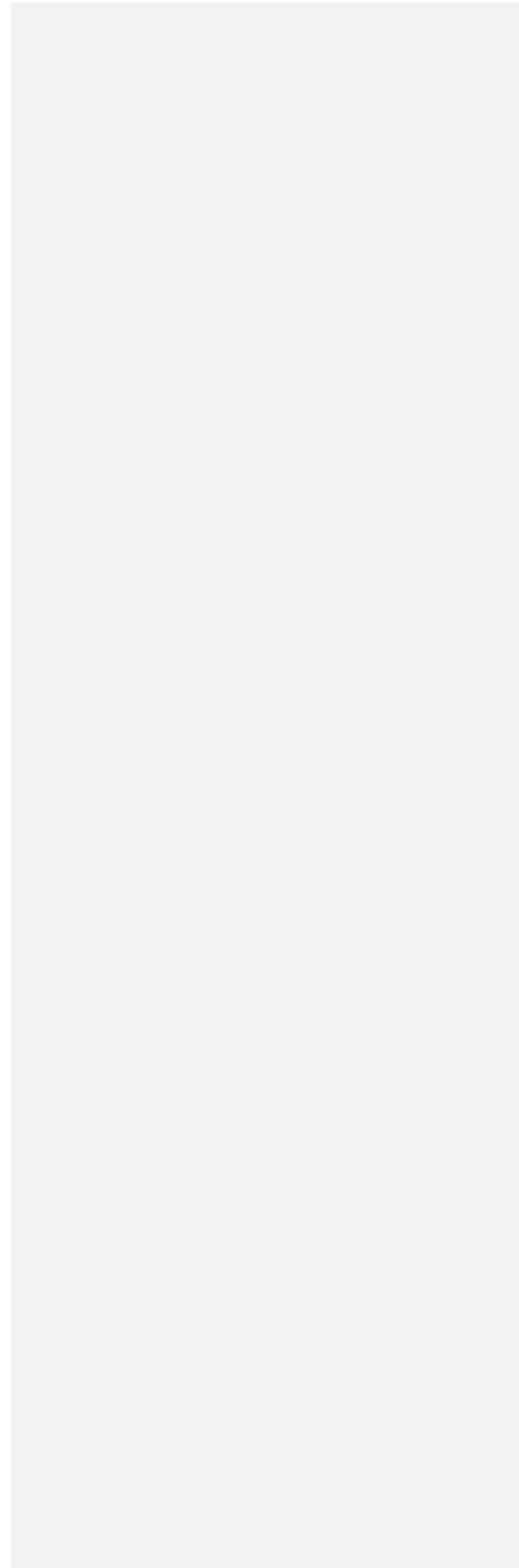
**3216 - STAFF DRESS AND GROOMING**

Governing Board Policy 1216 applies to professional staff and shall be considered to be incorporated herein.



**3217 - WEAPONS**

Governing Board Policy 1217 applies to professional staff and shall be considered to be incorporated herein.



**3220 - STANDARDS-BASED TEACHER EVALUATION**

Teachers shall be evaluated pursuant to R.C. 3319.11, R.C. 3319.111, R.C. 3319.112, and applicable laws and regulations.

For the 2020-2021 school year and thereafter, eligible Teachers shall be evaluated pursuant to the Ohio Teacher Evaluation System 2.0 and applicable laws.

**3223 - STANDARDS - BASED SCHOOL COUNSELOR EVALUATION**

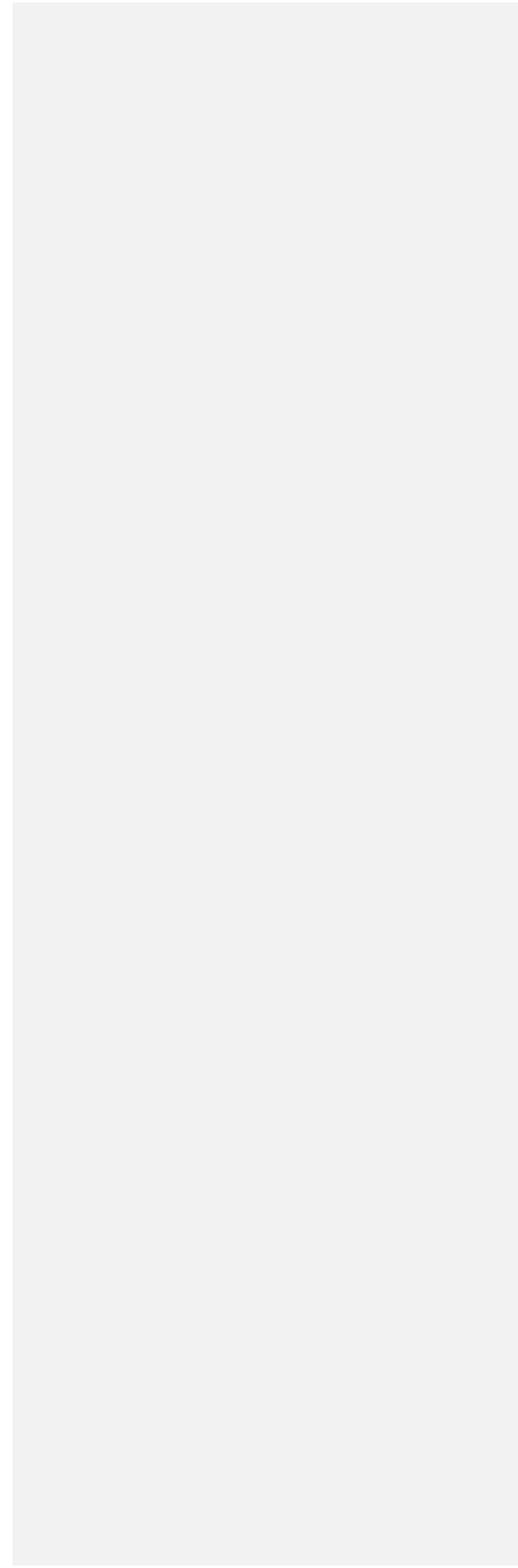
School counselors Teachers shall be evaluated pursuant to R.C. 3319.11, R.C. 3319.111, R.C. 3319.113, and applicable laws and regulations.

**3231 - OUTSIDE ACTIVITIES OF STAFF**

Governing Board Policy 1231 applies to professional staff and shall be considered to be incorporated herein.

**3231.01 - RESEARCH AND PUBLISHING**

Governing Board Policy 1231.01 applies to professional staff and shall be considered to be incorporated herein.



**3242 - PROFESSIONAL DEVELOPMENT AND LICENSURE**

The Governing Board shall establish a Professional Development Committee that is in compliance with Applicable laws and regulations. The Committee shall be an ESC committee.

The Committee shall establish as follows:

- A. a set of bylaws governing when the Committee shall meet and where, how the committee shall select and replace members, the manner in which voting shall occur, and the procedure the Committee shall use to hear appeals of its decisions;
- B. the criteria that shall be used to determine whether or not a professional development plan shall be approved; and
- C. procedures for assessing the extent to which a staff member's professional development plan has been accomplished.

All Professional Development Committee meetings are subject to the Sunshine Law.

### 3243 - PROFESSIONAL MEETINGS

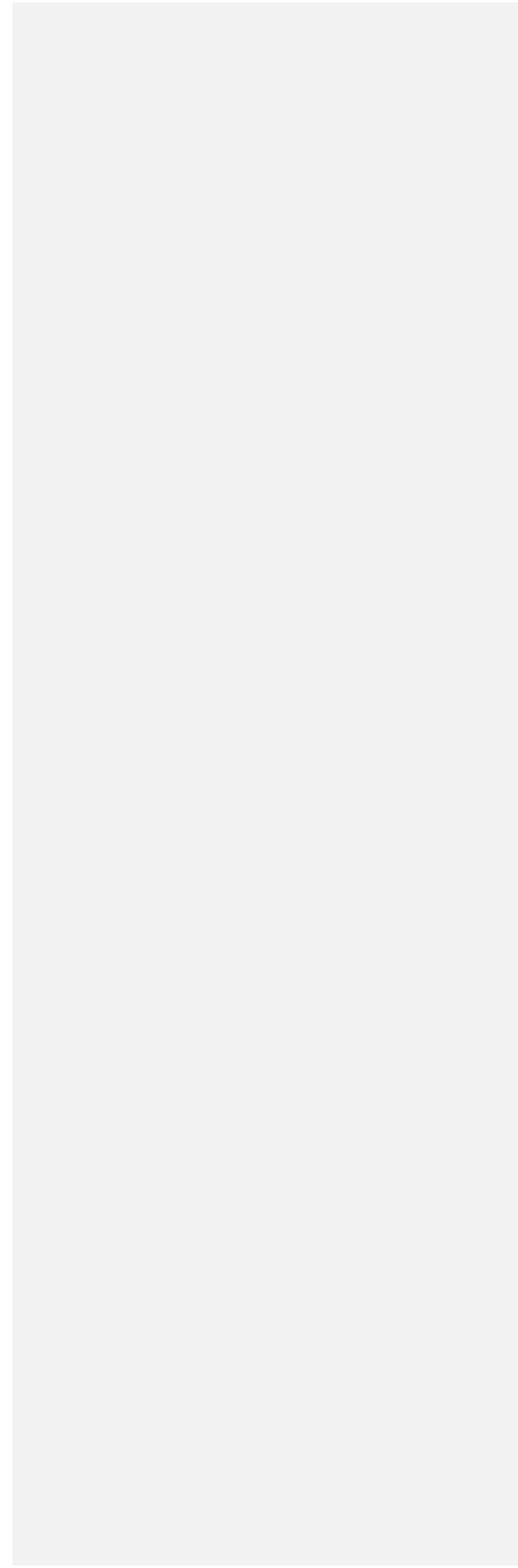
The Governing Board encourages opportunities for professional staff members to develop increased competence, beyond that which they may attain through the performance of their assigned duties through attendance at professional meetings.

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 ESC duties.

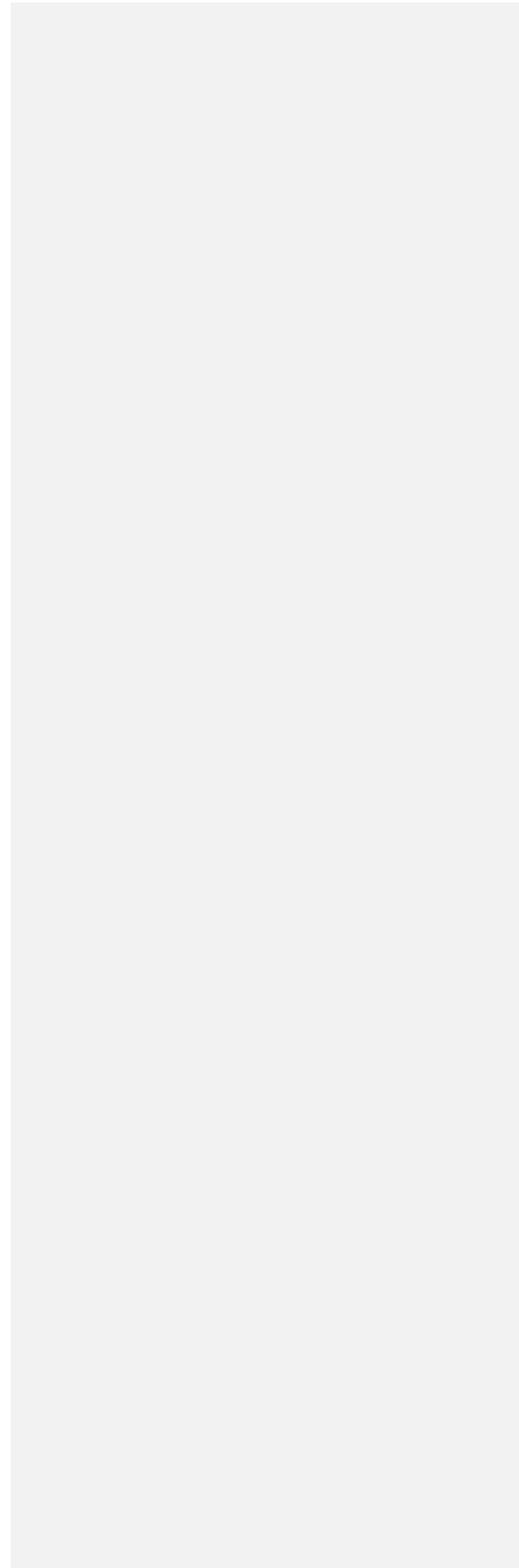
**3266 – NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS  
OR ACTIVITIES**

Governing Board Policy 1266 applies to professional staff and shall be considered to be incorporated herein.



**3411 - WHISTLEBLOWER PROTECTION**

Governing Board Policy 1411 applies to professional staff and shall be considered to be incorporated herein.



## 3415 - SEVERANCE

### Teaching Employees

Pursuant to R.C. 124.39(C), the Governing Board provides more severance benefits than those set forth in R.C. 124.39(B) for Teaching Employees with a minimum of five (5) years of continuous, unbroken, uninterrupted, service with the Governing Board **upon retirement**. Specifically, Teaching Employees shall, upon separation from service with the Governing Board due to retirement after a minimum of five (5) years of continuous, unbroken, uninterrupted service with the Governing Board, be paid one-fourth (.25) of the value of the employee's accrued but unused sick leave up to a maximum of seventy (70) days. Additional severance days for longevity will be granted at the rate of one (1) day for each year of service with the Governing Board beyond five (5) to a maximum of ten (10) additional days.

All other Teaching Employees shall be entitled to severance pay in accordance with R.C. 124.39 as applicable.

Payment of severance pay shall be based upon the Teaching Employee's current rate of base pay divided by one hundred eighty four (184) days exclusive of supplemental pay.

Pursuant to R.C. 124.39(C), if the Teaching Employee dies during employment with the Governing Board, the Teaching Employee's unused sick leave shall be paid in accordance with R.C. 2113.04 and applicable laws or to the Teaching Employee's estate.

Payment of severance pay shall eliminate all obligations of the Governing Board from any further payment or restoration of sick leave unused.

For purposes of this policy, "retirement" means service retirement under the State Teachers Retirement System of Ohio and/or the School Employees Retirement System of Ohio.

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**3417 - HOLIDAY**

**Teaching Employees**

Teaching Employees shall not be entitled to paid holidays.

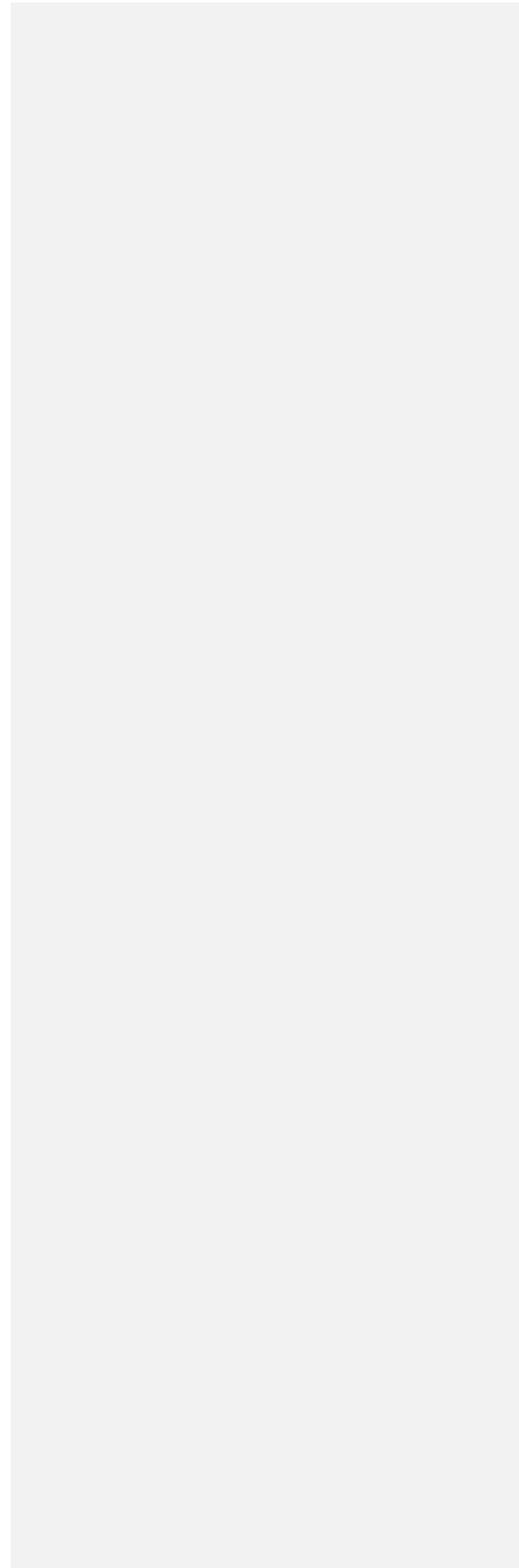
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**3419.02 - PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS**

Governing Board Policy 1419.02 applies to professional staff and shall be considered to be incorporated herein.

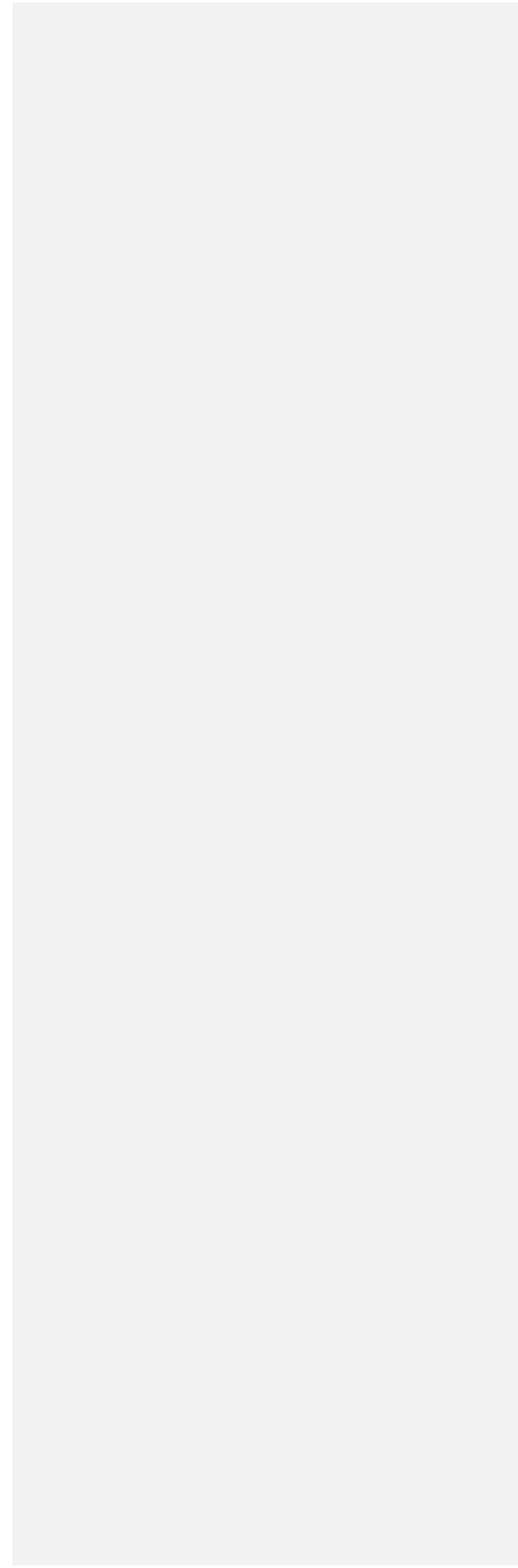
**3422 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

Governing Board Policy 1422 applies to professional staff and shall be considered to be incorporated herein.



**3422.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE**

Governing Board Policy 1422.02 applies to professional staff and shall be considered to be incorporated herein.



## 3432 - SICK LEAVE

### Teaching Employees

All full-time Teaching Employees shall be granted sick leave at the rate of one and one-fourth (1.25) days per month in accordance with R.C. 124.38 and R.C. 3319.141 as applicable. Employees who work less than full-time shall be granted sick leave for the time actually worked at the rate of one and one-fourth (1.25) days per month. Employees who work full-time or part-time shall receive the following number of sick days per month:

<u>Days Scheduled to Be Worked per Week</u>	<u>Sick Days Received</u>
5 days (full-time)	1.25 days
4 days	1.00 day
3 days	0.75 day
2 days	0.50 day
1 day	0.25 day

Sick leave must be taken in increments of one-half (.5) or one (1) whole day. As needed, substitute, and per diem employees do not accumulate sick leave.

Sick leave may be used for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family. For absence of the employee due to illness or injury in the immediate family, immediate family is defined as spouse, child, parent, brother, sister, grandparents, and grandchildren. ("Child" includes biological, adopted, foster, and stepchildren as well as legal wards and children to whom the employee is acting "in loco parentis.")

For the absence of the employee due to the death in the immediate family, immediate family is defined as parent, spouse, child, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law and any other relative of the employee as approved by the Superintendent. The exact number of days granted shall be determined by the familial relationship and the circumstances surrounding the death, but more than three (3) consecutive days require the Superintendent's approval.

Newly hired full-time Teaching Employees may be advanced five (5) sick leave days if requested, provided that all accumulated sick leave has been exhausted. In cases where sick leave is advanced, the Governing Board shall make a deduction for the unearned, advanced sick leave days from the final pay of the individual for that contract year.

In all absences, the employee must fill out a report of absence form and file it with the Superintendent or designee in order to be compensated. For absences of five (5) consecutive days or more, the employee must submit with the report of absence form a statement from the treating physician documenting the need for sick leave.

Unused sick leave shall be cumulative up to a maximum of two hundred forty (240) days.

New employees of the Governing Board who have previously been employed by a public agency not more than ten (10) years prior to their employment with the Governing Board and who have accrued sick leave balances under R.C. 124.38 and/or R.C. 3319.141 shall receive a credit for their existing balances up to two hundred forty (240) days.

No sick leave shall be granted or credited to a Teaching Employee after the Teaching Employee's retirement or termination of employment.

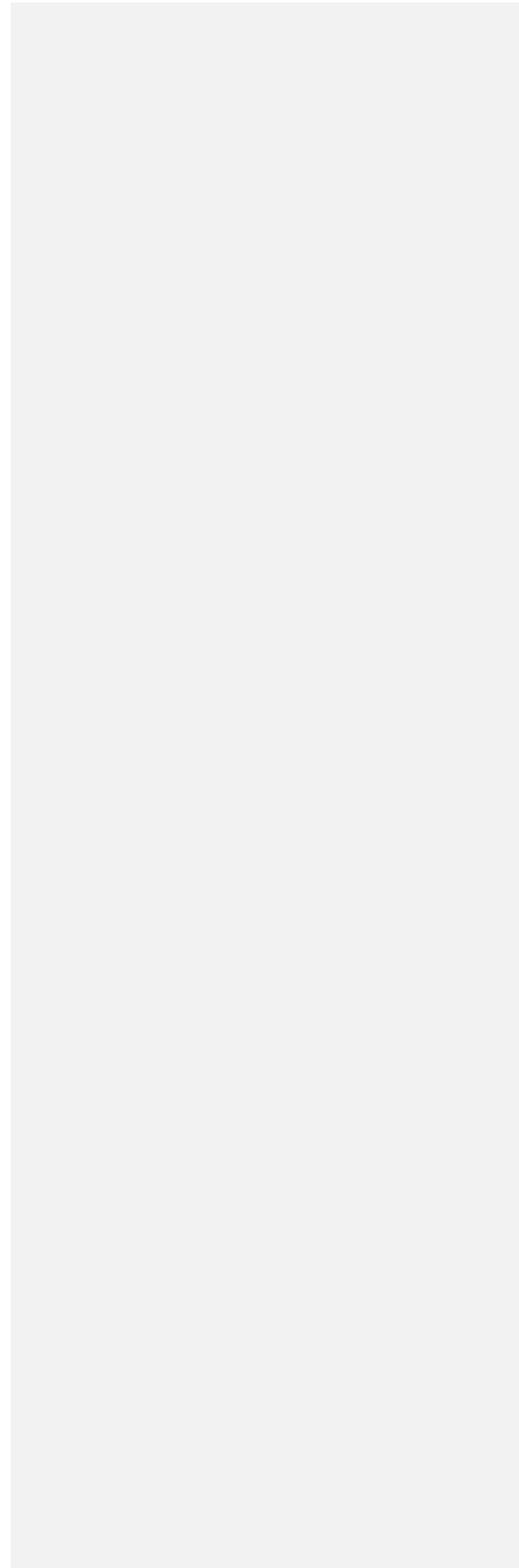
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**3433 - VACATION**

**Teaching Employees**

Teaching Employees shall not be entitled to vacation leave.

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## 3436 - PERSONAL LEAVE

### Teaching Employees

All Teaching Employees who are scheduled to work for one hundred twenty (120) or more days regardless of number of hours/days are entitled to up to three (3) days per year of paid personal leave, starting July 1 of each year, for the purpose of fulfilling legal or personal business that conflicts with the employee's regular work schedule. Personal leave must be taken in increments of one-half (.5) or one (1) whole day.

All Teaching Employees are entitled to the following number of personal days according to the following start date of employment:

July, August, September – 3 days  
October, November, December – 2 days  
January, February, March – 1 day  
April, May, June – 0 days

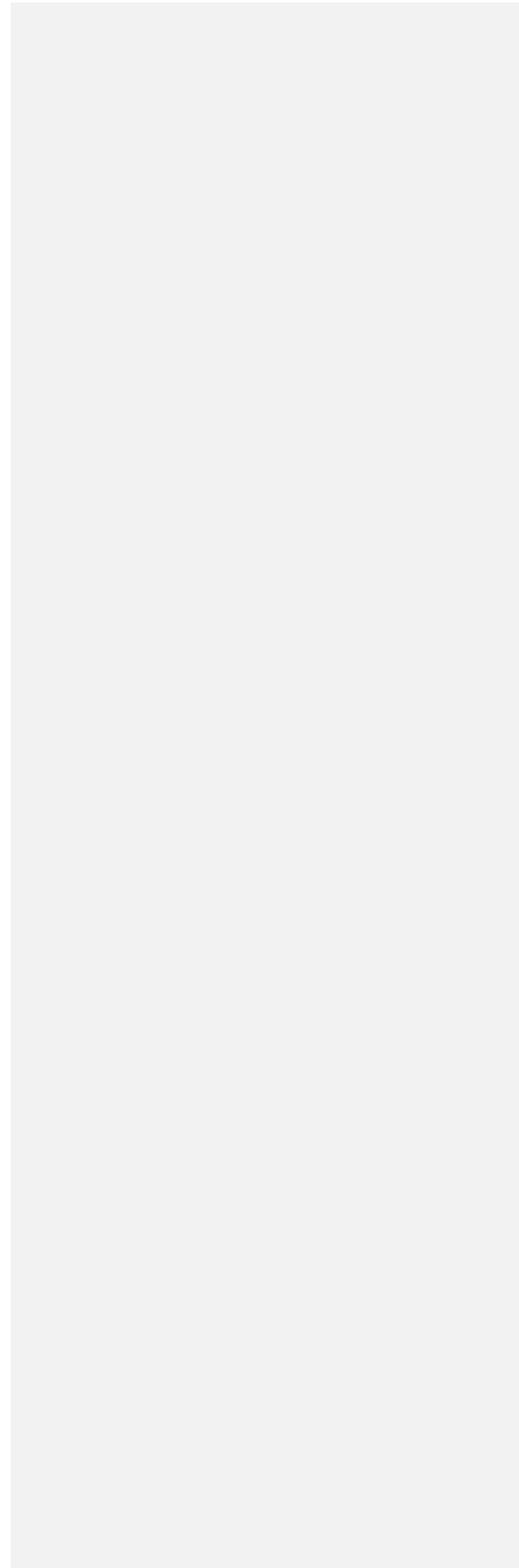
Unless otherwise approved by the Superintendent or designee, personal leave must be requested, in writing, at least five (5) calendar days in advance of the requested leave, except in the case of emergencies, and approved by the Superintendent or designee.

Effective July 1, 2019, personal leave shall not accumulate and must be used by June 30 of the contract year or it shall be converted to sick leave.

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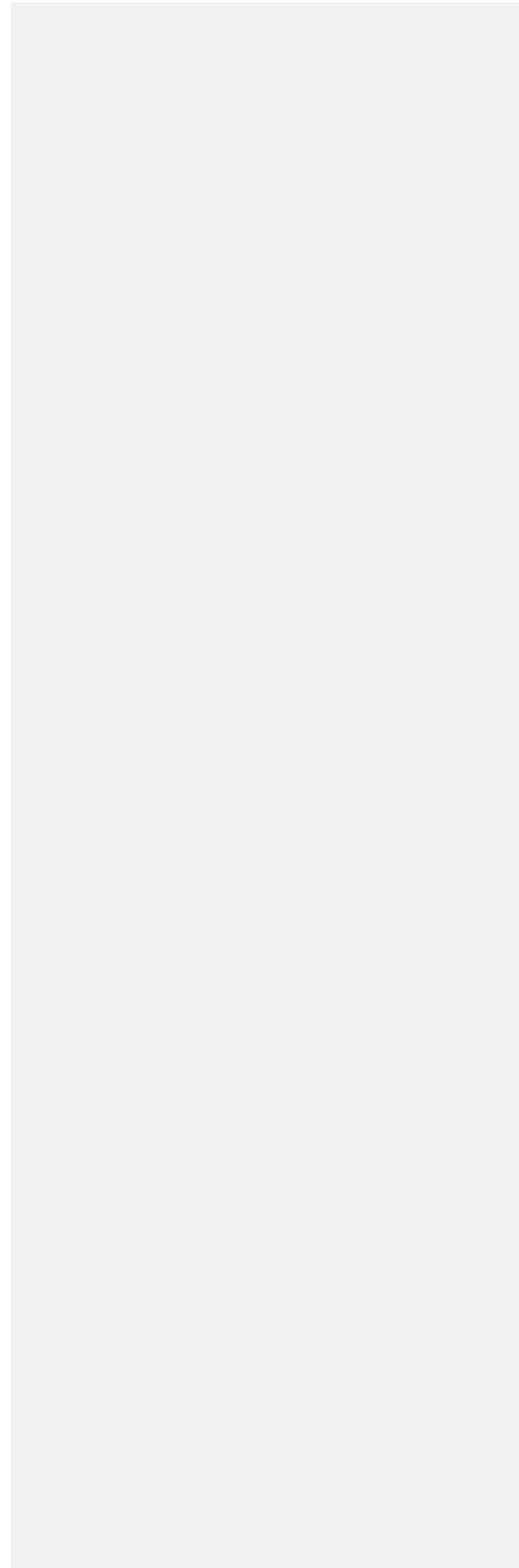
**3440 - JOB-RELATED EXPENSES**

Governing Board Policy 1440 applies to professional staff and shall be considered to be incorporated herein.



**3481 - USE OF EMPLOYEE'S PERSONAL PROPERTY AT ESC FACILITIES**

Governing Board Policy 1481 applies to professional staff and shall be considered to be incorporated herein.



### **3531 - UNAUTHORIZED WORK STOPPAGE**

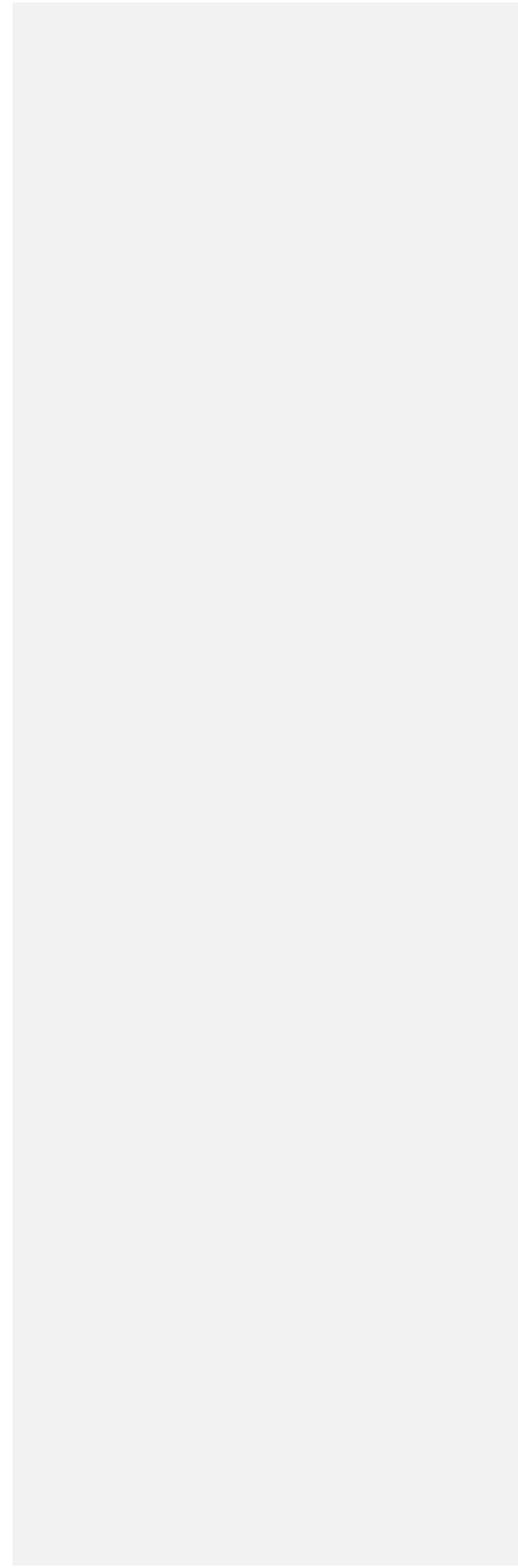
The Governing Board is obligated and committed to provide certain basic services to students participating in ESC programs. Therefore, if the schools are open and the students are in attendance, those basic services shall be provided.

Recognizing the fact that the ESC, for various reasons, may experience an unauthorized work stoppage, the Governing Board remains committed to providing educational and related services to the schools and shall fulfill its obligations to operate the schools when possible.

Professional staff members who fail to perform their normal duties when so required as part of a concerted unauthorized work stoppage shall be subject to loss of pay and fringe benefits, including paid insurance coverage, as well as disciplinary measures in accordance with the laws of the State.

**3613 - STUDENT SUPERVISION AND WELFARE**

Governing Board Policy 1613 applies to professional staff and shall be considered to be incorporated herein.

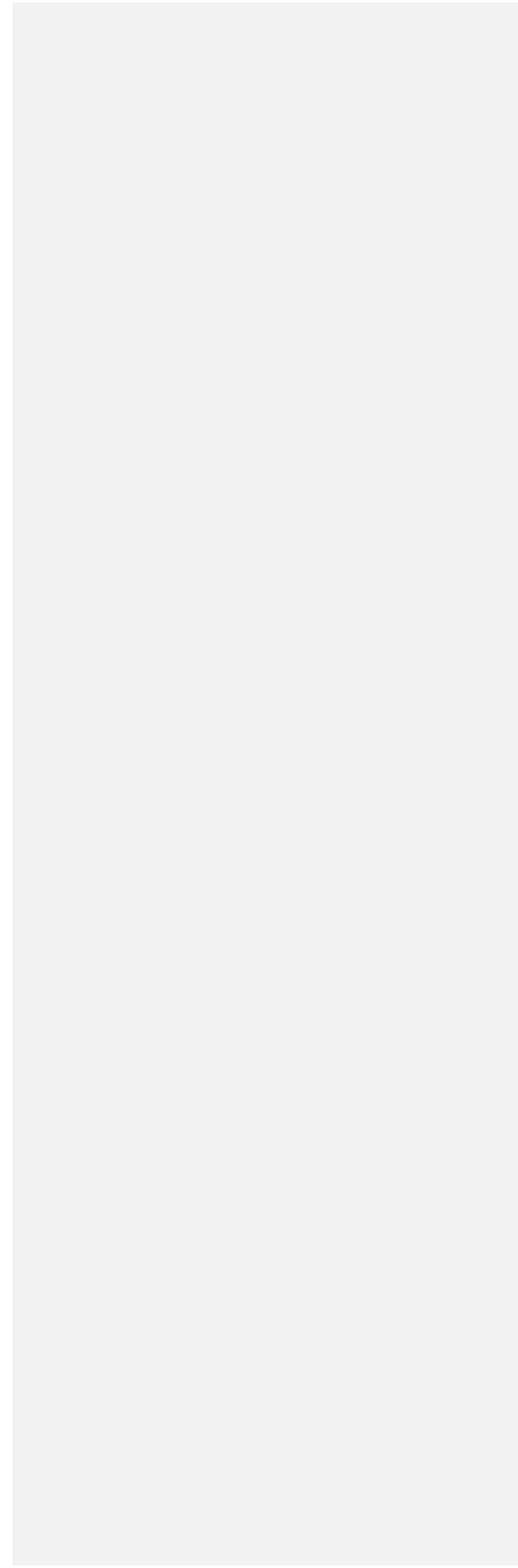


**3623 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION  
IN EMPLOYMENT**

Governing Board Policy 1623 applies to professional staff and shall be considered to be incorporated herein.

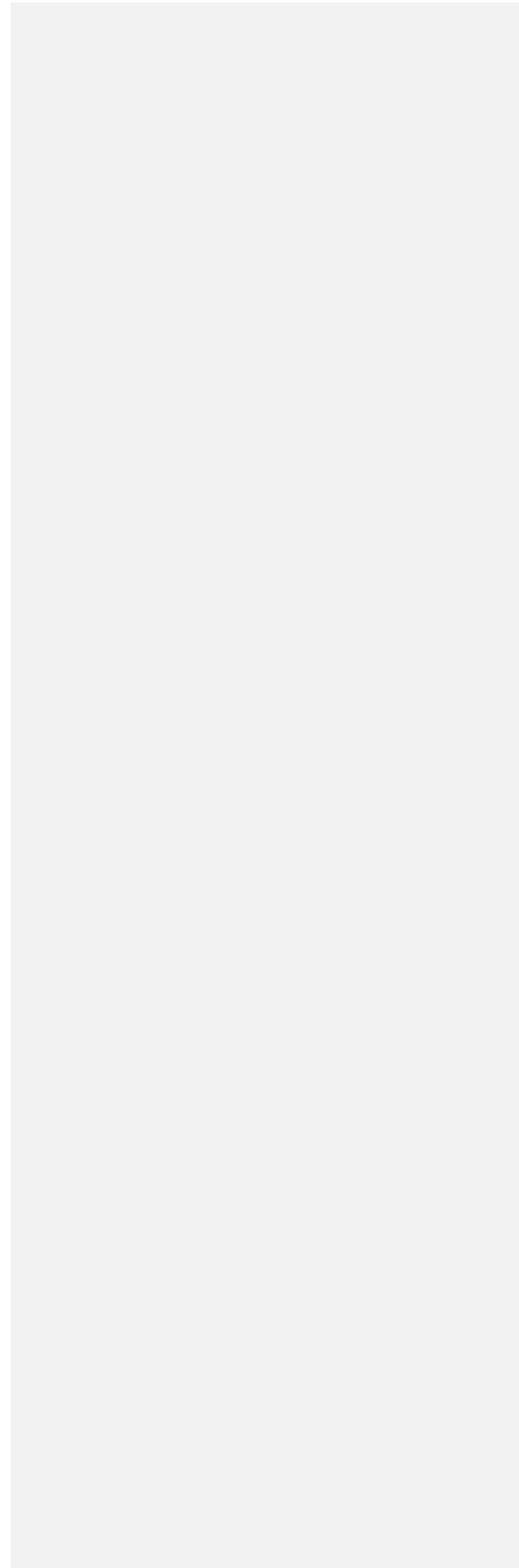
**3630 - UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY**

Governing Board Policy 1630 applies to professional staff and shall be considered to be incorporated herein.



**3630.01 - FMLA LEAVE**

Governing Board Policy 1630.01 applies to professional staff and shall be considered to be incorporated herein.

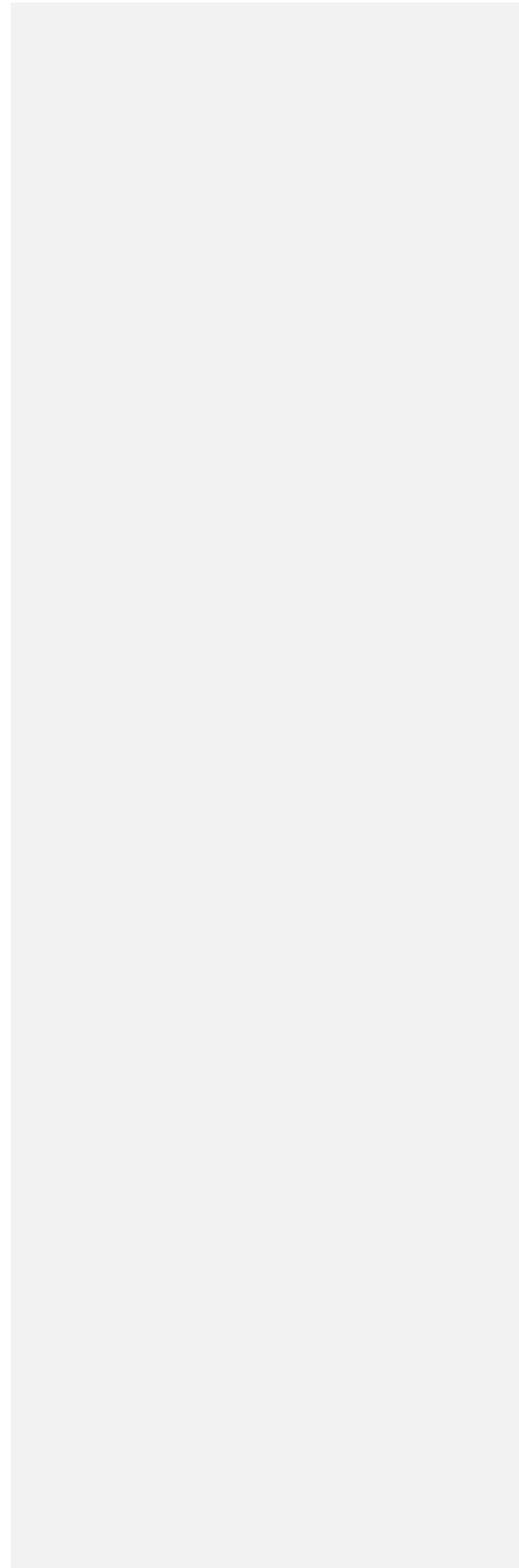


**3630.02 - LEAVE OF ABSENCE FOR EMPLOYMENT BY A COMMUNITY SCHOOL**

Governing Board Policy 1630.02 applies to professional staff and shall be considered to be incorporated herein.

**3662 - ANTI-HARASSMENT**

Governing Board Policy 1662 applies to professional staff and shall be considered to be incorporated herein.

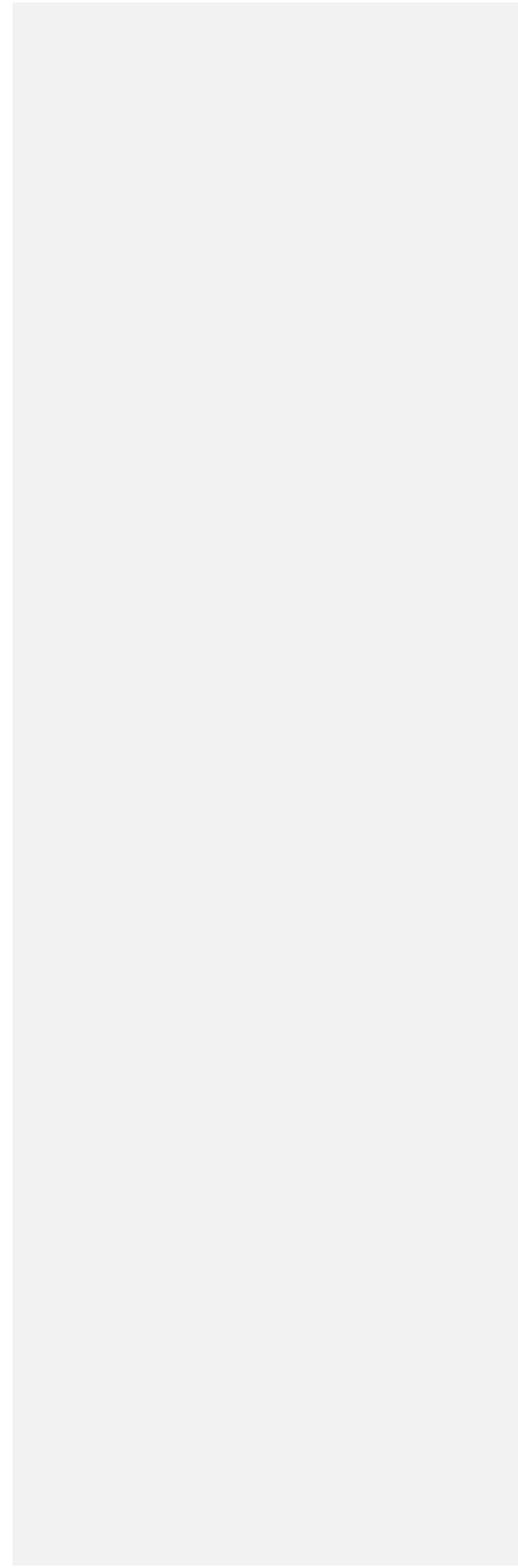


**3662.01 - THREATENING BEHAVIOR TOWARD STAFF MEMBERS**

Governing Board Policy 1662.01 applies to professional staff and shall be considered to be incorporated herein.

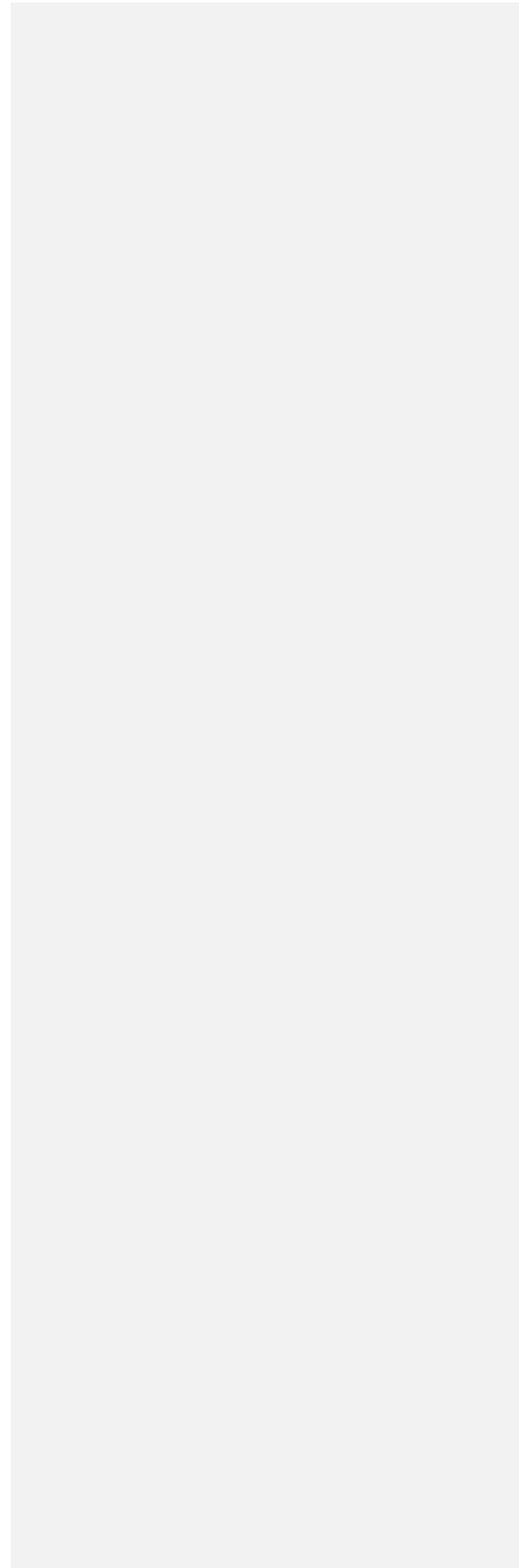
**3662.02 - BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR**

Governing Board Policy 1662.02 applies to professional staff and shall be considered to be incorporated herein.



**3663 - DRUG-FREE WORKPLACE**

Governing Board Policy 1663 applies to professional staff and shall be considered to be incorporated herein.



**3663.01 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS**

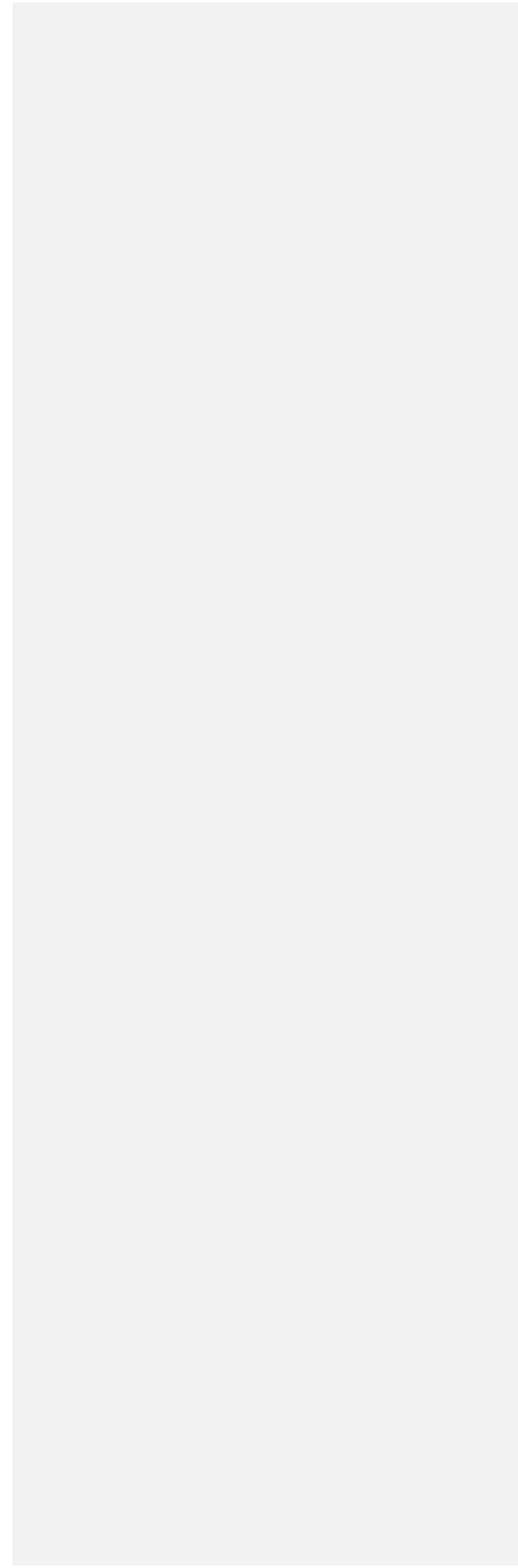
Governing Board Policy 1663.01 applies to professional staff and shall be considered to be incorporated herein.

**3663.02- USE OF TOBACCO**

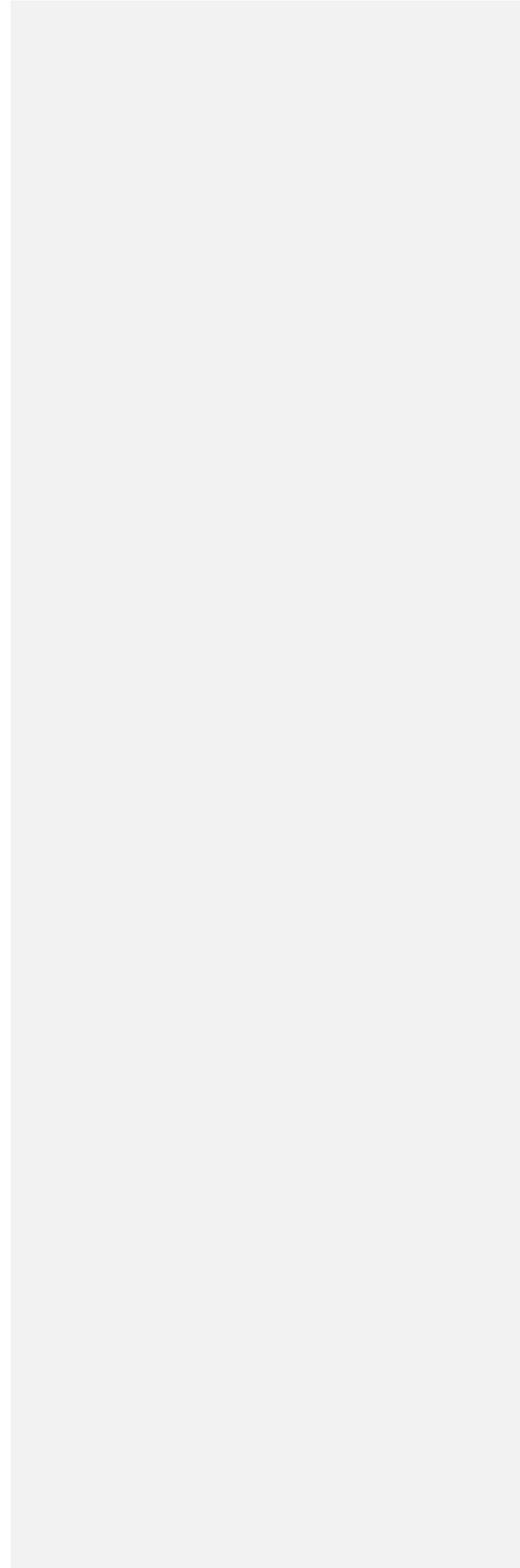
Governing Board Policy 1663.02 applies to professional staff and shall be considered to be incorporated herein.

**3664 - SUBSTANCE ABUSE**

Governing Board Policy 1664 applies to professional staff and shall be considered to be incorporated herein.



**CLASSIFIED STAFF**



#### 4112 - GOVERNING BOARD-STAFF COMMUNICATIONS

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

A. **Staff Communications to the Governing Board**

Communications from staff members to the Governing Board or its committees shall be submitted through the Superintendent. The Superintendent shall forward such communications received from staff members to the Governing Board.

B. **Governing Board Communications to Staff**

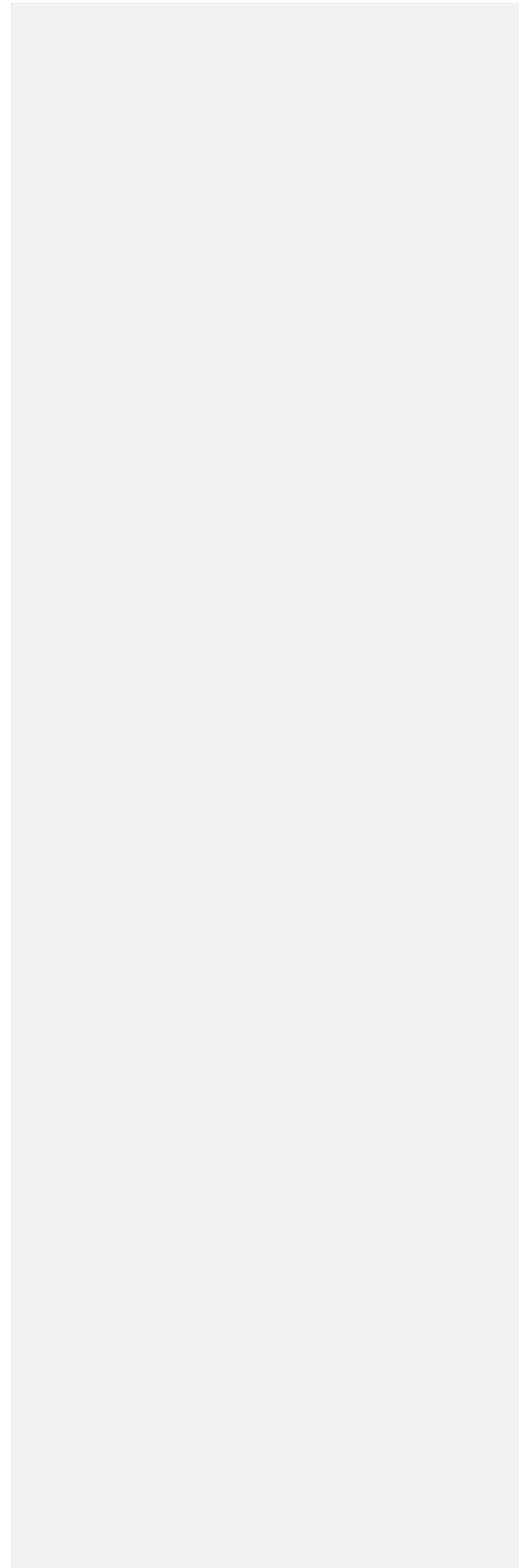
All official communications, policies, and directives of the Governing Board of staff interest and concern to the staff shall be communicated through the Superintendent, who shall also keep staff members fully informed of the Governing Board's concerns, and actions. Communications shall be submitted to and communicated by the Treasurer with respect to the Treasurer's staff.

C. **Social Interaction**

Since Governing Board members are not authorized to act on behalf of the Governing Board unless in open public session or when specifically vested with such authority, Governing Board members and members of the staff shall not discuss individual personalities, personnel grievances, or other complaints. Instead, such matters should be addressed in accordance with the procedures established in Governing Board Policy.

**4113 - CONFLICT OF INTEREST**

Governing Board Policy 1130 applies to classified staff and shall be considered incorporated herein.



**4120 - EMPLOYMENT OF CLASSIFIED STAFF**

As all Governing Board employees are exempt from civil service, all classified employees are employed under R.C. 3319.081.

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

No staff member employed in a position for which licensure is required (e.g., paraprofessional) may be paid until evidence of such appropriate licensure for the subject area, grade level, or position, etc. has been received by the Superintendent and transmitted to the Treasurer.

#### 4120.01 - **JOB DESCRIPTIONS**

The Governing Board recognizes that it is essential for ESC and employee accountability for each staff member to be fully aware of the duties and responsibilities of his/her position. Job descriptions document and describe the essential functions for classified staff positions and thereby promote organizational effectiveness and efficiency. Therefore, the Governing Board shall maintain continuously a comprehensive, coordinated set of job descriptions for classified staff positions.

**4120.04 - EMPLOYMENT OF SUBSTITUTES**

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

The Governing Board shall employ substitutes for the Superintendent's assignment as services are required to replace temporarily absent regular staff member and fill new positions. Such assignments shall be terminated when their services are no longer required.

Daily substitutes shall not earn sick leave nor be paid for days when students are not required to attend schools.

#### 4120.09 - VOLUNTEERS

The Governing Board recognizes that certain programs and activities can be enhanced through the use of volunteers who have particular knowledge or skills that shall be helpful to members of the classified staff responsible for the conduct of those programs and activities.

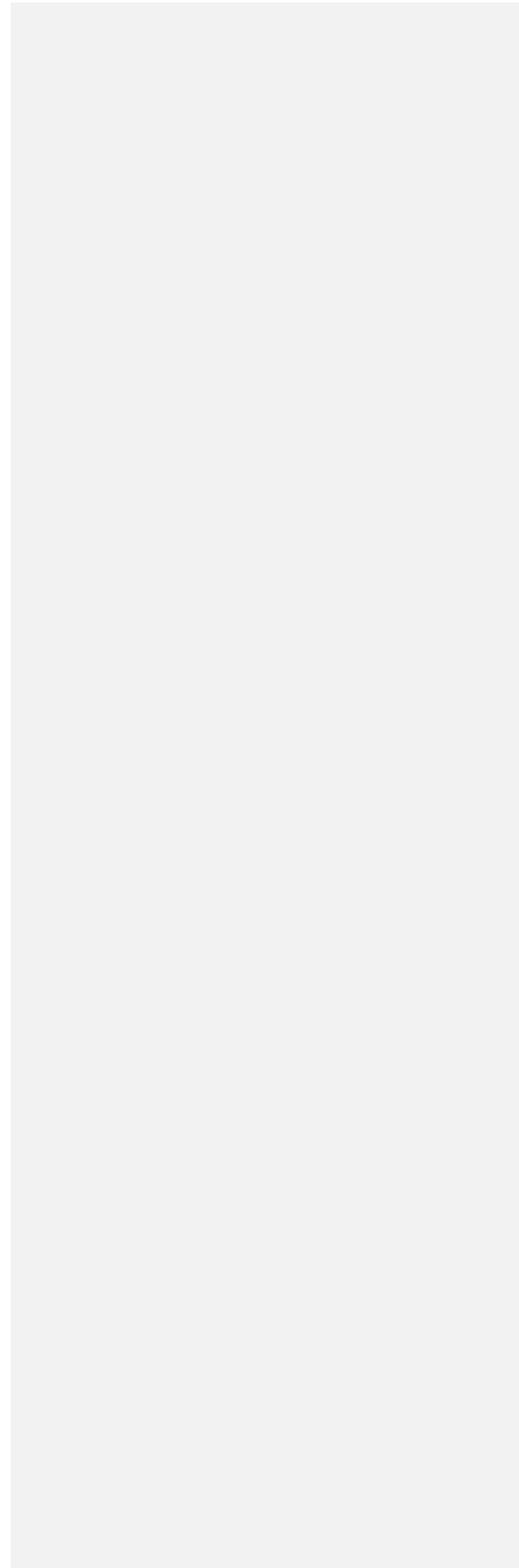
The Superintendent is to inform each volunteer that s/he:

- A. is required to abide by all Governing Board policies while on duty as a volunteer (including, but not limited to, the volunteer's obligation to keep confidential and not release or permit access to any and all student personally identifiable information to which s/he is exposed except as authorized by law);
- B. shall be covered under the ESC's liability policy but the ESC cannot provide any type of health insurance to cover illness or accident incurred while serving as a volunteer, nor is the person eligible for workers' compensation;
- C. shall be asked to sign a form releasing the ESC of any obligation should the volunteer become ill or receive an injury as a result of his/her volunteer services; and
- D. may not accept compensation from any third party or source, including, but not limited to booster, parent, or other ESC support organizations, for the performance of his/her official duties as a volunteer on behalf of the Governing Board.

Furthermore, the Superintendent shall inform all volunteers to display appropriate behavior at all times, and that they shall have to provide a set of fingerprints so that a criminal records check can be conducted at the Governing Board's expense and that they shall have to pay the costs associated with the criminal records check either before they can begin their duties, or as a condition of continued service as a volunteer at the discretion of the Governing Board.

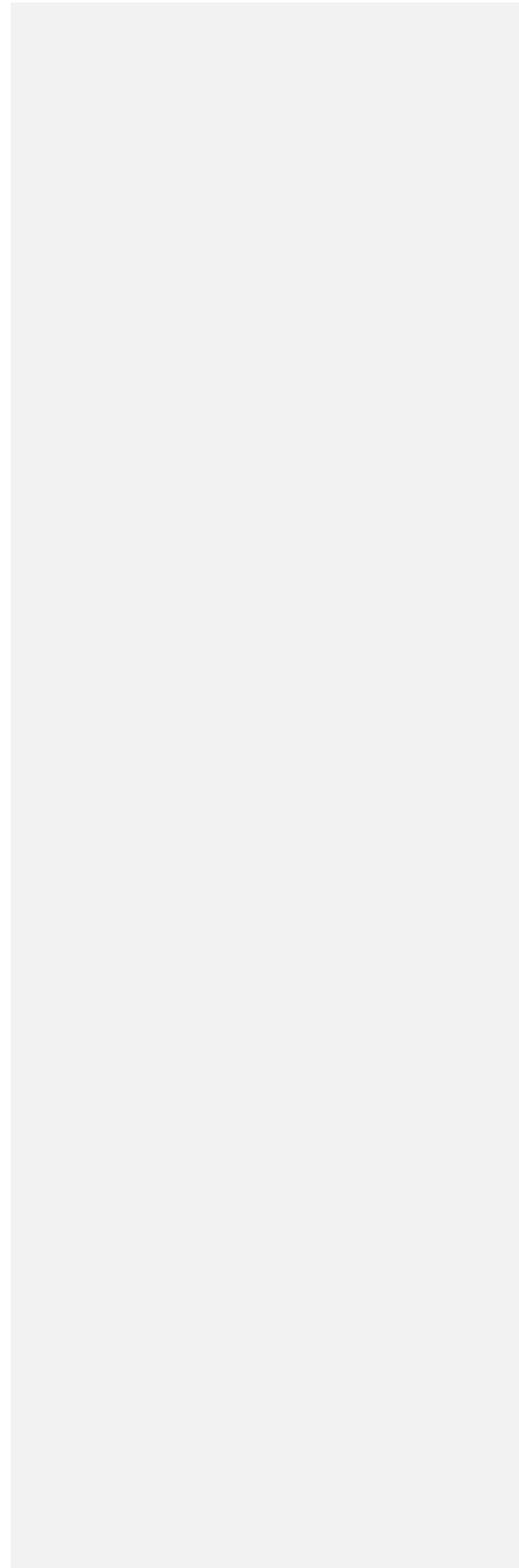
**4120.10 - JOB SHARING**

Job sharing determinations shall be made by the Superintendent.



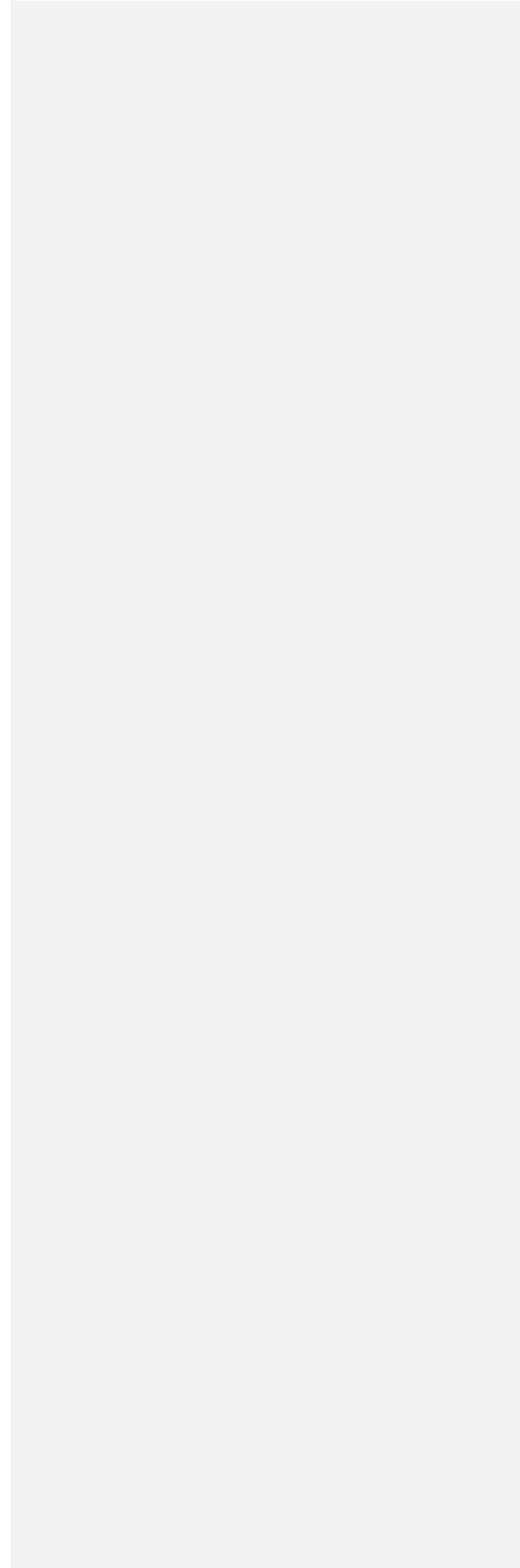
**4121 - CRIMINAL HISTORY RECORD CHECK**

Governing Board Policy 1121 applies to classified staff and shall be considered to be incorporated herein.



**4131 - REDUCTION IN STAFF**

Classified staff contracts shall be suspended in accordance with R.C. 3319.172.



**4139 - STAFF DISCIPLINE**

The Governing Board retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary, such action shall be in proportion to the employee's offense or misconduct, consistent with appropriate procedural and substantive due process and Applicable laws and regulations.

**4140 - TERMINATION AND RESIGNATION**

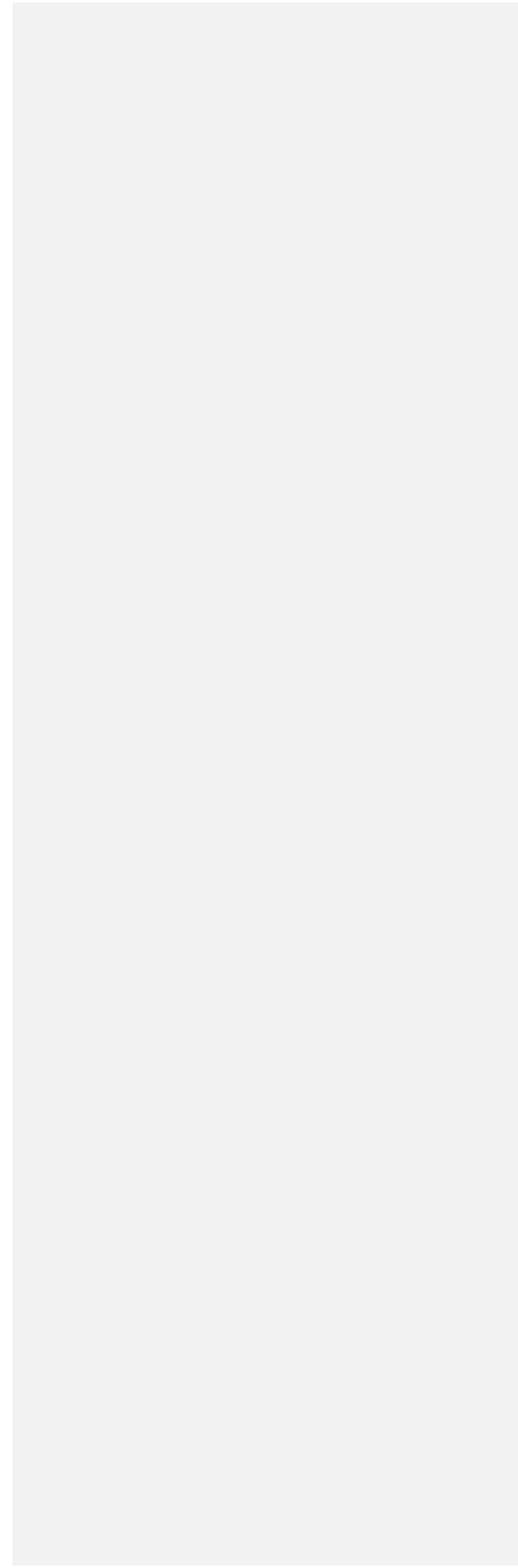
The employment of a classified staff member may be terminated pursuant to R.C. 3319.081.

If a classified staff member fails to maintain required licensure throughout the term of employment, the classified staff member shall be immediately suspended without pay and such failure is grounds for termination.

A classified staff member may resign in accordance with law and any applicable terms of his/her employment contract.

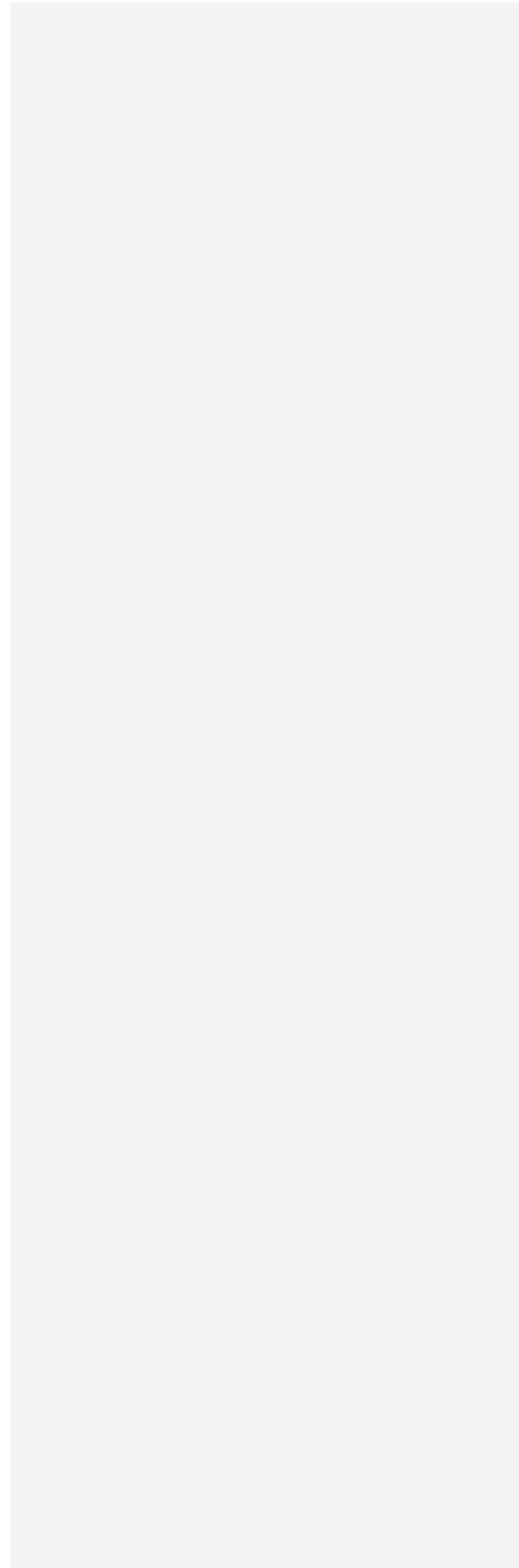
**4200 - STAFF ETHICS**

Governing Board Policy 1200 applies to classified staff and shall be considered to be incorporated herein.



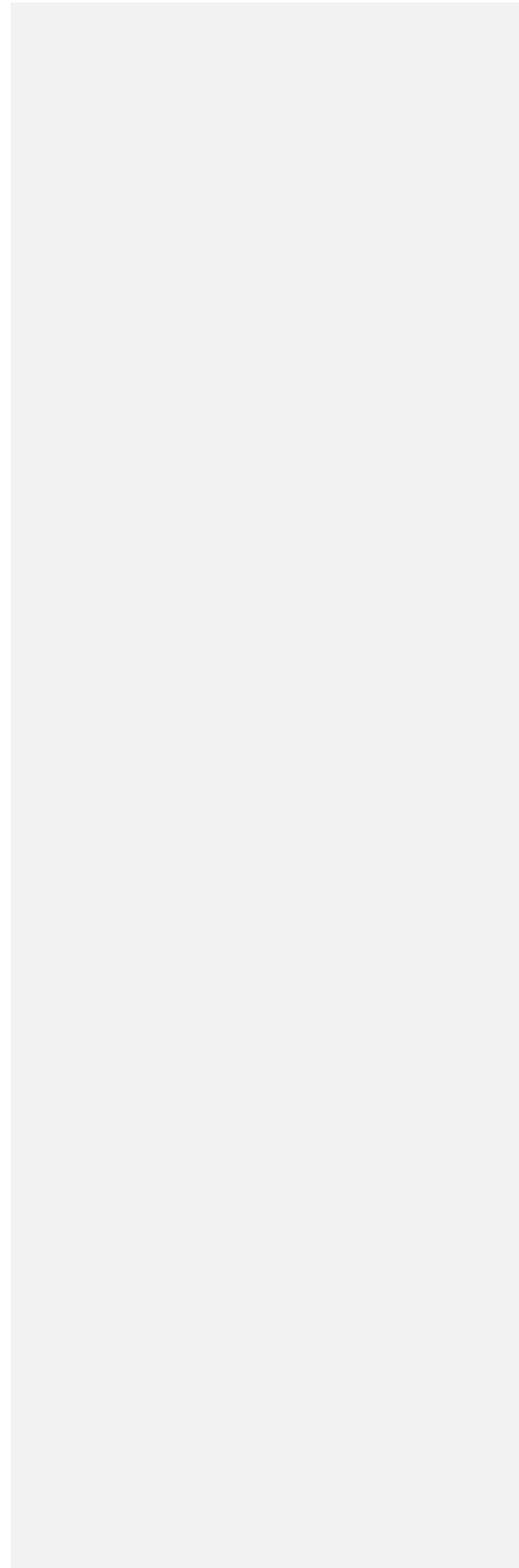
**4214 - STAFF GIFTS**

Governing Board Policy 1214 applies to classified staff and shall be considered to be incorporated herein.



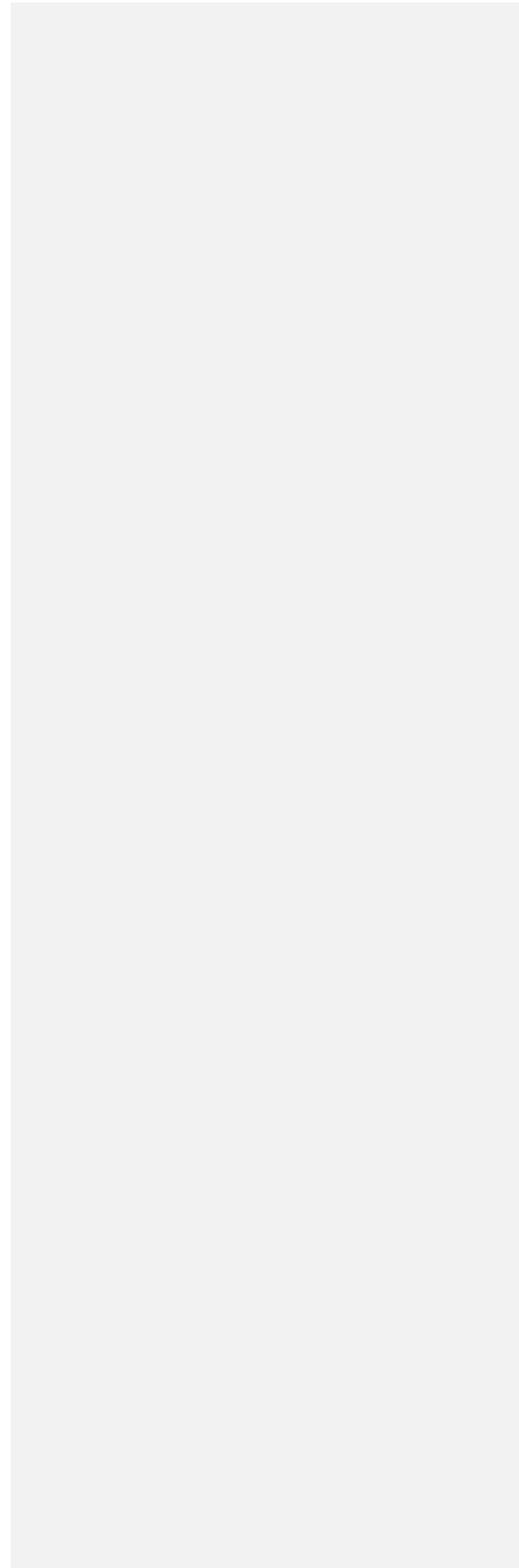
**4216 - STAFF DRESS AND GROOMING**

Governing Board Policy 1216 applies to classified staff and shall be considered to be incorporated herein.



**4217 - WEAPONS**

Governing Board Policy 1217 applies to classified staff and shall be considered to be incorporated herein.



#### 4220 - EVALUATION OF CLASSIFIED STAFF

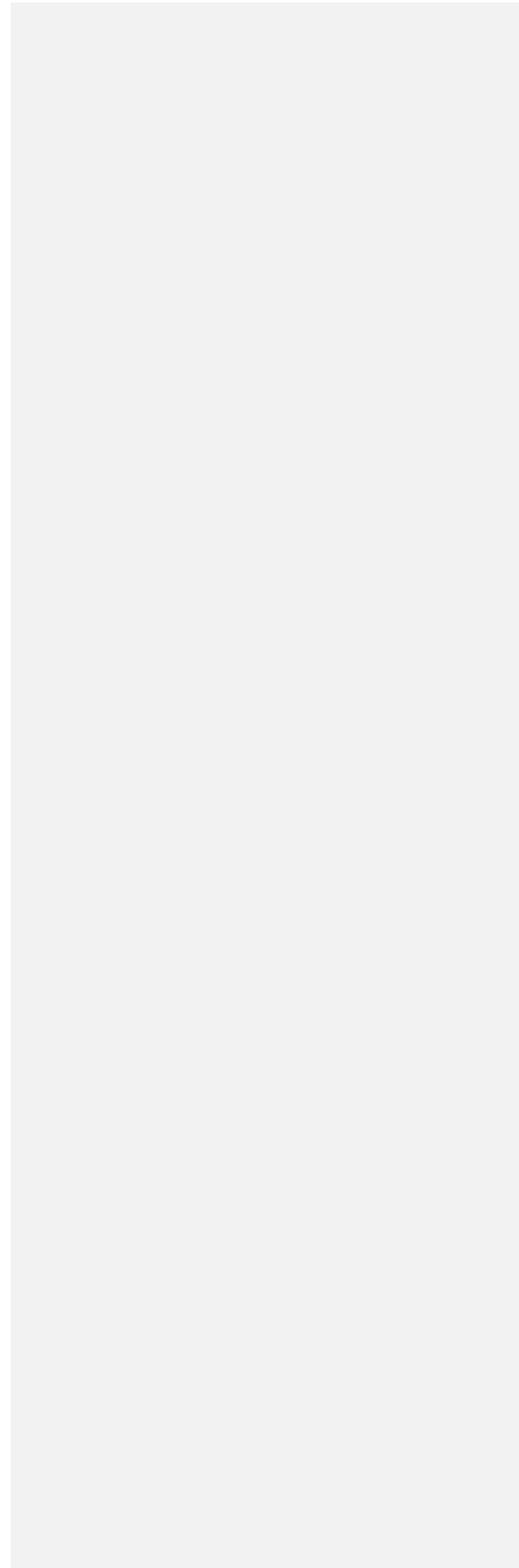
The Governing Board recognizes the importance of implementing a program of classified staff member evaluations for the purpose of promoting individual job performance and improving services to students.

The goals of the Governing Board's evaluation plan for classified personnel are to:

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

**4231 - OUTSIDE ACTIVITIES OF CLASSIFIED STAFF**

Governing Board Policy 1231 applies to classified staff and shall be considered to be incorporated herein.



#### 4242 - STAFF DEVELOPMENT

The Governing Board encourages the participation of classified staff members in in-service and other training programs.

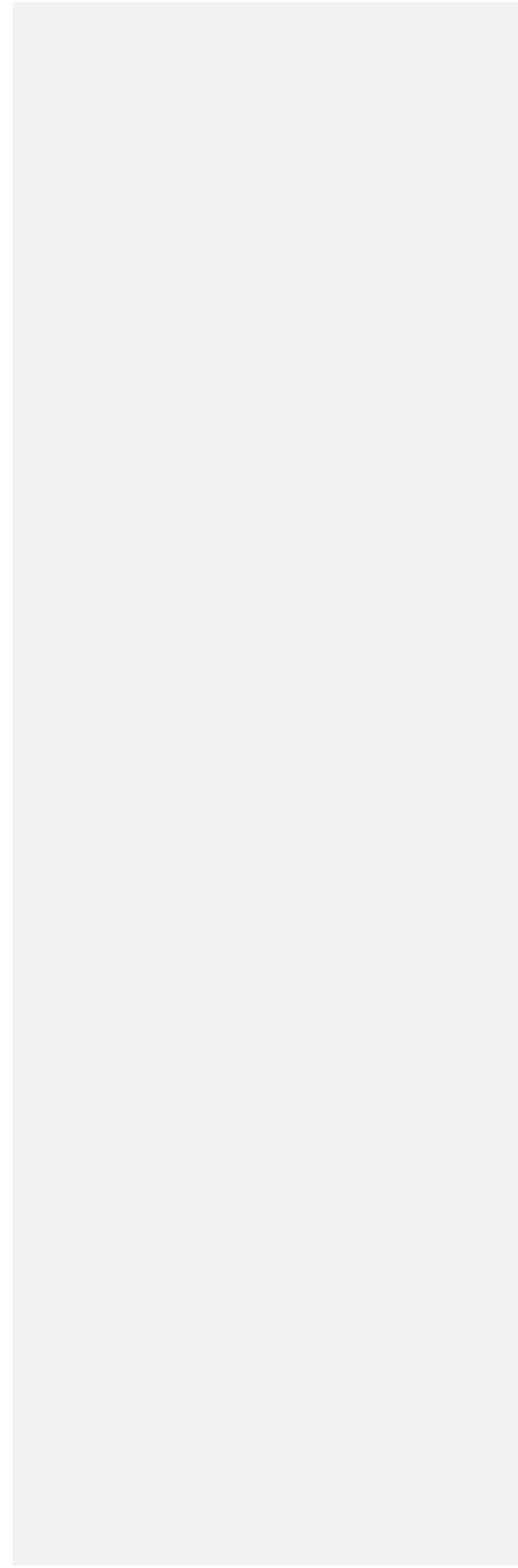
The Superintendent may plan and implement a program of in-service training for classified staff members and explore other training programs.

The Governing Board may reimburse staff members for the costs incurred in participation therein, subject to prior approval of the Superintendent. However, under no circumstances shall staff members be reimbursed for the purchase of alcoholic beverages.

Participation in the program shall be voluntary unless considered part of the duties of any participating staff member.

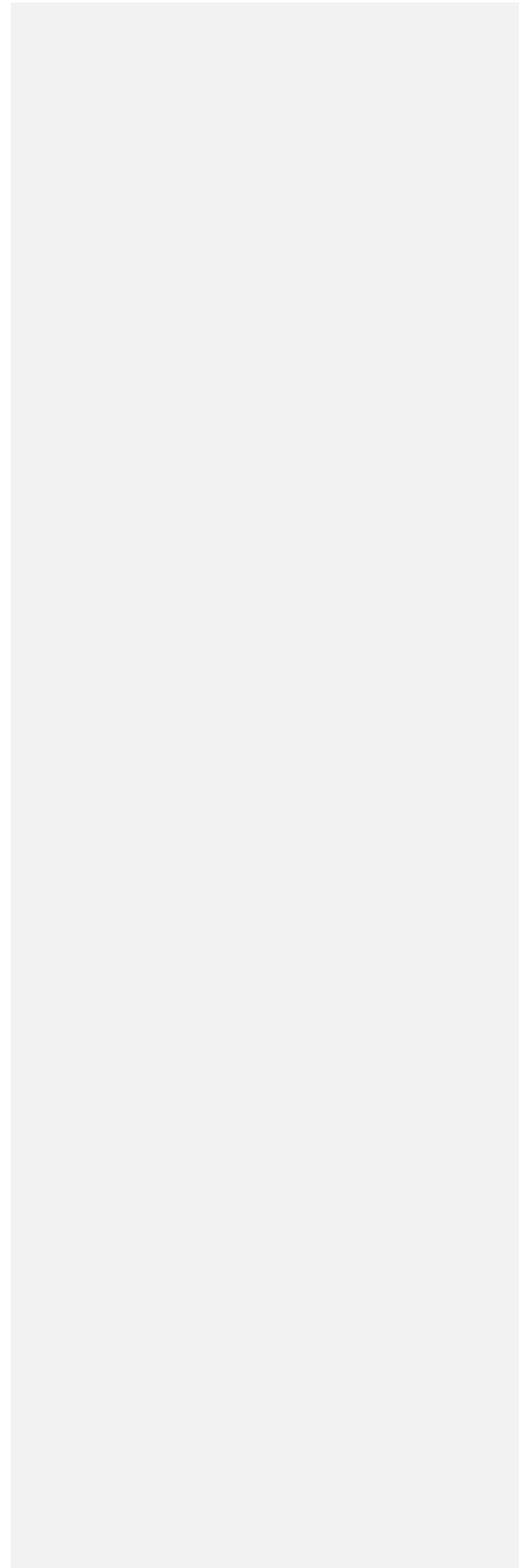
**4266 – NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS  
OR ACTIVITIES**

Governing Board Policy 1266 applies to classified staff and shall be considered to be incorporated herein.



**4411 - WHISTLEBLOWER PROTECTION**

Governing Board Policy 1411 applies to classified staff members and shall be considered to be incorporated herein.



## 4415 - SEVERANCE

### **Non-Teaching Employees**

Pursuant to R.C. 124.39(C), the Governing Board provides more severance benefits than those set forth in R.C. 124.39(B) for Non-Teaching Employees with a minimum of five (5) years of continuous, unbroken, uninterrupted service with the Governing Board **upon retirement**. Specifically, Non-Teaching Employees shall, upon separation from service with the Governing Board due to retirement after a minimum of five (5) years of continuous, unbroken, uninterrupted, service with the Governing Board, be paid one-fourth (.25) of the value of the employee's accrued but unused sick leave up to a maximum of seventy (70) days. Additional severance days for longevity will be granted at the rate of one (1) day for each year of service with the Governing Board beyond five (5) to a maximum of ten (10) additional days.

All other Non-Teaching Employees shall be entitled to severance pay in accordance with R.C. 124.39 as applicable.

**For non-educational assistants**, payment of severance pay shall be based upon the Non-Teaching Employee's current rate of base pay divided by one hundred eighty four (184) days exclusive of supplemental pay.

**For educational assistants**, payment of severance pay shall be based upon the Non-Teaching Employee's current rate of base pay divided by one hundred eighty eight (188) days exclusive of supplemental pay.

Pursuant to R.C. 124.39(C), if the Non-Teaching Employee dies during employment with the Governing Board, the Non-Teaching Employee's unused sick leave shall be paid in accordance with R.C. 2113.04 and applicable laws or to the Non-Teaching Employee's estate.

Payment of severance pay shall eliminate all obligations of the Governing Board from any further payment or restoration of sick leave unused.

For purposes of this policy, "retirement" means service retirement under the State Teachers Retirement System of Ohio and/or the School Employees Retirement System of Ohio.

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**4417 - HOLIDAY**

**Non-Teaching Employees**

All Non-Teaching Employees shall be entitled to paid holidays in accordance with R.C. 3319.087 as applicable.

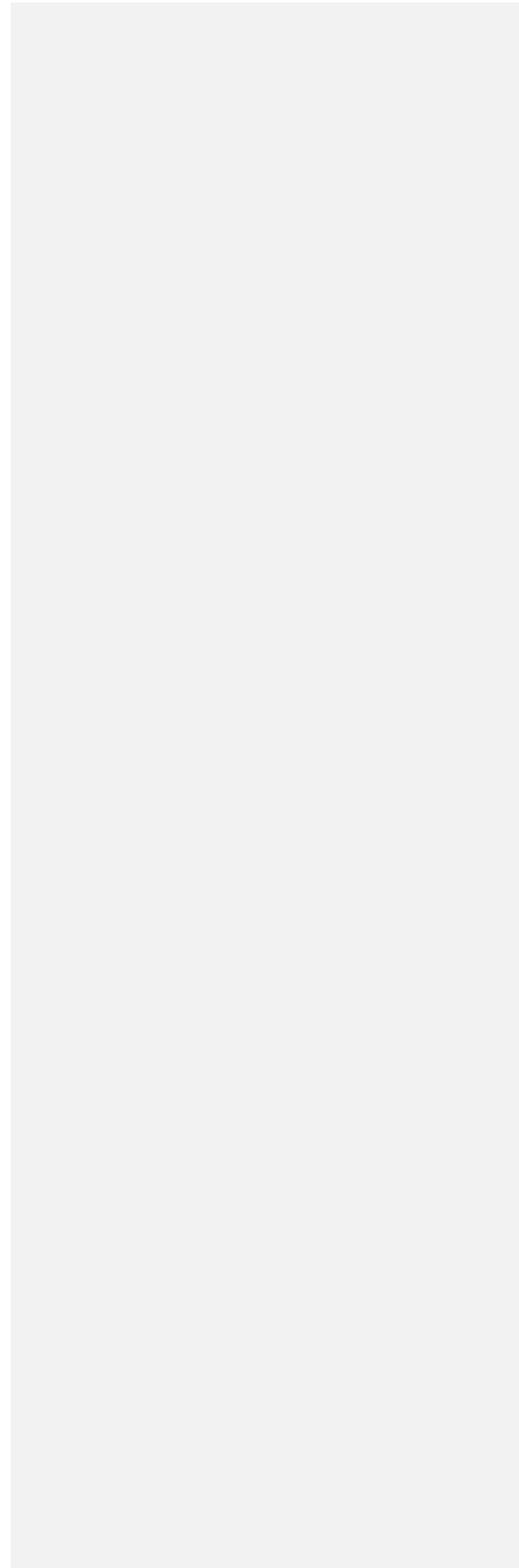
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**4419.02 - PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS**

Governing Board Policy 1419.02 applies to classified staff and shall be considered to be incorporated herein.

**4422 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

Governing Board Policy 1422 applies to classified staff and shall be considered to be incorporated herein.



**4422.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE**

Governing Board Policy 1422.02 applies to classified staff and shall be considered to be incorporated herein.

4432 - SICK LEAVE

**Non-Teaching Employees**

All full-time Non-Teaching Employees shall be granted sick leave at the rate of one and one-fourth (1.25) days per month in accordance with R.C. 124.38 and R.C. 3319.141 as applicable. Employees who work less than full-time shall be granted sick leave for the time actually worked at the rate of one and one-fourth (1.25) days per month. Employees who work full-time or part-time shall receive the following number of sick days per month:

<u>Days Scheduled to Be Worked per Week</u>	<u>Sick Days Received</u>
5 days (full-time)	1.25 days
4 days	1.00 day
3 days	0.75 day
2 days	0.50 day
1 day	0.25 day

Sick leave must be taken in increments of one-half (.5) or one (1) whole day. As needed, substitute, and per diem employees do not accumulate sick leave.

Sick leave may be used for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family. For absence of the employee due to illness or injury in the immediate family, immediate family is defined as spouse, child, parent, brother, sister, grandparents, and grandchildren. ("Child" includes biological, adopted, foster, and stepchildren as well as legal wards and children to whom the employee is acting "in loco parentis.")

For the absence of the employee due to the death in the immediate family, immediate family is defined as parent, spouse, child, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law, and any other relative of the employee as approved by the Superintendent. The exact number of days granted shall be determined by the familial relationship and the circumstances surrounding the death, but more than three (3) consecutive days require the Superintendent's approval.

Newly hired full-time Non-Teaching Employees may be advanced five (5) sick leave days if requested, provided that all accumulated sick leave has been exhausted. In cases where sick leave is advanced, the Governing Board shall make a deduction for the unearned, advanced sick leave days from the final pay of the individual for that contract year.

In all absences, the employee must fill out a report of absence form and file it with the Superintendent or designee in order to be compensated. For absences of five (5) consecutive days

or more, the employee must submit with the report of absence form a statement from the treating physician documenting the need for sick leave.

Unused sick leave shall be cumulative up to a maximum of two hundred forty (240) days.

New employees of the Governing Board who have previously been employed by a public agency not more than ten (10) years prior to their employment with the Governing Board and who have accrued sick leave balances under R.C. 124.38 and/or R.C. 3319.141 shall receive a credit for their existing balances up to one hundred twenty (120) days.

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## 4433 - VACATION

### **Non-Teaching Employees**

Non-Teaching Employees who are employed at least two hundred forty (240) days per school year (i.e., July 1 to June 30) and have completed one (1) full month of employment are entitled to paid vacation leave at the rate of 1.67 days per month (20 days per year).

Vacation days may be accumulated up to a maximum of thirty (30) days.

Upon separation from employment, employees are entitled to payment for up to twenty five (25) unused vacation leave at the prorated portion of the current year as required under Ohio law.

Employees requesting leave must submit the request for such leave to their immediate supervisor at least two (2) weeks in advance of the week or weeks in which the vacation leave is requested, unless otherwise approved by the Superintendent or Superintendent's designee.

Vacation must be taken in increments of one-half (.5) or one (1) whole day.

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4436 - PERSONAL LEAVE

**Non-Teaching Employees**

All Non-Teaching Employees who are scheduled to work for one hundred twenty (120) or more days regardless of number of hours/days are entitled to up to three (3) days per year of paid personal leave, starting July 1 of each year, for the purpose of fulfilling legal or personal business that conflicts with the employee's regular work schedule. Personal leave must be taken in increments of one-half (.5) or one (1) whole day.

All Non-Teaching Employees are entitled to the following number of personal days according to the following start date of employment:

- July, August, September – 3 days
- October, November, December – 2 days
- January, February, March – 1 day
- April, May, June – 0 days

Unless otherwise approved by the Superintendent or designee, personal leave must be requested, in writing, at least five (5) calendar days in advance of the requested leave, except in the case of emergencies, and approved by the Superintendent or designee.

Effective July 1, 2019, personal leave shall not accumulate and must be used by June 30 of the contract year or it shall be converted to sick leave.

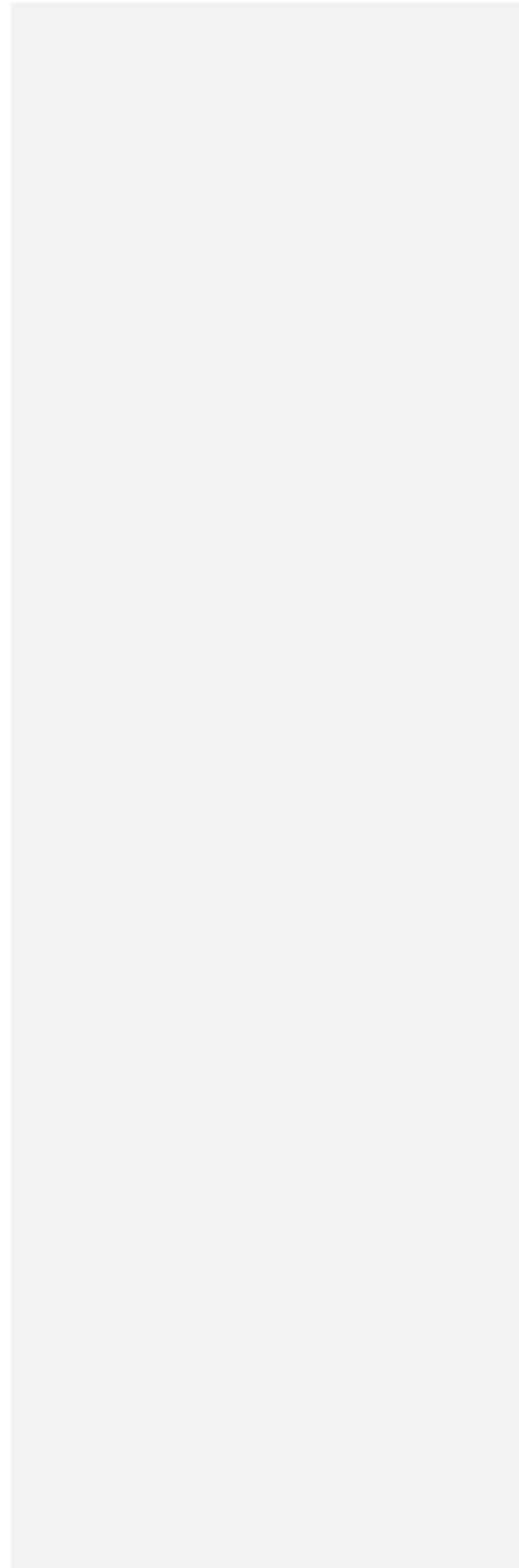
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**4440 - JOB-RELATED EXPENSES**

Governing Board Policy 1440 applies to classified staff and shall be considered to be incorporated herein.

**4481- USE OF EMPLOYEE’S PERSONAL PROPERTY AT ESC FACILITIES**

Governing Board Policy 1481 applies to classified staff and shall be considered to be incorporated herein.



#### **4531 - UNAUTHORIZED WORK STOPPAGE**

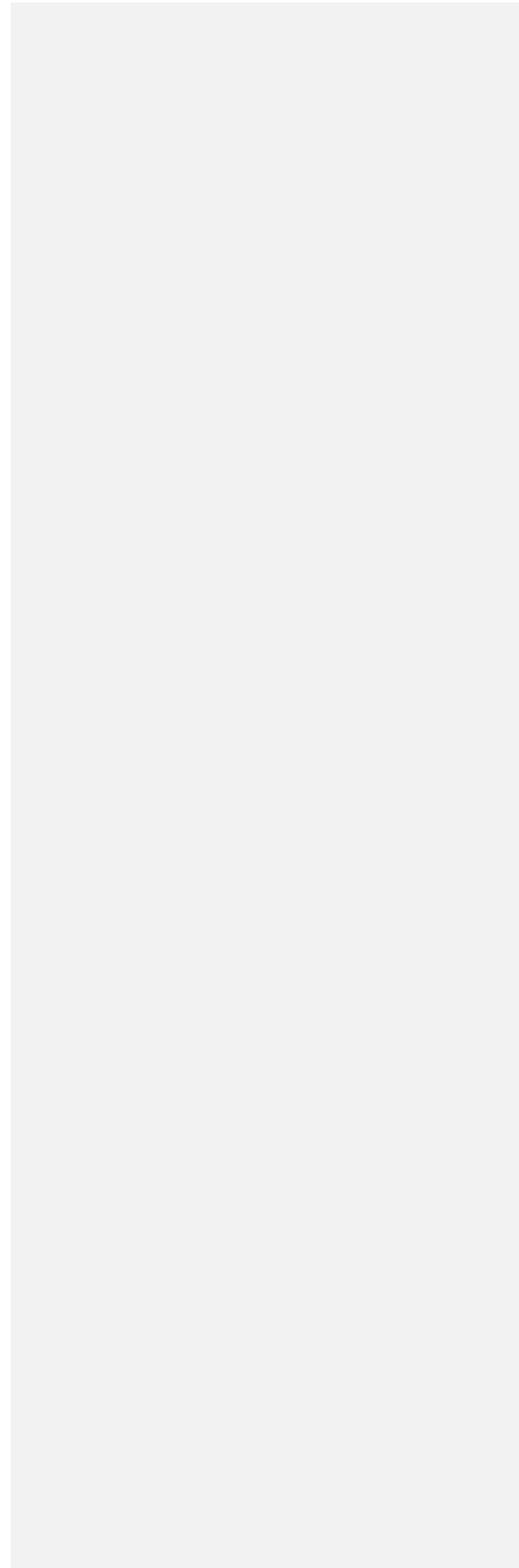
The Governing Board is obligated and committed to provide certain basic services to students participating in ESC programs. Therefore, if the schools are open and students are in attendance, those basic services shall be provided.

Recognizing the fact that an ESC, for various reasons, may experience an unauthorized work stoppage, the Governing Board remains committed to providing educational and related services to the schools and shall fulfill its obligations to operate the schools, when possible.

Classified staff members who fail to perform their normal duties when so required as part of an unauthorized work stoppage shall be subject to loss of pay and fringe benefits, including paid insurance coverage, as well as disciplinary measures in accordance with the policies of this Governing Board and the laws of the State.

**4613 - STUDENT SUPERVISION AND WELFARE**

Governing Board Policy 1613 applies to classified staff and shall be considered to be incorporated herein.

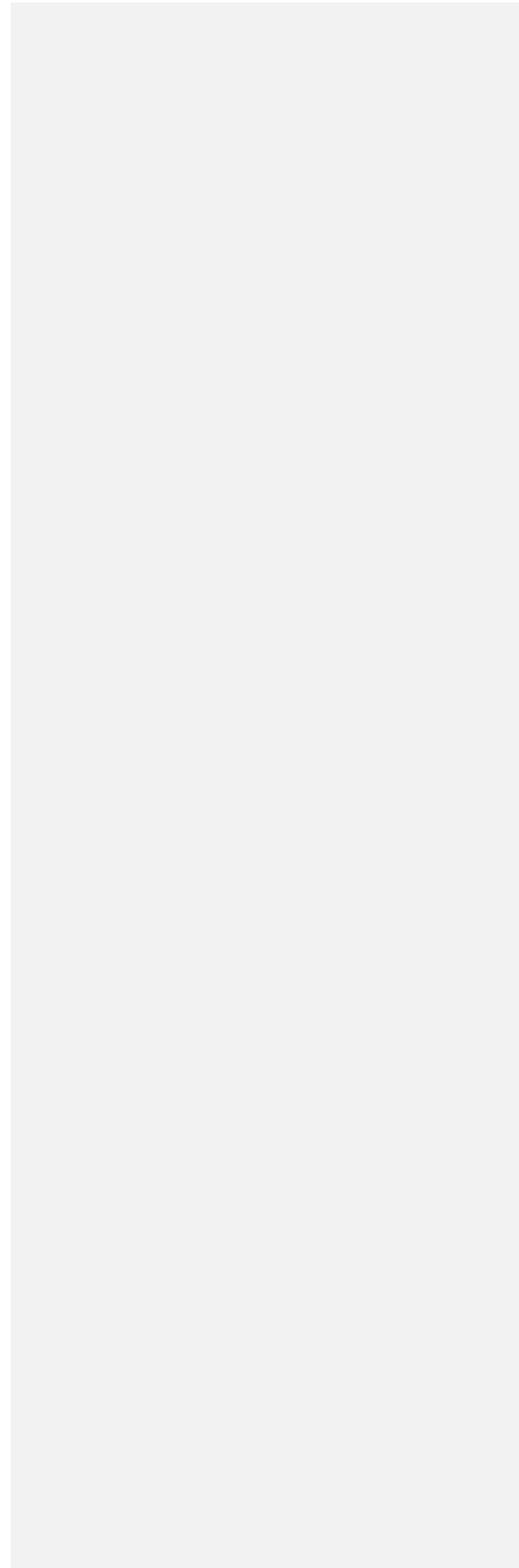


**4623 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION  
IN EMPLOYMENT**

Governing Board Policy 1623 applies to classified staff and shall be considered to be incorporated herein.

**4630 - UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY**

Governing Board Policy 1630 applies to classified staff and shall be considered to be incorporated herein.



**4630.01 - FMLA LEAVE**

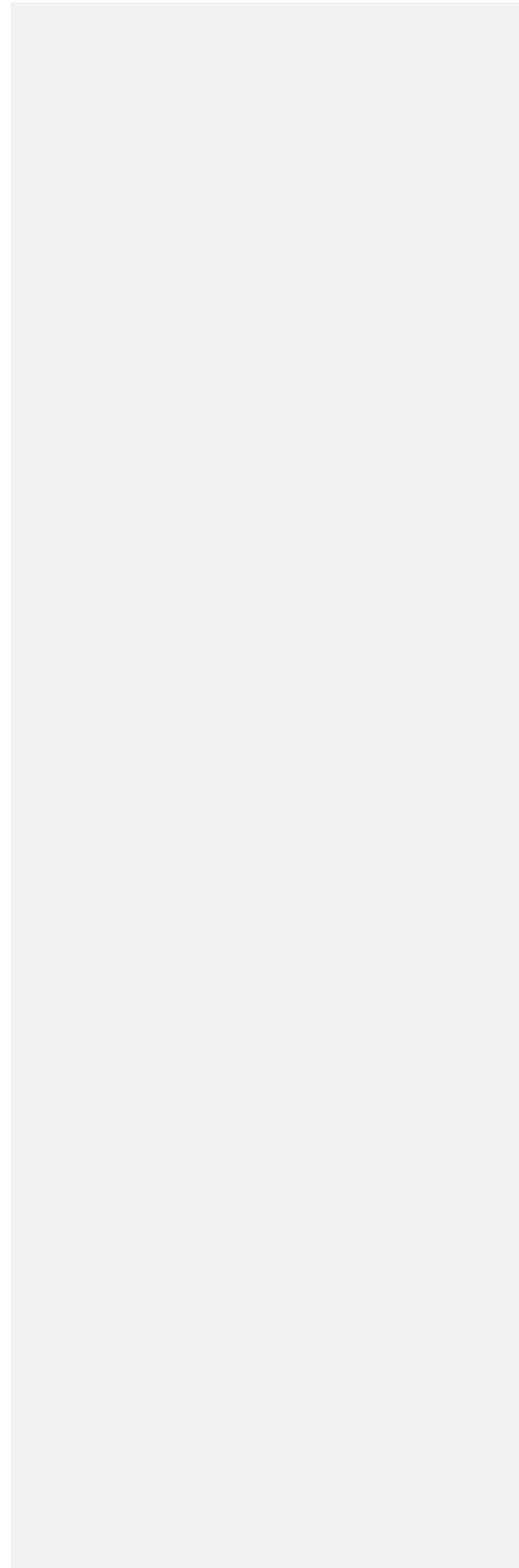
Governing Board Policy 1630.01 applies to classified staff and shall be considered to be incorporated herein.

**4630.02 - LEAVE OF ABSENCE FOR EMPLOYMENT BY A COMMUNITY SCHOOL**

Governing Board Policy 1630.02 applies to classified staff and shall be considered to be incorporated herein.

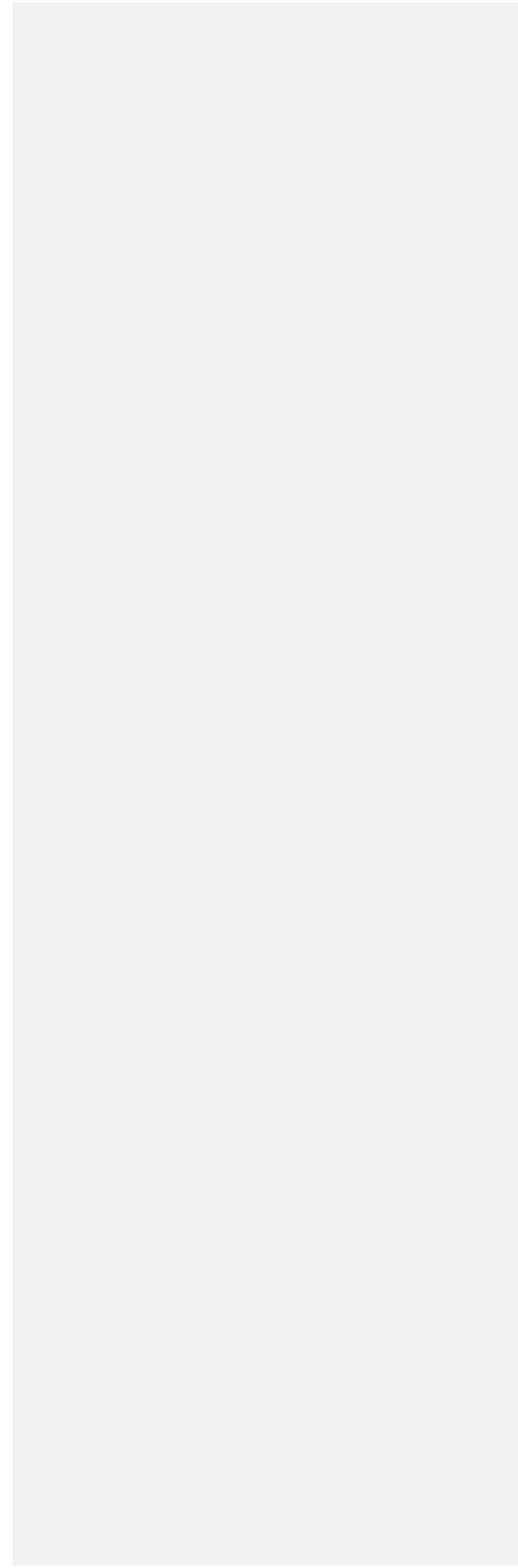
**4662 - ANTI-HARASSMENT**

Governing Board Policy 1662 applies to classified staff and shall be considered to be incorporated herein.



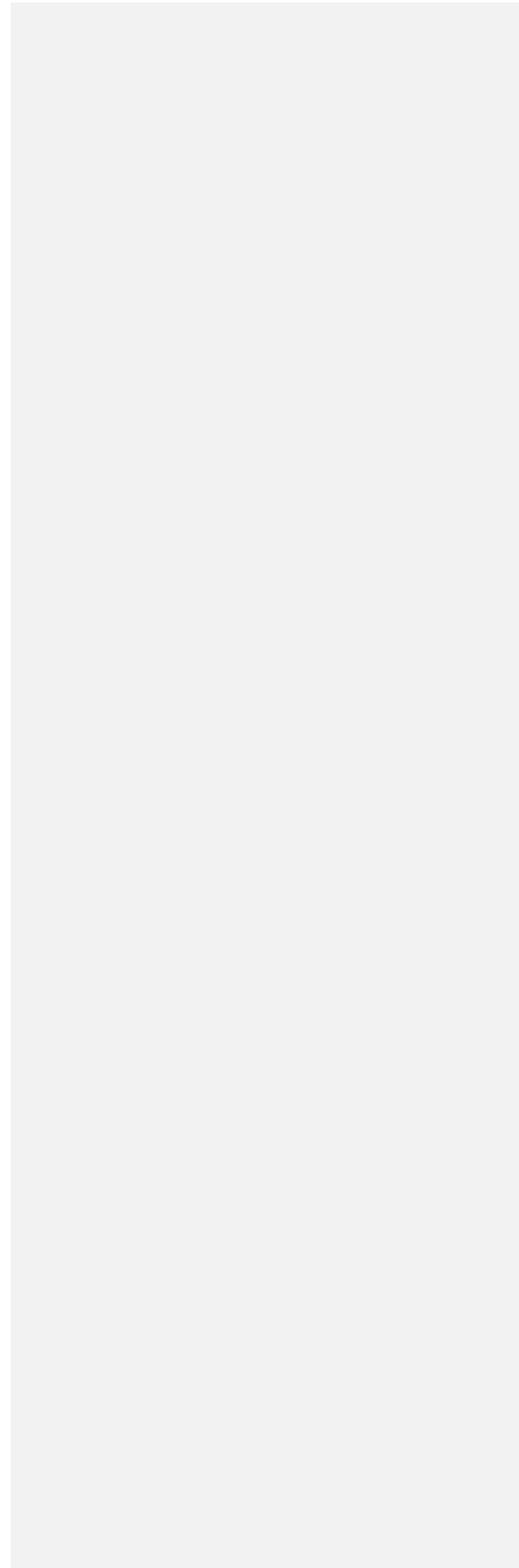
**4662.01 - THREATENING BEHAVIOR TOWARD STAFF MEMBERS**

Governing Board Policy 1662.01 applies to classified staff and shall be considered to be incorporated herein.



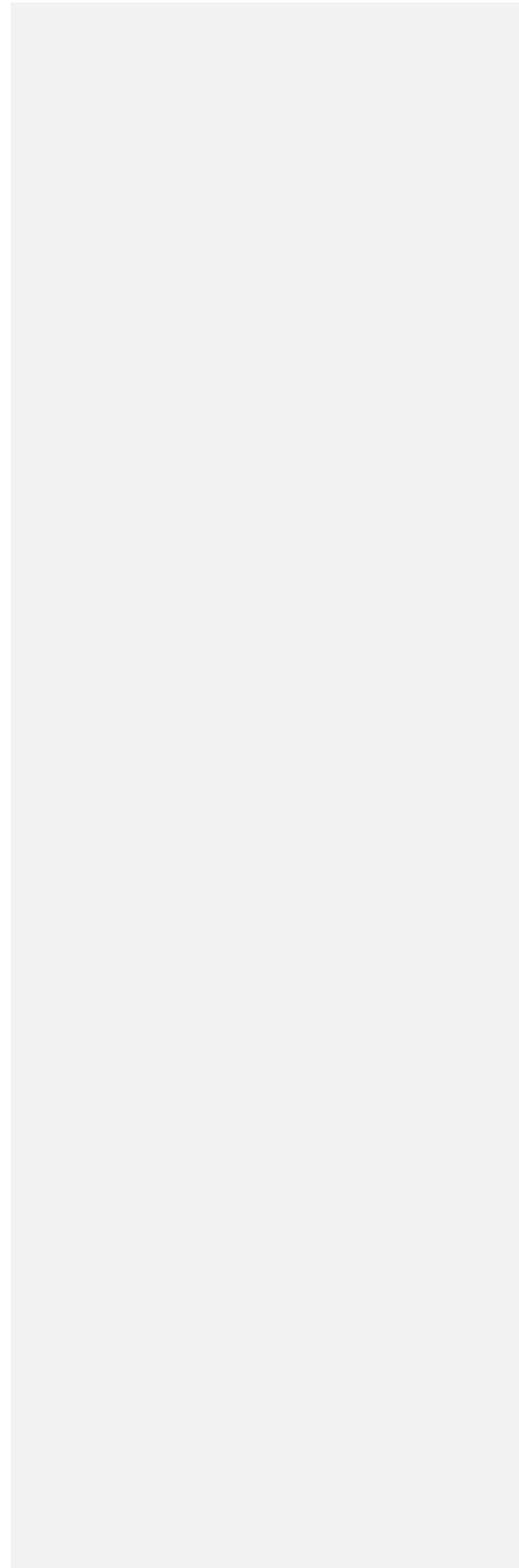
**4662.02 - BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR**

Governing Board Policy 1662.02 applies to classified staff and shall be considered to be incorporated herein.



**4663 - DRUG-FREE WORKPLACE**

Governing Board Policy 1663 applies to classified staff and shall be considered to be incorporated herein.

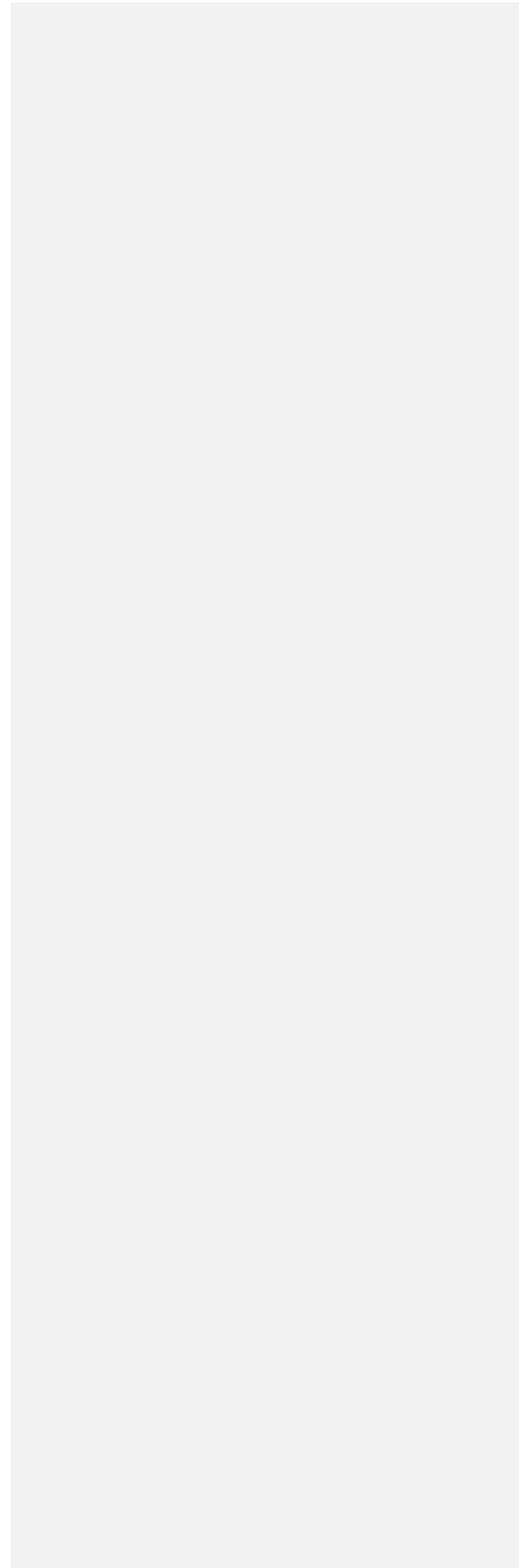


**4663.01 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS**

Governing Board Policy 1663.01 applies to classified staff and shall be considered to be incorporated herein.

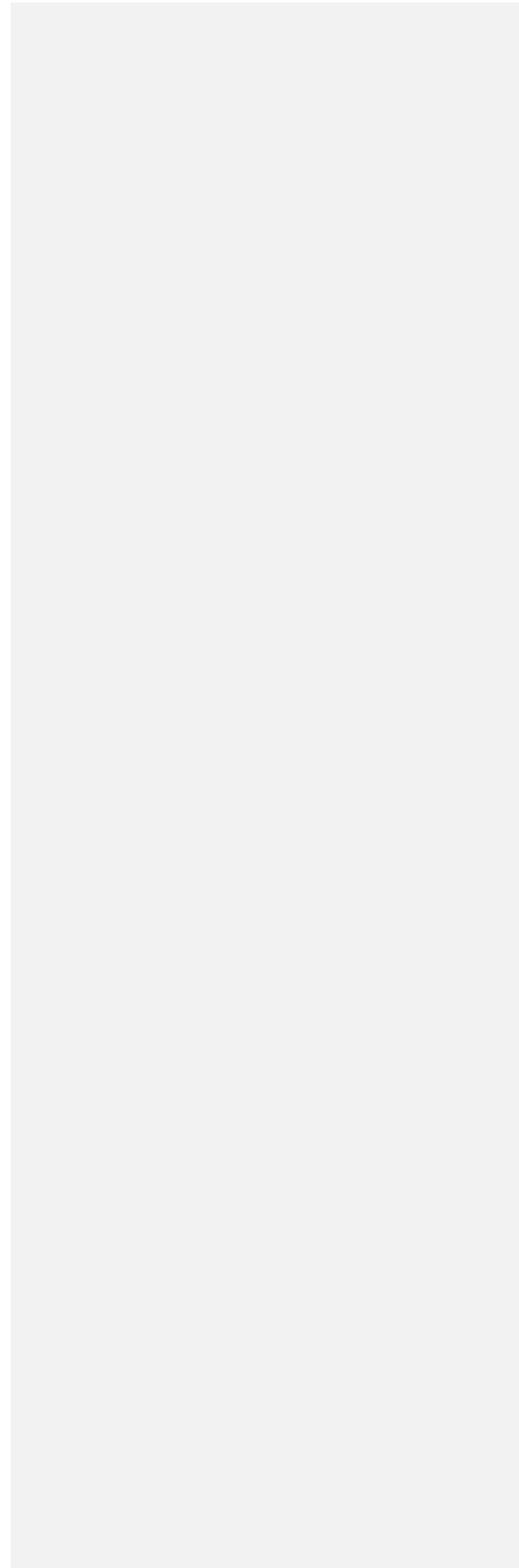
**4663.02 - USE OF TOBACCO**

Governing Board Policy 1663.02 applies to classified staff and shall be considered to be incorporated herein.

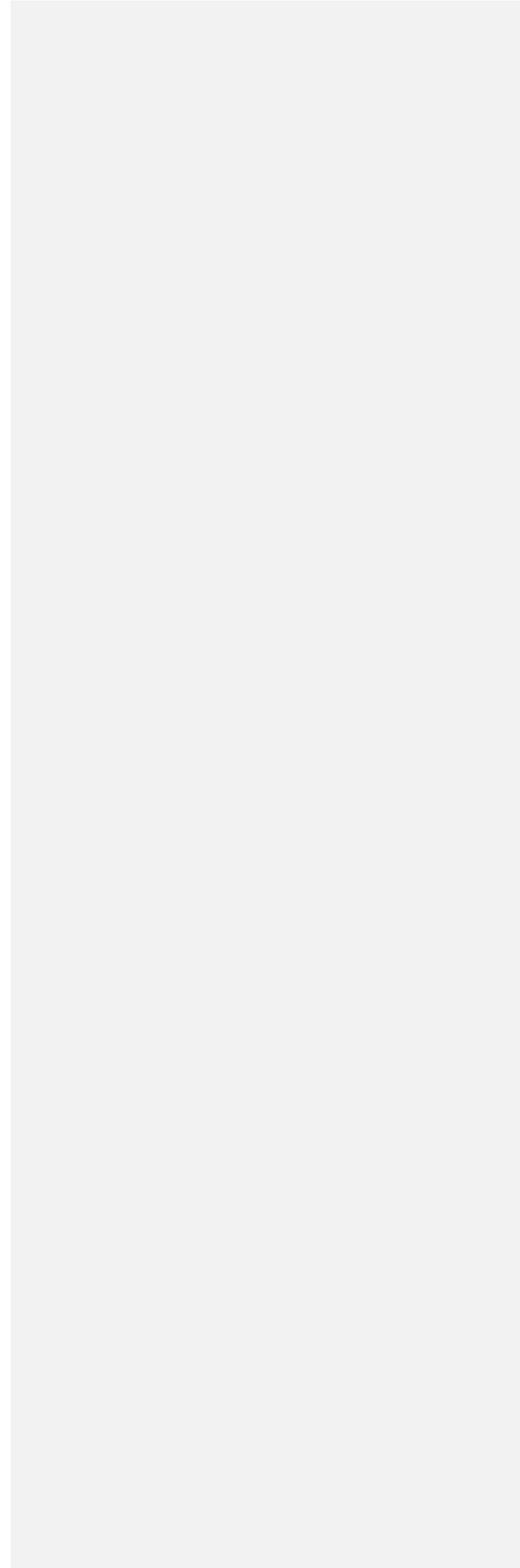


**4664 - SUBSTANCE ABUSE**

Governing Board Policy 1664 applies to classified staff and shall be considered to be incorporated herein.



# **STUDENTS**



## 5112 - ENTRANCE REQUIREMENTS

The Governing Board establishes the following entrance age requirements for students, which are consistent with statute and sound educational practice, and directs that all eligible students be treated in an equitable manner.

### Preschool

A child is eligible for entrance into preschool if s/he attains the age of three (3) on or before September 30 of the year in which s/he applies for entrance and has not yet attained the age at which s/he shall be admitted to kindergarten.

### Required Documents

The Superintendent shall require that each child who registers for entrance to school provide:

- A. His/her birth certificate or similar documentation authorized by law as proof of age and birthdate. Acceptable forms of documentation include the following: foreign birth certificate; religious, hospital, or physician's certificate showing date of birth; entry in a family bible; baptismal record; adoption record; affidavit from a parent; previously verified school records; or other documents permitted by law.
- B. A certified copy of any custody order or decree together with any modification in such an order or decree.

If such documents are not provided, the child may be admitted under the Superintendent's guidelines. Appropriate law enforcement authorities shall be notified in the event that required documents are not provided in accordance with the provisions of R.C. 3313.672. However, a child who is placed in a foster home or residential facility (i.e., a group home for children, children's crisis care facility, children's residential center, residential parenting facility that provides twenty-four (24) hour childcare, county children's home, or ESC children's home) shall not be denied admission solely because the child does not present a birth certificate, comparable certification, or other comparable document upon registration. Such protected child shall be admitted under temporary enrollment for a period of up to ninety (90) days to present the required documentation. The protected child and/or the child's parent, guardian, or custodian shall be so informed at the time of the child's initial admission.

Any parent may provide the ESC with a written statement indicating that s/he does not wish to have his/her child screened.

## 5200 - ATTENDANCE

The educational program offered by this ESC is predicated upon the presence of the student and requires continuity of instruction and classroom participation. Attendance shall be required of all students enrolled in the schools during the days and hours that the school is in session or during the attendance sessions to which s/he has been assigned.

A student in grades 9 through 12 may be considered a full-time equivalent student provided the student is enrolled in at least five (5) units of instruction, as defined by applicable laws and regulations, per school year.

In accordance with statute, the Superintendent shall require, from the parent of each student of compulsory school age or from an adult student who has been absent from school or from class for any reason, a statement of the cause for such absence. The Governing Board reserves the right to verify such statements and to investigate the cause of each single absence or prolonged absence.

Repeated infractions of Governing Board policy on attendance may result in suspension or expulsion.

The Governing Board considers the following factors to be reasonable excuses for time missed at school:

- A. Personal illness (a written physician's statement verifying the illness may be required);
- B. Appointment with a health care provider;
- C. Illness in the family necessitating the presence of the child;
- D. Quarantine of the home;
- E. Death in the family;
- F. Necessary work at home due to absence or incapacity of parent(s)/guardian(s);
- G. Observation or celebration of a bona fide religious holiday;
- H. Out-of-state travel (up to a maximum of four (4) days per school year) to participate in an ESC-approved enrichment or extracurricular activity (any classroom assignment missed due to the absence shall be completed by the student);
- I. Such good cause as may be acceptable to the Superintendent; ~~and~~
- J. Medically necessary leave for a pregnant student in accordance with Governing Board Policy 5751<sub>2</sub>

K. College visitation in which the ESC requires verification of the date and time of the visitation by the college, university, or technical college;

L. Absences due to a student's placement in foster care or change in foster care placement or any court proceedings related to their foster care status; and

M. Absences due to a student being homeless.

Attendance need not always be within the school facilities, but a student shall be considered to be in attendance if present at any place where school is in session by authority of the Governing Board.

The Governing Board shall consider each student assigned to a program of other guided learning experiences to be in regular attendance for the program provided that s/he reports to such staff member s/he is assigned for guidance at the place in which s/he is conducting study, and regularly demonstrates progress toward the objectives of the course of study.

The Superintendent may excuse a student over fourteen (14) years of age from attendance at school for a future limited period for the purpose of performing essential work directly or exclusively for his/her parents or guardians. Such excuse should not exceed five (5) days and may at the discretion of the Superintendent be renewed for five (5) additional days. At no time, however, shall such excuse cause a student to be absent from school for a period of more than ten (10) consecutive days.

At the discretion of the Superintendent or his/her designee, a student may be excused for a longer period of time than ten (10) days if a child's parent or guardian has recently died or become totally or partially incapacitated and there is no older brother or sister living in the home who is out of school. (The Superintendent may request a certificate of a physician attesting to the physical condition of the parent or guardian.)

#### **Contacting the Parent/Guardian of an Absent Student**

When a parent, guardian, or other person having care of a student has failed to initiate a telephone call or other communication notifying the school or building administration of the student's excused or unexcused absence within one hundred twenty (120) minutes after the beginning of the school day, the attendance officer or designee for each school building shall make at least one (1) attempt to contact the parent, guardian, or other person having care of any student who is recorded as absent without legitimate excuse within one hundred twenty (120) minutes after the beginning of each school day by a method designated by the Superintendent in accordance with Ohio law.

**5215 - MISSING AND ABSENT CHILDREN**

It is the interest of this Governing Board to cooperate with local, State, and National efforts to decrease the number of missing children.

**5230 - LATE ARRIVAL AND EARLY DISMISSAL**

It is necessary that a student be in attendance throughout the school day in order to benefit fully from the educational program of the ESC.

The Governing Board recognizes, however, that from time-to-time compelling circumstances require that a student be late to school or dismissed before the end of the school day.

As agent responsible for the education of the children of this ESC, the Governing Board shall require that the school be notified in advance of such absences by written request of the student's parent, which shall state the reason for the tardiness or early dismissal. Justifiable reasons shall be determined by the building principal.

If one (1) parent has been awarded custody of the student by the courts, the parent of custody shall provide the school with a copy of the custody order and inform the school in writing of any limitations in the rights of the noncustodial parent. Absent such notice, the school shall presume that the student may be released into the care of either parent.

No student who has a medical disability which may be incapacitating may be released without a person to accompany him/her.

No student shall be released to anyone who is not authorized such custody by the parents.

## 5310 - HEALTH SERVICES

The Governing Board may require students of the ESC to submit to periodic health examinations.

The ESC may provide or request parents to provide vision and/or audiometric screening.

The Governing Board shall directly notify the parents of students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening is scheduled or expected to be scheduled for students if the examination or screening is: (1) required as a condition of attendance; (2) administered by the school and scheduled by the school in advance; and (3) not necessary to protect the immediate health and safety of a specific student, or other students.

The term “invasive physical examination” means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

Unless the physical examination or screening is permitted or required by an applicable laws and regulations, parents may refuse to allow the Governing Board to administer a nonemergency, invasive physical examination, or screening upon written notification to the Governing Board within five (5) days after receipt of the Governing Board’s annual public notice.

## 5320 - IMMUNIZATION

In order to safeguard the school community from the spread of certain communicable diseases and in recognition that prevention is a means of combating the spread of disease, the Governing Board requires all students to be immunized against poliomyelitis, measles, diphtheria, rubella (German measles), pertussis, tetanus, mumps, and others legally designated in accordance with State statutes, unless specifically exempt for medical or other reasons. The Governing Board requires that students who start kindergarten during or after the school year beginning in 1999 be immunized against Hepatitis B or be in the process of being immunized. The Governing Board also requires that students who start kindergarten during or after the school year beginning in 2006 be immunized against chicken pox. The Governing Board further requires that students enrolled in grades 7 through 12 during or after the school year beginning in 2016 be immunized against meningococcal disease in accordance with the administration procedures prescribed by the Ohio Department of Health. This policy pertains to both students who currently attend school in the ESC and those eligible to attend.

The Superintendent may exempt a student from being immunized against either or both measles and mumps if the student presents a signed statement from a parent or physician indicating s/he has had measles or mumps and does not need to be immunized. The student shall be allowed to attend school only if a physician's statement indicates there is no danger of contagion. In case of an outbreak of the disease for which the student has not been immunized or an epidemic, the Superintendent shall not allow the student to attend school.

In the case of a chicken pox epidemic in the school's population, the Superintendent may deny admission to a student otherwise exempted from the chicken pox immunization requirement. The Superintendent shall prescribe methods whereby the academic standing of a student who is denied admission during a chicken pox epidemic is preserved.

The Superintendent may also exempt a student from immunization if a physician certifies in writing that immunization from a particular disease is medically contra-indicated.

A student may also be exempted from immunization if a parent or guardian objects for good cause, including religious conviction.

A student who has not completed immunization may not be admitted to school, except as is consistent with the law.

## 5330 - USE OF MEDICATIONS

The Governing Board shall not be responsible for the diagnosis and treatment of student illness. With the exception of diabetes care covered under Governing Board Policy 5336, the administration of prescribed medication and/or medically-prescribed treatments to a student during school hours shall be permitted only when failure to do so would jeopardize the health of the student, the student would not be able to attend school if the medication or treatment were not made available during school hours, or if the child is disabled and requires medication to benefit from his/her educational program.

For purposes of this policy, “medication” shall include all medicines including those prescribed by a licensed health professional authorized to prescribe drugs and any nonprescribed (over-the-counter) drugs, preparations, and/or remedies. “Treatment” refers both to the manner in which a medication is administered and to health-care procedures which require special training, such as catheterization.

Before any prescribed medication (i.e., a drug) or treatment may be administered to any student during school hours, the Governing Board shall require a written statement from a licensed health professional authorized to prescribe drugs (“prescriber”) accompanied by the written authorization of the parent. These documents shall be kept on file in the health center office and made available to the persons designated by this policy as authorized to administer medication or treatment. A copy of the parent’s written request and authorization and the prescriber’s written statement shall be given, by the next school day following the ESC’s receipt of the documents, to the person authorized to administer drugs to the student for whom the authorization and statement have been received. No student is allowed to provide or sell any type of over-the-counter medication to another student. Violations of this rule shall be considered violations of Governing Board Policy 5530 - Drug Prevention and of the Student Code of Conduct/Discipline Code.

In the case of non-prescribed (over-the-counter) medications, the same procedures as outlined above are to be followed with the exception of those procedures referring to the written statement from a licensed health professional. The Governing Board shall require only a written authorization of the parent to administer non-prescribed (over-the-counter) medication. The parent is responsible for complying with all procedures in lieu of the prescriber and assumes liability for any harm to the student arising from the administration of the non-prescribed medication.

Only medication in its original container; labeled with the date, if a prescription; the student’s name; and exact dosage shall be administered. The Superintendent shall determine a location in each building where the medications to be administered under this policy shall be stored, which shall be a locked storage place, unless the medications require refrigeration in which case they shall be stored in a refrigerator in a place not commonly used by students, and unless the medication to be administered is diabetes medication, which shall be kept in an easily accessible location pursuant to Governing Board Policy 5336.

Parents may administer medication or treatment but only in the presence of a designated ESC employee, with the exception of diabetes care covered under Governing Board Policy 5336.

Additionally, students may administer medication or treatment to themselves, if authorized in writing by their parents and a licensed health professional authorized to prescribe drugs but only in the presence of a designated ESC employee, with the exception of students authorized to attend to their diabetes care and management pursuant to Governing Board Policy 5336.

However, students shall be permitted to carry and use, as necessary, an asthma inhaler, provided the student has prior written permission from his/her parent and physician.

Additionally, students shall be permitted to carry and use, as necessary, an epinephrine auto-injector to treat anaphylaxis, provided the student has prior written approval from the prescriber of the medication and his/her parent/guardian, if the student is a minor, and has submitted written approval. The parent/guardian or the student shall provide a back-up dose of the medication to the principal or school nurse. This permission shall extend to any activity, event, or program sponsored by the school or in which the school participates. In the event epinephrine is administered by the student or an ESC employee at school or at any of the covered events, an ESC employee shall immediately request assistance from an emergency medical service provider (911). Students with diabetes authorized to attend to their diabetes care and management may do so in accordance with Governing Board Policy 5336.

With the exception of diabetes care covered under Governing Board Policy 5336, only employees of the Governing Board who are licensed health professionals or who have completed a drug administration training program conducted by a licensed health professional and are designated by the Governing Board may administer prescription drugs to students in school.

With the exception of diabetes care covered under Governing Board Policy 5336, provided they have completed the requisite training, the following staff are authorized to administer medication and treatment to students:

- A. principal/program manager;
- B. school nurse;
- C. building secretary; and
- D. others as designated by student's IEP and/or 504 plan.

No employee shall be required to administer a drug to a student if the employee objects, on the basis of religious convictions, to administering the drug.

## 5335 - CARE OF STUDENTS WITH CHRONIC HEALTH CONDITIONS

Students with chronic health conditions shall be provided with a free appropriate public education. If their impairment does not require specially designed instruction for them to benefit educationally, they shall be eligible for accommodations/modifications/interventions of the regular classroom, curriculum, or activity (i.e., the school setting) so that they have the same access to an education as students without disabilities. Such accommodations/modifications/interventions shall be provided pursuant to a Section 504 Plan.

Chronic health conditions, for the purposes of this policy, shall include:

- A. "peanut" and other food allergies;
- B. allergies;
- C. asthma; and
- D. diabetes.

All information regarding student identification, health care management, and emergency care shall be safeguarded as personally identifiable information in accordance with Governing Board Policy 8330 and Governing Board Policy 8350.

The ESC shall coordinate school health practices for management of a chronic health condition and shall provide for:

- A. identification of individuals with chronic health conditions;
- B. development of individual health care action plans;
- C. coordination of health care management activities by school staff;
- D. communication among school staff who interact with children with chronic health conditions;
- E. development of protocols to prevent exposure/episodic reactions; and
- F. awareness and training of school staff regarding Governing Board policy on acute and routine management of chronic health conditions, information on signs and treatment of chronic health conditions, medication and administration, and emergency protocols for dealing with reactions in "unusual" situations such as field trips.

School health practices shall provide students with chronic health conditions the opportunity for:

- A. full participation in physical activities when students are well;
- B. modified activities as indicated by the student's health care action plan, 504 plan, or Individualized Education Plan (IEP);
- C. access to preventative medications before activity (as prescribed by their medical providers) and immediate access to emergency medications during activity; and
- D. communication regarding student health status between parents, physicians, teachers (particularly physical education teachers), and coaches.

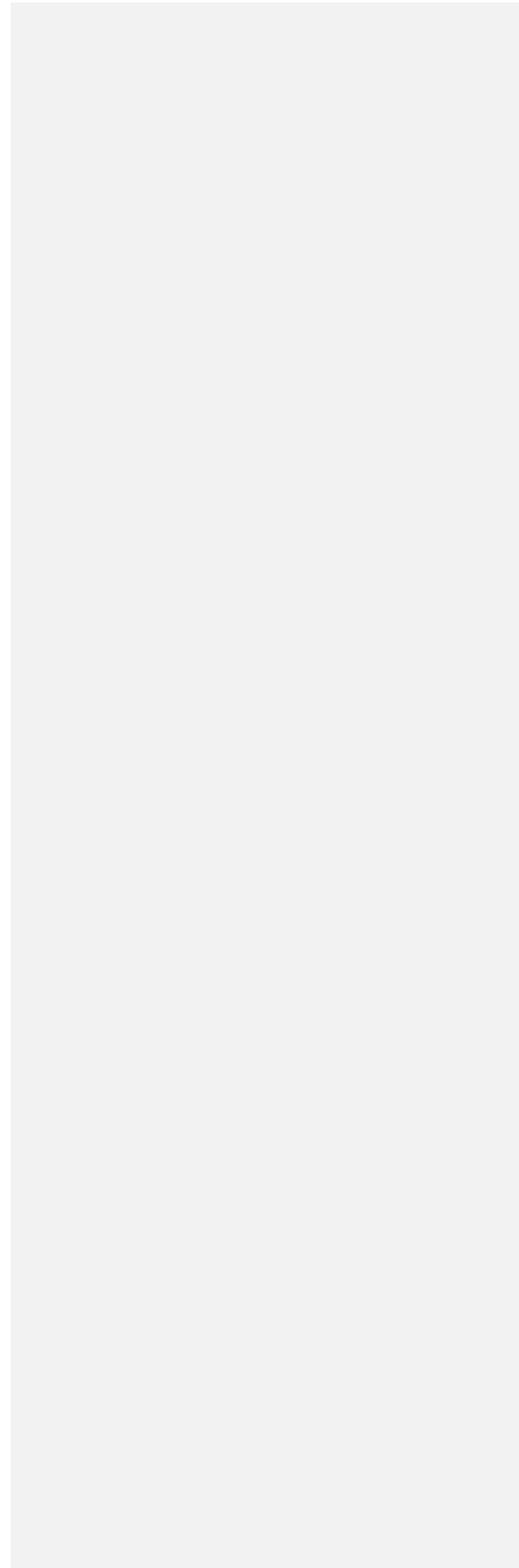
Healthcare management activities shall include:

- A. procedures to obtain, maintain, and utilize written health care action plans, signed by the child's parents and physician, for each student with a chronic health condition;
- B. a standard emergency protocol in place for students experiencing a distress reaction if they do not have a written health care action plan on site;
- C. established communication strategies for students to use to tell an adult they may be having a health-related problem;
- D. procedures for students to have immediate access to medications in accordance with Governing Board Policy 5330 that allow students to self-care and self-administer medications, inhalers, and Epi-pens, as prescribed by a medical professional, and approved by parents/guardians;
- E. prevention strategies to avoid causal elements;
- F. case management for students with frequent school absences, school health office visits, emergency department visits, or hospitalizations due to chronic health conditions; and
- G. management and care of the student's chronic health condition in the classroom, in any area of the school or school grounds, or at any school related activity or event.

Staff shall be trained about chronic health conditions and their control in each school in which there is a student with a chronic health condition.

Designated staff who have responsibility for specialized services such as giving inhaler treatments or injections, or conducting glucose and/or ketone tests shall be provided training specific to the procedures, by a licensed health professional.

The school nurse shall maintain a copy of the training program and the records of training completed by ESC employees.



## 5336 - CARE OF STUDENTS WITH DIABETES

The Governing Board is committed to ensuring that each student enrolled in the ESC who has diabetes receives appropriate and needed diabetes care in accordance with an order signed by the student's treating physician.

The diabetes care to be provided includes any of the following:

- A. checking and recording blood glucose levels and ketone levels or assisting the student with checking and recording these levels;
- B. responding to blood glucose levels that are outside of the student's target range;
- C. in the case of severe hypoglycemia, administering glucagon and other emergency treatments as prescribed;
- D. administering insulin or assisting the student in self-administering insulin through the insulin delivery system the student uses;
- E. providing oral diabetes medications;
- F. understanding recommended schedules and food intake for meals and snacks in order to calculate medication dosages pursuant to the student's physician's order;
- G. following the physician's instructions regarding meals, snacks, and physical activity; and
- H. Administering diabetes medication, as long as the conditions described below are satisfied.

Within fourteen (14) days after the ESC receives an order signed by the student's treating physician, the Governing Board shall inform the student's parent or guardian that the student may be entitled to a Section 504 Plan regarding the student's diabetes.

With regard to the administration of diabetes medication:

- A. The diabetes medication may be administered by a school nurse, or in the absence of a school nurse, such medication can be administered by an ESC employee who has received training provided by the Governing Board that complies with the Ohio Department of Education's training guidelines, and complies with the following additional requirements:
  - 1. The training shall be coordinated by a school nurse, or if the school does not employ a school nurse, a medical or osteopathic doctor, a registered

- nurse, or a licensed practical nurse with expertise in diabetes.
2. The training shall take place prior to the beginning of each school year or, as needed, not later than fourteen (14) days after the Governing Board receives a physician's order related to a student with diabetes.
  3. Upon completion of the training, the Governing Board shall determine whether each trained employee is competent to provide diabetes care.
  4. The school nurse, medical or osteopathic doctor, registered nurse, or licensed practical nurse who provided the training shall promptly provide all necessary follow-up training and supervision to an employee who receives training.
- B. The principal of a school attended by a student with diabetes shall distribute a written notice (see Form 5336 F1) to each employee containing the following information:
1. A statement that the school is required to provide diabetes care to a student with diabetes and is seeking employees who are willing to be trained to provide that care.
  2. A description of the tasks to be performed.
  3. A statement that participation is voluntary and that the ESC shall not take action against an employee who does not agree to provide diabetes care, including that the employee shall not be penalized or disciplined for refusing to volunteer to be trained in diabetes care.
  4. A statement that training shall be provided by a school nurse, a medical or osteopathic doctor, a registered nurse, or a licensed practical nurse with expertise in diabetes to an employee who agrees to provide care.
  5. A statement that a trained employee shall not be subject to disciplinary action by the Governing Board for providing care or performing duties to students with diabetes.
  6. A statement that a trained employee is immune from liability for damages in a civil action for injury, death, or loss to person or property allegedly arising from providing care or performing duties (unless the act or omission constitutes willful or wanton misconduct).
  7. The name of the individual to contact if an employee is interested in providing diabetes care.

The school nurse and/or the ESC employee can only administer diabetes medication as described above if the requirements of Governing Board Policy 5330 are met.

A student's diabetes medication shall be kept in an easily accessible location.

A student with diabetes shall be permitted to attend to his or her diabetes care and management, in accordance with the student's physician's order, during regular school hours and school sponsored activities only if:

- A. the student's parent or guardian provides a written request that the student be permitted to attend to his or her diabetes care and management while at school; and
- B. the student's physician has authorized such self-care and determined that the student is capable of performing diabetes care tasks.

A student with diabetes is permitted to perform diabetes care tasks in a classroom, in any area of the school or school grounds, and at any school-related activity. The student shall have access to a private area for performing diabetes care tasks if the student or the student's parent or guardian makes such a request.

A student with diabetes is permitted to possess on the student's self at all times all necessary supplies and equipment to perform diabetes care tasks. If the student performs any diabetes care tasks or uses medical equipment for purposes other than the student's own care, the Governing Board shall revoke the student's permission to attend to the care and management of the student's diabetes.

The Governing Board shall provide training in the recognition of hypoglycemia and hyperglycemia, and actions to take in response to emergency situations involving these conditions, to both of the following:

- A. an ESC employee who has primary responsibility for supervising a student with diabetes during some portion of the school day, and
- B. a bus driver employed by the Governing Board who transports a student with diabetes.

#### 5340 - STUDENT ACCIDENTS

The Governing Board believes that school personnel have certain responsibilities in case of accidents which occur in school. Said responsibilities extend to the administration of first aid by persons trained to do so, summoning of medical assistance, notification of administrative personnel, notification of parents, and the filing of accident reports.

Employees should administer first aid within the limits of their knowledge of recommended practices. All employees should make an effort to increase their understanding of the proper steps to be taken in the event of an accident.

The Superintendent shall include the reporting of accidents, when appropriate.

## 5341 - EMERGENCY MEDICAL AUTHORIZATION

Annually, before the first day of October, the Governing Board shall distribute to parents or guardians of all students the Emergency Medical Authorization Form. Thereafter, the Governing Board shall, within thirty (30) days after the entry of any student for the first time into a public school in this State, provide the child's parent with a copy of the Emergency Medical Authorization Form.

When the Form is returned to the ESC, the ESC shall keep the Form on file, and shall send the Form to any school to which the student is transferred. Upon request of the student's parent, the ESC may permit the parent to make changes in a previously filed Form, or to file a new Form.

In the event emergency medical treatment for a student is necessary, the ESC shall adhere to the instructions on the authorization form. If a parent refuses to grant consent for emergency medical treatment, the parent shall indicate in the proper place on the Form the procedure the parent wishes school authorities to follow in the event of a medical emergency involving his/her child.

Even if a parent grants consent for emergency medical treatment, when a student becomes ill or is injured and requires emergency medical treatment while under school authority, or while engaged in an extra-curricular activity authorized by the appropriate school authorities, the building administrator(s) shall make reasonable attempts to contact the parent before treatment is given. The school representative shall present the student's Emergency Medical Authorization Form or a copy thereof to the hospital or practitioner rendering treatment.

The Emergency Medical Authorization Form shall be kept in a separate, easily accessible file in each school building during the school year.

Any time a student or a group of students is taken out of the ESC to participate in a school event, the staff in charge of the event shall take the Emergency Medical Authorization Forms for those students. This includes, and is not limited to, students involved in music trips, athletic trips, field trips, and academic contests. This does not include student spectators at events.

Staff members shall abide by any "Do Not Resuscitate" (DNR) order that may exist for a student, unless ordered otherwise by a court of law. Staff members may always call 911 to seek medical assistance regardless of whether the DNR order exists or not. If a DNR order exists, staff members should produce the DNR order to the emergency responder.

## 5350 - STUDENT MENTAL HEALTH AND SUICIDE PREVENTION

The Governing Board recognizes that mental health conditions and self-injury are problems of increasing severity among children and adolescents. A student who suffers from a mental health condition such as depression and who has attempted self-injury poses a danger both to himself/herself and to other students.

In accordance with law, the Governing Board will provide appropriate instruction on personal safety and assault prevention to all students in grades K-6. Additionally, beginning in the 2023-2024 school year, the Center will include in health education at least one (1) hour (or a standard class period) of evidence-based instruction for students in grades 6-12 in each of the following topics:

- A. Suicide awareness and prevention;
- B. Safety training and violence prevention; and
- C. Social Inclusion.

The Governing Board shall use a training program that is approved by the Ohio Department of Education (ODE). Instruction may be provided during student assemblies, digital learning, and homework to satisfy the instruction requirement. Upon request of a parent/guardian, a student will be excused from instruction in these areas.

All school personnel should be alert for students who exhibit signs of unusual mental health related behavior or who threaten or attempt self-injury or suicide. Any such signs or the report of such signs from another student or staff member should be taken with the utmost seriousness.

In accordance with Policy 8462 designated staff shall receive professional development training in accordance with Governing Board-adopted curriculum that includes the risk factors, warning signs, and resources regarding youth suicide awareness and prevention at least every two (2) years.

Additional professional development training in youth suicide risk assessment and intervention shall be provided to mental health employees, counselors, teachers, administrators, school psychologists, and school nurses.

The Governing Board shall adopt or adapt an evidence-based awareness and prevention curriculum approved by the Ohio Department of Education (ODE), or alternatively will utilize a suicide awareness and prevention curriculum that has been developed in consultation with public or private agencies/persons involved in youth suicide awareness and prevention and that has been approved by the ODE.

Throughout any intervention, it is essential that Governing Board policies regarding confidentiality be observed at all times.

## 5500 - STUDENT CONDUCT

Respect for law and for those persons in authority shall be expected of all students. This includes conformity to school rules as well as general provisions of law affecting students. Respect for the rights of others, consideration of their privileges, and cooperative citizenship shall also be expected of all members of the school community. The Governing Board has zero tolerance of violent, disruptive, or inappropriate behavior by its students.

Respect for real and personal property; pride in one's work; achievement within the range of one's ability; and exemplary personal standards of courtesy, decency, and honesty shall be maintained in the schools of this ESC.

Students may be subject to discipline for violation of the Code of Conduct/Student Discipline Code even if that conduct occurs on property not owned or controlled by the Governing Board but that is connected to activities or incidents that have occurred on property owned or controlled by the Governing Board, or conduct that, regardless of where it occurs, is directed at a Governing Board official or employee, or the property of such official or employee.

Student conduct shall be governed by the rules and provisions of the Student Code of Conduct/Student Discipline Code. This Code of Conduct/Student Discipline Code shall be reviewed periodically.

## 5511 - DRESS AND GROOMING

The Governing Board recognizes that each student's mode of dress and grooming is a manifestation of personal style and individual preference. The Governing Board shall not interfere with the right of students and their parents to make decisions regarding their appearance, except when their choices interfere with the educational program of the schools. The Governing Board authorizes the Superintendent to establish a reasonable dress code in order to promote a safe and healthy school setting and enhance the educational environment. The dress code shall be incorporated into the Student Code of Conduct or Discipline Code.

Accordingly, the Superintendent shall establish such grooming procedures as are necessary to promote discipline, maintain order, secure the safety of students, and provide a healthy environment conducive to academic purposes, and shall establish the dress requirements for members of school groups when representing the ESC at a public event.

Students who violate the foregoing rules shall be subject to disciplinary action and may be suspended from school.

## 5512 - USE OF TOBACCO

The Governing Board is committed to providing students, staff, and visitors with an indoor tobacco and smoke-free environment. The negative health effects of tobacco use for both the users and nonusers, particularly in connection with secondhand smoke, are well established. Further, providing a non-smoking and tobacco-free environment is consistent with the responsibilities of teachers and staff to be positive role models for our students.

For purposes of this policy, “use of tobacco” means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco or tobacco substitutes, including cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or any other matter or substances that contain tobacco, in addition to papers used to roll cigarettes and/or the smoking of electronic, “vapor,” or other substitute forms of cigarettes, clove cigarettes or other lighted smoking devices for burning tobacco or any other substance.

In order to protect students and staff who choose not to use tobacco from an environment noxious to them, the Governing Board prohibits the possession, consumption, purchase or attempt to purchase and/or use of tobacco or tobacco substitute products by students on Governing Board premises, in Governing Board-owned vehicles, within any indoor facility owned or leased or contracted for by the Governing Board, and/or used to provide education or library services to children, and at all Governing Board-sponsored events.

Students who violate this policy shall be subject to disciplinary action in accordance with the Student Code of Conduct/Student Discipline Code and in accordance with policies of the Governing Board.

**5513 - CARE OF SCHOOL PROPERTY**

The Governing Board believes that the schools should help students learn to respect property.

The Governing Board charges each student with responsibility for the proper care of school property and the school supplies and equipment entrusted to his/her use.

Students who cause damage to school property shall be subject to disciplinary measures, and their parents shall be financially liable for such damage to the extent of the law, except that students eighteen (18) years of age or older shall also be liable for damage they cause.

The Governing Board authorizes the imposition of fines for the loss, damage or destruction of school equipment, apparatus, musical instruments, library material, textbooks, and for damage to school buildings.

A reward may be offered by the Governing Board for the apprehension of any person who vandalizes school property.

**5514 - USE OF BICYCLES**

The Governing Board regards the use of bicycles for travel to and from school by students as an assumption of responsibility on the part of those students -- a responsibility in the care of property, in the observation of safety rules, and in the display of courtesy and consideration toward others. The Governing Board shall permit the use of bicycles by students. The Governing Board shall not be responsible for bicycles which are lost, stolen, or damaged.

**5515 - USE OF MOTOR VEHICLES**

The Governing Board regards the use of motor vehicles for travel to and from school by students as an assumption of responsibility on the part of those students -- a responsibility in the care of property, in the observation of safety rules, and in the display of courtesy and consideration toward others – and an assumption of liability on the part of those students and their parent(s).

The Superintendent shall develop rules for the operation and parking of motor vehicles by students which shall include the requirement that students are licensed drivers.

The Governing Board shall not be responsible for motor vehicles which are lost, stolen, or damaged while on school property.

**5515.01 - SAFE OPERATION OF MOTORIZED UTILITY VEHICLES BY STUDENTS**

Because of the clear and present danger of accident, the Governing Board prohibits the use of motorized utility vehicles by students on school grounds or for school activity purposes.

## 5516 - STUDENT HAZING

Hazing activities of any type are inconsistent with and disruptive to the educational process, and prohibited at any time in school facilities, on school property, and/or off school property if the misconduct is connected to or associated with Governing Board-sponsored activities (e.g., extracurricular teams, clubs, or groups) or incidents that have occurred on school property. No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of the ESC shall encourage, permit, authorize, condone, or tolerate any hazing activities. The preceding prohibition includes recklessly permitting the hazing of any person associated with the ESC. Additionally, no student shall plan, encourage, or engage in any hazing.

Hazing is defined as doing any act or coercing another, including the victim, to do any act of initiation into any class, team, or organization or any act to continue or reinstate membership in or affiliation with any class, team, or organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse. No person shall recklessly participate in the hazing of another. Permission, consent, or assumption of risk by an individual subjected to hazing shall not lessen the prohibitions contained in this policy.

Administrators, employees, faculty members, teachers, consultants, alumni, or volunteers of the ESC shall be alerted to possible situations, circumstances, or events that might include hazing. If hazing or planned hazing is discovered, the students involved shall be informed by the discoverer of the prohibitions contained in this policy and shall be ordered to end all hazing activities or planned activities immediately. All hazing incidents shall be reported immediately to the Superintendent. Additionally, no administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of the ESC who is acting in an official and professional capacity shall recklessly fail to immediately report the knowledge of hazing to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing is occurring or has occurred. Students, administrators, employees, faculty members, and teachers who fail to abide by this policy may be subject to disciplinary action and may be held personally liable for civil and criminal penalties in accordance with law. Likewise, consultants, alumni, and volunteers associated with the ESC who fail to abide by this policy may be prohibited from continuing their involvement and/or participation in activities associated with the Center and may be held personally liable for civil and criminal penalties in accordance with law.

The Superintendent shall distribute this policy to all students, Governing Board employees, consultants, and volunteers, and shall incorporate it into building, staff, and student handbooks. It shall also be posted on the ESC's website. This policy shall be the subject of discussion at employee staff meetings or in-service programs.

Governing Board employees, consultants, and volunteers shall not intentionally remain ignorant of hazing or potential hazing activities.

Hazing activities of any type are inconsistent with and disruptive to the educational process, and prohibited at any time in school facilities, on school property, and/or off school property if the

~~misconduct is connected to activities or incidents that have occurred on school property. No administrator, faculty member, or other Governing Board employee shall encourage, permit, authorize, condone, or tolerate any hazing activities. No student shall plan, encourage, or engage in any hazing.~~

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~~Hazing is defined as performing any act or coercing another, including the victim, to perform any act of initiation into any class, team, or organization that causes or creates a substantial risk of causing mental or physical harm. Permission, consent, or assumption of risk by an individual subjected to hazing shall not lessen the prohibitions contained in this policy.~~

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~~Administrators, faculty members, and other employees of the Governing Board shall be alerted to possible situations, circumstances, or events that might include hazing. If hazing or planned hazing is discovered, the students involved shall be informed by the discoverer of the prohibitions contained in this policy and shall be ordered to end all hazing activities or planned activities immediately. All hazing incidents shall be reported immediately to the Superintendent. Students, administrators, faculty members, and other employees who fail to abide by this policy may be subject to disciplinary action and may be held personally liable for civil and criminal penalties in accordance with law.~~

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~~The Superintendent shall distribute this policy to all students and Governing Board employees, and shall incorporate it into building, staff, and student handbooks. It shall also be the subject of discussion at employee staff meetings or in service programs.~~

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~~Administrators, staff members and volunteers shall not intentionally remain ignorant of hazing or potential hazing activities.~~

## 5517 - ANTI-HARASSMENT

### **General Policy Statement**

It is the policy of the Governing Board to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all ESC operations, 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. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Governing Board.

The Governing Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex, disability, age (except as authorized by law), religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment), and encourages those within the ESC community as well as Third Parties, who feel aggrieved to seek assistance to rectify such problems. The Governing Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Governing Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

### **Other Violations of the Anti-Harassment Policy**

The Governing Board will also 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, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

### **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

ESC community means students and Governing Board employees (i.e., administrators, and professional and classified staff), as well as Governing Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Governing Board.

Third Parties include, but are not limited to, guests and/or visitors on ESC property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Governing Board, and other individuals who come in contact with members of the ESC community at school-related events/activities (whether on or off ESC property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

### **Bullying**

Bullying rises to the level of unlawful harassment when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, 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 or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;

- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

**Harassment**

Harassment means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against a student or ESC employee that:

- A. places a student or ESC employee 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 an employee’s work performance; or
- C. has the effect of substantially disrupting the orderly operation of an ESC school/program/activity.

**Sexual Harassment**

For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, “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 any gender against a person of the same or another gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy 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. Unwanted physical and/or sexual contact.
- 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, activities, 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, profanity, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, videos , posters, audio recordings or literature, placed in the work or educational environment, that may reasonably embarrass or offend individuals.
- F. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- G. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- H. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship.
- I. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.

- J. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- K. 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.
- L. Inappropriate boundary invasions by an ESC employee or other adult member of the ESC community into a student's personal space and personal life.
- M. 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 shall be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

Sexual conduct/relationships with students by ESC employees or any other adult member of the ESC community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to ESC employees or other adult members of the ESC community.

#### **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 occur where conduct is 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

occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

#### **National Origin/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry 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 occur where conduct is directed at the characteristics of a person's national origin or ancestry, 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 occur where conduct is 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.

#### **Reports and Complaints of Harassing Conduct**

Students and all other members of the ESC community and third parties are encouraged to promptly report incidents of harassing conduct to a teacher, administrator, supervisor, or other ESC official so that the Governing Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other ESC employee or official who receives such a complaint shall file it with the ESC's Anti-Harassment Compliance Officer within two (2) business days.

Members of the ESC community, which includes students, or third parties who believe they have been unlawfully harassed are entitled to utilize the Governing Board's complaint process that is 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. While there are no time limits for initiating complaints of harassment 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.

If, during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Governing Board Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the Superintendent or designee believes that the reported misconduct may have created

a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Superintendent or designee shall report the act of bullying, aggressive, behavior and/or harassment to the Compliance Officer who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Superintendent or designee shall suspend any Governing Board Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Superintendent or designee informed of the status of the Governing Board Policy 5517 investigation and provide the Superintendent or designee with a copy of the resulting written report.

**Anti-Harassment Compliance Officers**

The Governing Board designates the following individual(s) to serve as "Anti-Harassment Compliance Officers" for the ESC (hereinafter referred to as the "Compliance Officer"):

Director of Special Education Services  
Ohio Valley Educational Service Center  
Marietta Office  
1338 Colegate Drive  
Marietta, Ohio 45750  
1-740-373-6669 (telephone)

Director of Administrative and Shared Services  
Ohio Valley Educational Service Center  
Cambridge Office  
128 East 8th Street  
Cambridge, OH 43725  
1-740-439-3558 (telephone)

The Compliance Officer shall be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the ESC 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, other member of the ESC community or third party in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

The Compliance Officer shall accept complaints of unlawful harassment directly from any member of the ESC community or a visitor to the ESC. Upon receipt of a complaint either directly or through an ESC employee, a Compliance Officer shall begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer shall designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer shall prepare recommendations for the Superintendent or designee or shall oversee the preparation of such recommendations by a designee. All members of the ESC community shall report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Governing Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officer within two (2) business days. Additionally, any Governing Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Governing Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee shall contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise the student/parent(s) of the Governing Board'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.

#### **Investigation and Complaint Procedure**

Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who believes that they have been subjected to unlawful harassment may seek resolution of the complaint through the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated

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

The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights.

#### **Informal Complaint Procedure**

The goal of the informal complaint procedure is promptly to stop inappropriate behavior and to facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Students who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.

The Complainant 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 complainants involving a Center employee, any other adult member of the ESC community, or a Third Party and a student will be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe in doing so, the individual should tell or otherwise inform the Respondent that the conduct is inappropriate and shall stop. The Complainant should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file 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.

A Complainant may make an informal complaint, either orally or in writing, to (1) to an ESC employee; (2) the Superintendent or designee; and/or (3) directly to the Compliance Officer.

All informal complaints shall be reported to the Compliance Officer who shall either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The ESC's informal complaint procedure is designed to provide students who believe they are being unlawfully harassed 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 Complainant, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant about how to communicate the unwelcome nature of the behavior to the Respondent.
- B. Distributing a copy of this policy as a reminder to the individuals in the school building or office where the Respondent works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution.

While there are no set time limits within which an informal complaint shall be resolved, the Compliance Officer/designee is directed to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is dissatisfied with the results of the informal complaint process, the Complainant may proceed to file a formal

complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

The Complainant may file a formal complaint, either orally or in writing, with the Compliance Officer, Superintendent or designee, or another ESC employee. Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs the Superintendent or designee or another ESC official, either orally or in writing, about any complaint of harassment, that employee shall report such information to the Compliance Officer within two (2) business days.

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

All formal complaints shall include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 shall prepare a written summary of the oral interview, and the Complainant shall be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer shall 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 Respondent. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions the Compliance Officer deemed appropriate in consultation with the Superintendent or designee.

Within two (2) business days of receiving the complaint, the Compliance Officer/designee shall initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation.

Simultaneously, the Compliance Officer shall inform the Respondent that a formal complaint has been received. The Respondent shall be informed about the nature of the allegations and provided with a copy of any relevant policies, including the Governing Board's Anti-Harassment policy. The Respondent shall 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, the Compliance Officer/designee shall attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation shall include:

- A. interviews with the Complainant;
- B. interviews 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 witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or 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 Governing Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations shall 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 shall be used. The Compliance Officer may consult with the Governing Board's legal counsel before finalizing the report to the Superintendent or designee.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent shall either issue a final decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent or designee's final decision shall be delivered to both the Complainant and the Respondent.

If the Superintendent or designee requests additional investigation, the Superintendent or designee shall specify the additional information that is to be gathered and such additional investigation shall be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent or designee shall issue a written decision as described above.

The decision of the Superintendent or designee shall be final.

The Governing Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the student alleging the unlawful harassment/retaliation pursues the complaint. The Governing 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 Governing Board or its designee.

The parties may be represented, at their 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, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

#### **Privacy/Confidentiality**

The ESC shall employ all reasonable efforts to protect the rights of the Complainant, the Respondent, and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related policies shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided with the Complainant's identity.

During the course of a formal investigation, the Compliance Officer/designee shall instruct all members of the ESC 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 is learned or provided during the course of the investigation.

#### **Sanctions and Monitoring**

The Governing Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. 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 shall be taken in accordance with applicable State law. 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 Governing Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Governing Board policies.

Where the Governing Board becomes aware that a prior remedial action has been taken against a member of the ESC community, all subsequent sanctions imposed by the Governing Board and/or

Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

**Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

**Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any school teacher or ESC employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children’s services agency. If, during the course of a harassment investigation, the Compliance Officer or designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge shall be made in accordance with State law and Governing Board Policy.

State law defines certain contact between a teacher and a student as “sexual battery.” If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio’s Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children’s services agency or to local law enforcement shall not terminate the Compliance Officer or designee’s obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or 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 without good cause after consultation with the Superintendent or designee.

**Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension**

The Superintendent shall report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and shall suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

**Education and Training**

In support of this Anti-Harassment Policy, the Governing Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the ESC community related to the implementation of this policy and shall provide training for ESC students and staff where appropriate. All training, as well as all information, provided regarding the Governing Board's policy and harassment in general, shall be age and content appropriate.

**Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media created and/or received as part of an investigation, which may include, but is not limited to:

- A. all written reports/allegations/complaints/grievances/ statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by ESC personnel or individuals contracted or appointed by the Governing Board to fulfill its responsibilities related to the investigation and/or the ESC's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;

- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Governing Board policy used by the ESC to conduct the investigation, and any documents used by the ESC at the time of the alleged violation to communicate the Governing Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- N. documentation of any training provided to ESC personnel related to this policy including, but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all ESC personnel involved in enforcing this policy including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;
- O. documentation that any rights or opportunities that the ESC made available to one party during the investigation were made available to the other party on equal terms;

- P. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- Q. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing; and
- R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings including the investigation report and any written responses submitted by the Complainant or the Respondent.

The documents, ESI, and electronic media retained may include public records and records exempt from disclosure under applicable state and federal laws. The documents, ESI, and electronic media created or received as part of an investigation shall be retained in accordance with applicable state and federal laws for not less than three (3) years but longer if required by the ESC's records retention schedule.

## 5517.01 - BULLYING AND OTHER FORMS OF AGGRESSIVE BEHAVIOR

The Governing Board is committed to providing a safe, positive, productive, and nurturing educational environment for all of its students. The Governing Board encourages the promotion of positive interpersonal relations between members of the school community.

Harassment, intimidation, or bullying toward a student, whether by other students, staff, or third parties is strictly prohibited and shall not be tolerated. This prohibition includes aggressive behavior, physical, verbal, and psychological abuse, sexual violence, stalking, and violence within a dating relationship. The Governing Board shall not tolerate any gestures, comments, threats, or actions which cause or threaten to cause bodily harm or personal degradation. This policy applies to all activities in the ESC, including activities on school property, on a school bus, or while en route to or from school, and those occurring off school property if the student or employee is at any school-sponsored, school-approved or school-related activity or function, such as field trips or athletic events where students are under the school's control, in a school vehicle, or where an employee is engaged in school business.

This policy has been developed in consultation with parents, ESC employees, volunteers, students, and community members as prescribed in R.C. 3313.666 and the State Governing Board's Model Policy (as adopted per HB 276 and HB 19).

Harassment, intimidation, or bullying means:

- C. any intentional written, verbal, electronic, or physical act that a student or group of students exhibits toward another particular student(s) more than once and the behavior both causes mental or physical harm to the other student(s) and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s); or
- D. sexual violence, stalking, and violence within a dating relationship.

"Electronic act" means an act committed through the use of a cellular telephone, computer, pager, personal communication device, or other electronic communication device.

Aggressive behavior is defined as inappropriate conduct that is repeated enough, or serious enough, to negatively impact a student's educational, physical, or emotional well-being. This type of behavior is a form of intimidation and harassment, although it need not be based on any of the legally protected characteristics, such as sex, race, color, national origin, marital status, or disability. It would include, but not be limited to, such behaviors as stalking, bullying/cyberbullying, intimidating, menacing, coercion, name calling, taunting, making threats, and hazing. This policy's use of the terms intimidation, harassment and bullying includes aggressive behavior, as set forth above.

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees

and that bullying is based upon one (1) or more Protected Classes, 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 or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- L. teasing;
- M. threats;
- N. intimidation;
- O. stalking;
- P. cyberstalking;
- Q. cyberbullying;
- R. physical violence;
- S. theft;
- T. sexual, religious, or racial harassment;
- U. public humiliation; or
- V. destruction of property.

Harassment, intimidation, or bullying also means cyberbullying or electronically transmitted acts (i.e., internet, e-mail, cellular telephone, personal digital assistance (PDA), or wireless hand-held device) that a student(s) or a group of students exhibits toward another particular student(s) more than once and the behavior both causes mental or physical harm to the other student and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s).

Any student or student's parent/guardian who believes s/he has been or is the victim of harassment, intimidation, bullying or aggressive behavior should immediately report the situation to the building principal or assistant principal, or the Superintendent. The student may also report concerns to teachers and other school staff who shall be responsible for notifying the appropriate administrator or Governing Board official. Complaints against the building principal should be filed with the Superintendent. Complaints against the Superintendent should be filed with the Governing Board President.

Every student is encouraged, and every staff member is required, to report any situation that they believe to be harassment, intimidation, bullying or aggressive behavior directed toward a student. Reports may be made to those identified above.

All complaints about harassment, intimidation, bullying or aggressive behavior that may violate this policy shall be promptly investigated. The building principal or appropriate administrator shall prepare a written report of the investigation upon completion. Such report shall include findings of fact, a determination of whether acts of harassment, intimidation, or bullying were verified, and, when prohibited acts are verified, a recommendation for intervention, including disciplinary action shall be included in the report. Where appropriate, written witness statements shall be attached to the report.

If the investigation finds an instance of harassment, intimidation, bullying/cyberbullying by an electronic act or otherwise, has occurred, it shall result in prompt and appropriate remedial and/or disciplinary action. This may include suspension or cyberbullying) or up to expulsion for students, up to discharge for employees, exclusion for parents, guests, volunteers, and contractors, and removal from any official position and/or a request to resign for Governing Board members. Individuals may also be referred to law enforcement officials.

If, during an investigation of a reported act of harassment, intimidation and/or bullying/cyberbullying, the Principal or appropriate administrator believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying and/or harassment to one of the Anti-Harassment Compliance Officer so that it may be investigated in accordance with the procedures set forth in Governing Board Policy 5517 - Anti-Harassment.

Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of harassment, intimidation, or bullying is prohibited and shall not be tolerated. Such retaliation shall be considered a serious violation of Governing Board policy and independent of whether a complaint is substantiated. Suspected retaliation should be reported in the same manner as harassment, intimidation, or bullying. Deliberately or making intentionally false reports about harassment, intimidation, or bullying for the purpose of getting someone in trouble is similarly prohibited and shall not be tolerated. Retaliation and deliberate or intentionally false reports may result in disciplinary action as indicated above.

If a student or other individual believes there has been harassment, intimidation, or bullying, regardless of whether it fits a particular definition, s/he should report it and allow the administration to determine the appropriate course of action.

This policy shall not be interpreted to infringe upon the First Amendment rights of students (i.e., to prohibit a reasoned and civil exchange of opinions, or debate, that is conducted at appropriate times and places during the school day and is protected by State or Federal law).

The complainant shall be notified of the findings of the investigation, and as appropriate, that remedial action has been taken. If after investigation, acts of harassment, intimidation, or bullying against a specific student are verified, the building principal or appropriate administrator shall notify the custodial parent/guardian of the victim of such finding. In providing such notification care shall be taken to respect the statutory privacy rights of the perpetrator of such harassment, intimidation, or bullying.

If after investigation, act(s) of harassment, intimidation, or bullying or cyberbullying by an electronic act or otherwise, by a specific student are verified, the building principal or appropriate administrator shall notify in writing the custodial parent/guardian of the perpetrator of that finding. If disciplinary consequences are imposed against such student, a description of such discipline shall be included in the notification. Discipline, including discipline for cyberbullying, may include suspension or up to expulsion for students.

The ESC shall protect victims from additional harassment, intimidation, bullying, or cyberbullying and shall also protect other students or individuals involved in making a good faith report of harassment, intimidation or bullying (including cyberbullying). Additionally, the ESC shall implement any other necessary intervention strategies to protect a victim or other person from new or additional harassment, intimidation, or bullying and from retaliation following such a report.

### **Complaints**

Students and/or their parents/guardians may file reports regarding suspected harassment, intimidation, or bullying. Such reports shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, or bullying, and the names of any potential student or staff witnesses. Such reports may be filed with any school staff member or administrator, and they shall be promptly forwarded to the building principal for review, investigation, and action.

Students, parents/guardians, and school personnel may make informal complaints or anonymous complaints of conduct that they consider to be harassment, intimidation, or bullying by verbal report to a teacher, school administrator, or other school personnel. Such informal complaints shall be reasonably specific including person(s) involved, number of times and places of the alleged conduct, the target of suspected harassment, intimidation, or bullying, and the names of any potential student or staff witnesses. A school staff member or administrator who receives an informal complaint or anonymous complaint shall promptly document the complaint in writing, including the information provided. This written report shall be promptly forwarded by the school staff member and/or administrator to the building principal for review, investigation, and appropriate action.

Individuals who make informal complaints as provided above may request that their name be maintained in confidence by the school staff member(s) and administrator(s) who receive the complaint. Anonymous complaints shall be reviewed and reasonable action shall be taken to address the situation, to the extent such action may be taken that (1) does not disclose the source

of the complaint, and (2) is consistent with the due process rights of the student(s) alleged to have committed acts of harassment, intimidation, and/or bullying.

When an individual making an informal complaint has requested anonymity, the investigation of such complaint shall be limited as is appropriate in view of the anonymity of the complaint. Such limitation of investigation may include restricting action to a simple review of the complaint subject to receipt of further information and/or the withdrawal by the complaining student of the condition that his/her report be anonymous.

#### **Privacy/Confidentiality**

The ESC shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Governing Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under this policy shall be maintained as confidential to the extent permitted by law.

#### **Reporting Requirement**

At least semi-annually, the Superintendent shall provide to the President of the Governing Board a written summary of all reported incidents and post the summary on the ESC web site, (if one exists). The list shall be limited to the number of verified acts of harassment, intimidation, and/or bullying, whether in the classroom, on school property, to and from school, or at school-sponsored events.

Allegations of criminal misconduct and suspected child abuse shall be reported to the appropriate law enforcement agency and/or to Child Protective Services in accordance with statute. ESC personnel shall cooperate with investigations by such agencies.

#### **Immunity**

An ESC employee, student, or volunteer shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with this policy and R.C. 3313.666 if that person reports an incident of harassment, intimidation, or bullying promptly, in good faith, and in compliance with the procedures specified in this policy. Such immunity from liability shall not apply to an employee, student, or volunteer determined to have made an intentionally false report about harassment, intimidation, or bullying.

#### **Notification**

Notice of this policy shall be **annually** circulated to and posted in conspicuous locations in all school buildings and departments within the ESC and discussed with students, as well as incorporated into the teacher, student, and parent/guardian handbooks.

At least once each school year a written statement describing the policy and consequences for violations of the policy shall be sent to each student's custodial parent or guardian.

The statement may be sent with regular student report cards or may be delivered electronically.

The policy and an explanation of the seriousness of bullying by electronic means shall be made available to students in the ESC and to their custodial parents or guardians.

State and Federal rights posters on discrimination and harassment shall also be posted at each building. All new hires shall be required to review and sign off on this policy and the related complaint procedure.

Employee training materials shall also include information on this policy.

### **Education and Training**

In support of this policy, the Governing Board promotes preventative educational measures to create greater awareness of aggressive behavior, including bullying and violence within a dating relationship. The Superintendent or designee shall provide appropriate training to all members of the ESC community related to the implementation of this policy. All training regarding the Governing Board's policy and aggressive behavior and bullying in general shall be age and content appropriate.

Annually, the ESC shall provide all students enrolled in the ESC with age-appropriate instruction regarding the Governing Board's policy, including a written or verbal discussion of the consequences for violations of the policy, to the extent that State or Federal funds are appropriated for this purpose.

Students in grades seven (7) through twelve (12) shall receive age-appropriate instruction in dating violence prevention education, including instruction in recognizing dating violence warning signs and characteristics of healthy relationships. Parents, who submit a written request to the building principal to examine the dating violence prevention instruction materials used in the school, shall be afforded an opportunity to review the materials within a reasonable period of time.

To the extent that State or Federal funds are appropriated for these purposes, the ESC shall provide training, workshops, and/or courses on this policy for ESC employees and volunteers who have direct contact with students.

In accordance with Governing Board Policy 8462, the Superintendent shall include a review of this policy on bullying and other forms of harassment in the required training. Additionally, the ESC shall provide training on their anti-bullying policies as a part of the in-service training for all teachers, administrators, counselors, nurses, and school psychologists. These designated employees shall receive in-service training in (1) the prevention of child abuse, violence, and substance abuse, (2) school safety, (3) the promotion of positive youth development, and (4) in the case of middle school and high school employees, the prevention of dating violence. Employees

shall complete at least four (4) hours of the in-service training within two (2) years after commencing employment and every five (5) years thereafter.

The complaint procedure established by the Superintendent shall be followed and shall include reporting and investigative procedures, as needed.

**5520 - DISORDER AND DEMONSTRATION**

The Governing Board recognizes the right of each student to attend school for the purpose of receiving an education. The disruption of the educational program of the schools by disorder or any other purposeful activity shall not be countenanced.

The Governing Board, having the responsibility for providing an educational program for the students of this ESC, shall have the authority to preserve order for the proper functioning of that program.

Students shall not be disturbed in the exercise of their constitutionally guaranteed rights to assemble peaceably and to express ideas and opinions, privately or publicly, provided that such exercise does not infringe on the rights of others and does not interfere with the operation of the schools.

## 5530 - DRUG PREVENTION

The Governing Board recognizes that the misuse of drugs is a serious problem with legal, physical, and social implications for the whole school community.

For purposes of this policy, “drugs” shall mean:

- A. all dangerous controlled substances as so designated and prohibited by Ohio statute;
- B. all chemicals which release toxic vapors;
- C. all alcoholic beverages;
- D. any prescription or patent drug, except those for which permission to use in school has been granted pursuant to Governing Board policy;
- E. anabolic steroids;
- F. any substance that is a “look-alike” to any of the above; and
- G. tobacco products.

The Governing Board prohibits the use, possession, concealment, or distribution of any drug or any drug-related paraphernalia as the term is defined by law, or the misuse of a product containing a substance that can provide an intoxicating or mood-altering effect on school grounds, on school vehicles, and at any school-sponsored event.

It further establishes a drug-free zone within 1000 feet of any facility used by the ESC for educational purposes.

## 5540 - INTERROGATION OF STUDENTS

The Governing Board is committed to protecting students from harm that may or may not be directly associated with the school environment but also recognizes its responsibility to cooperate with law enforcement and public children's services agencies.

When law enforcement or other authorities arrive at the school and wish to interview a student or investigate an alleged violation of law, they shall contact the building administrator indicating the nature of their investigation and their desire to question a student or students.

### **Investigation of Child Abuse/Neglect by a Public Children's Services Agency or Law Enforcement Agency**

Every Governing Board official and employee who, in connection with his/her position, knows or suspects child abuse or neglect shall immediately report that knowledge or suspicion to a public children's services or law enforcement agency in accordance with Governing Board Policy 8462.

At the request of the building administrator, an official of a public children's services agency or law enforcement agency may interview a student on school property during school hours in order to investigate a claim of child abuse/neglect involving such student or a member of the student's family. If neither the student nor a member of his/her family is the subject of the child abuse/neglect investigation, such agency should contact the student during non-school hours and investigate the matter off school property, if at all possible, unless the alleged child abuse took place on school property and/or involves an emergency situation.

If the student (or a member of his/her family) is the subject of a child abuse/neglect investigation, or the student is being interviewed regarding alleged child abuse that took place on school property or involves an emergency, the building administrator shall attempt to contact the parent prior to questioning, and s/he shall remain in the room during questioning unless compelling reasons for exclusion are provided by the agency.

If an agency investigating child abuse/neglect indicates that the parent is believed to be the perpetrator, the building administrator shall not contact either parent prior to the interview. The building administrator shall remain in the room during questioning unless compelling reasons for exclusion are provided by the agency.

### **Investigations of Violations of Law by Law Enforcement Agencies**

Such agencies should contact a student during non-school hours and investigate alleged violations of the law off school property if at all possible. An investigation can take place immediately on school property during school hours at the request of the building administrator if the alleged violation of law took place on school property or in emergency situations.

Before the student(s) is (are) questioned as a witness to or suspect in an alleged violation of law, the building administrator shall attempt to contact the parent prior to questioning and shall remain

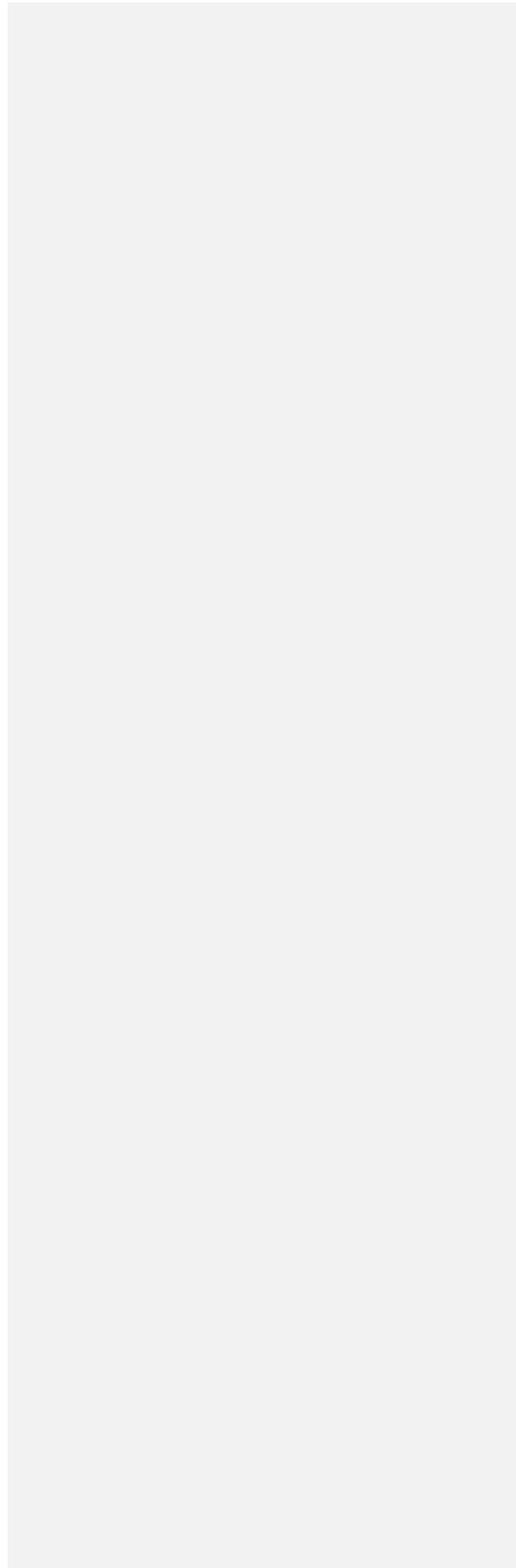
in the room during the questioning unless compelling reasons for exclusion are provided by the agency.

**Notification and Release of Records**

Attempts to notify the parents regarding investigations of child abuse/neglect and other law enforcement investigations should be documented diligently.

When an authorized law enforcement officer or public children’s services agency removes a student, the building administrator shall notify the parent and the Superintendent.

No school official may release personally identifiable student information in education records to the police or public children’s services agency without prior written permission of the parent, a lawfully-issued subpoena, or a court order. (See Governing Board Policy 8330).



## 5600 - STUDENT DISCIPLINE

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

The Governing Board acknowledges that conduct is closely related to learning - an effective instructional program requires an orderly school environment and the effectiveness of the educational program is, in part, reflected in the behavior of students.

The Governing Board believes that the best discipline is self-imposed and that students should learn to assume responsibility for their own behavior and the consequences of their actions. The Governing Board has zero tolerance of violent, disruptive or inappropriate behavior by its students.

The Governing Board shall require each student of this ESC to adhere to the Student Code of Conduct/Student Discipline Code adopted by the Governing Board and to submit to such disciplinary measures as are appropriately assigned for infraction of those rules. Such rules shall require that students:

- A. conform to reasonable standards of socially-acceptable behavior;
- B. respect the person and property of others;
- C. preserve the degree of order necessary to the educational program in which they are engaged;
- D. respect the rights of others;
- E. obey constituted authority and respond to those who hold that authority.

The Student Code of Conduct/Student Discipline Code designates sanctions for the infractions of rules, excluding corporal punishment, which shall:

- A. relate in kind and degree to the infraction;
- B. help the student learn to take responsibility for his/her actions;
- C. be directed, where possible, to reduce the effects of any harm which may have been caused by the student's misconduct.

Students may be prohibited by authorized school personnel from participating in all or part of co-curricular and/or extra-curricular activities without further notice, hearing or appeal rights. A student who has been disorderly on a school bus may be suspended from transportation services

consistent with Governing Board policy and the Student Code of Conduct/Student Discipline Code.

The Superintendent shall publish to all students and their parents the rules of this ESC regarding student conduct and the sanctions which may be imposed for breach of those rules.

The Superintendent shall inform the Governing Board periodically of the methods of discipline imposed by this ESC and the incidence of student misconduct in such degree of specificity as shall be required by the Governing Board.

The Superintendent, principals, and other administrators shall have the authority to assign discipline to students, subject to the Student Code of Conduct/Student Discipline Code and, where required by law, to the student's due process right to notice, hearing, and appeal.

Teachers, school bus drivers, and other employees of this Governing Board having authority over students may take such action as may be necessary to control the disorderly conduct of students in all situations and in all places where such students are within the jurisdiction of this Governing Board and when such conduct interferes with the educational program of the schools or threatens the health and safety of others.

Discipline on Governing Board vehicles shall be the responsibility of the driver on regular bus runs. When Governing Board vehicles are used for field trips and other Governing Board activities, the teacher, coach, advisor, or other Governing Board employee shall be responsible for student discipline. If a student becomes a serious discipline problem on a vehicle, the Superintendent and/or his/her designee may suspend the transportation privileges of the student providing such suspension conforms with due process. The procedures for suspension are set forth in the Student Code of Conduct/Student Discipline Code and Governing Board Policy 5611 – Due Process Rights.

No student in grades K-8 is to be detained after the close of the regular school day unless the student's parent has been contacted and informed that the student shall be detained. If a parent cannot be contacted, the student should be detained on another day.

**5605 - SUSPENSION/EXPULSION OF STUDENTS WITH DISABILITIES**

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

In addition to following the requirements and procedures set forth for all students in Governing Board Policy 5610, the Governing Board shall also abide by applicable laws and regulations when disciplining students with disabilities through removal by suspension and/or expulsion.

## 5610 - REMOVAL, SUSPENSION, EXPULSION, AND PERMANENT EXCLUSION OF STUDENTS

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

The Governing Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, out-of-school suspension, expulsion, or permanent exclusion, is the most severe sanction that can be imposed on a student in this ESC, and one that cannot be imposed without due process. However, the Governing Board has zero tolerance of violent, disruptive, or inappropriate behavior by its students.

No student is to be removed, suspended out-of-school, expelled and/or permanently excluded unless his/her behavior represents misconduct as specified in the Student Code of Conduct/Student Discipline Code approved by the Governing Board. The Code shall also specify the procedures to be followed by school officials when implementing such discipline. In determining whether a student is to be suspended or expelled, District Administrators shall use a preponderance of evidence standard. In addition to the procedural safeguards and definitions set forth in this policy and the student/parent handbook, additional procedures and considerations shall apply to students identified as disabled under the IDEA, ADA, and/or Section 504 of the Rehabilitation Act of 1973. (See Governing Board Policy 2465, "Suspension/Expulsion of Disabled Students.")

Students may be subject to discipline for violation of the Student Code of Conduct/Student Discipline Code even if that conduct occurs on property not owned or controlled by the Governing Board but where such conduct is connected to activities or incidents that have occurred on property owned or controlled by the Governing Board, or conduct that, regardless of where it occurs, is directed at an ESC official or employee, or the property of such official or employee.

For purposes of this policy and the Student Code of Conduct/Student Discipline Code, the following shall apply:

- A. "Emergency removal" shall be the exclusion of a student who poses a continuing danger to ESC property or persons in the ESC or whose behavior presents an ongoing threat of disrupting the educational process provided by the ESC. (See Governing Board Policy 5610.03 "Emergency Removal")
- B. "Suspension" shall be the temporary exclusion of a student by the Superintendent, principal, assistant principal, or any other administrator from the ESC's instructional program for a period not to exceed ten (10) business days. Suspension may extend beyond the current school year, if at the time a suspension is imposed, fewer than ten (10) days remain in the school year. The Superintendent may apply any or all of the period of suspension to the following year. The procedures for

suspension are set forth in the Student Code of Conduct/Student Discipline Code and Governing Board Policy 5611 “Due Process Rights.”

A student who is suspended shall be permitted to complete any classroom assignments missed because of the suspension and receive at least partial credit for a completed assignment. Grade reductions on account of the student’s suspension are permitted; however, no student may receive a failing grade on a completed assignment solely on account of his/her suspension.

- C. “Expulsion” shall be the exclusion of a student from the schools of this ESC for a period not to exceed the greater of eighty (80) school days or the number of school days remaining in a semester or term in which the incident that gives rise to the expulsion takes place or for one (1) year as specifically provided in this policy and the Student Code of Conduct/Student Discipline Code. Only the Superintendent may expel a student. The procedures for expulsion are set forth in the Student Code of Conduct/Student Discipline Code and Governing Board Policy 5611 “Due Process Rights.” When deciding whether or not a student will be expelled or permanently excluded under this policy, the Superintendent shall retain all documents, electronically stored information (“ESI”), and electronic media (as defined in Policy 8315 - Information Management (i.e., “Litigation Hold”)) created and/or received as part of an investigation.

1. **Firearm or Knife**

Unless a student is permanently excluded from school, the Superintendent shall expel a student from school for a period of one (1) year for bringing a firearm or knife capable of causing serious bodily injury to a school building or on to any other property (including a school vehicle) owned, controlled, or operated by the Governing Board, to an interscholastic competition, an extra-curricular event, or to any other school program or activity that is not located in a school or on property that is owned or controlled by the Governing Board, except that the Superintendent may reduce this period on a case-by-case basis in accordance with this policy. Similarly, the Superintendent shall expel a student from school for a period of one (1) year for possessing a firearm or knife capable of causing serious bodily injury at school or on any other property (including a school vehicle) owned, controlled, or operated by the Governing Board, at interscholastic competition, an extracurricular event, or at any other school program or activity that is not located in a school or on property that is owned or controlled by the Governing Board, except the Superintendent may reduce this period on a case-by- case basis in accordance with this policy. The expulsion may extend, as necessary, into the school year following the school year in which the incident that gives rise to the expulsion takes place. The Superintendent shall refer any student expelled for bringing a firearm

(as defined in 18 U.S.C. 921 (a)(3) or weapon to school to the criminal justice or juvenile delinquency system serving the ESC.

A firearm is defined as any weapon, including a starter gun, which shall or is designated to or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such weapons, any firearm muffler or silencer, or any destructive device. A destructive device includes, but is not limited to any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four (4) ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device.

A knife capable of causing serious bodily injury is defined as any weapon or cutting instrument consisting of a blade fastened to a handle; a razor blade; or any similar device (including sharp, metal martial arts weapons such as ninja throwing stars) that is used for, or is readily capable of, causing death or serious bodily injury.

The Superintendent may, in his/her sole judgment and discretion, modify or reduce such expulsion in writing, to a period of less than one (1) year, on a case-by-case basis, upon consideration of the following:

- a. Applicable State or Federal laws and regulations relating to students with disabilities (for example, where the incident involves a student with a disability and the misconduct is determined by a group of persons knowledgeable about the child to be a manifestation of the student's disability);
- b. The degree of culpability given the age of the student and its relevance to the misconduct and/or punishment and/or evidence regarding the probable danger posed to the health and safety of others, including evidence of student's intent and awareness regarding possession of the firearm or knife capable of causing serious bodily injury; and/or
- c. The academic and disciplinary history of the student, including the student's response to the imposition of any prior discipline imposed for behavioral problems; and/or

2. **Violent Conduct**

If a student commits an act at school, on other school property, at an interscholastic competition, extra-curricular event, or any other school program or activity and the act:

- a. would be a criminal offense if committed by an adult; and
- b. results in serious physical harm to person(s) as defined in R.C. 2901.01(A)(5), or to property as defined in R.C. 2901.01(A)(6)

the Superintendent may expel the student for a period of up to one (1) year. The Superintendent may extend the expulsion into the next school year or reduce the expulsion as necessary on a case-by- case basis as specified below. The student need not be prosecuted or convicted of a criminal act to be expelled under this provision.

The Superintendent may, in his/her sole judgment and discretion, reduce such expulsion to a period of less than one (1) year, on a case-by-case basis, upon consideration of the following:

- a. applicable State or Federal laws and regulations relating to students with disabilities (for example, where the incident involves a student with a disability and the misconduct is determined by a group of persons knowledgeable about the child to be a manifestation of the student's disability); and/or
- b. other extenuating circumstance, including, but not limited to, the academic and disciplinary history of the student, including the student's response to the imposition of any prior discipline imposed for behavioral problems.

## 2. **Bomb Threats**

If a student makes a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat, the Superintendent may expel the student for a period of up to one (1) year. The Superintendent may extend the expulsion into the next school year or reduce the expulsion as necessary on a case-by-case basis as specified below. The student need not be prosecuted or convicted or any criminal act to be expelled under this provision.

The Superintendent may, in his/her sole judgment and discretion, reduce such expulsion to a period of less than one (1) year, on a case-by-case basis, for the following reasons:

- a. for students identified as disabled under the IDEA, ADA, and Section 504 of the Rehabilitation Act of 1973, upon recommendation from the group of persons knowledgeable of the student's education needs; and/or

- b. other extenuating circumstances, including, but not limited to, the academic and disciplinary history of the student, including the student's response to the imposition of any prior discipline imposed for behavioral problems.

If at the time of the suspension or expulsion, there are fewer days remaining in the school year than the number of days of the suspension or expulsion, the Superintendent may apply any or all of the remaining period to the following school year.

- c. "Permanent exclusion" shall mean the student is banned forever from attending a public school in the State of Ohio. (See Governing Board Policy 5610.01)

If a student is expelled for more than twenty (20) school days or for any period of time that extends into the next school year, the Superintendent shall provide the student and his/her parents with the names, addresses, and telephone numbers of those public or private agencies in the community which offer programs or services that help to rectify the student's behaviors and attitudes that contributed to the incident(s) that caused the expulsion.

### **Suspension or Expulsion of Students in Grades Pre-Kindergarten through 3**

Beginning with the 2019-2020 school year, except as permitted by law, suspension or expulsion proceedings shall not be initiated against a student in any of grades Pre-kindergarten through 3 unless the student has committed the following acts:

- A. The student brings a firearm or knife capable of causing serious bodily injury to a school building or on to any other property (including a school vehicle) owned, controlled, or operated by the Governing Board, to an interscholastic competition, an extra-curricular event, or to any other school program or activity that is not located in a school or on property that is owned or controlled by the Governing Board, or possesses a firearm or knife capable of causing serious bodily injury at school or on any other property (including a school vehicle) owned, controlled, or operated by the Governing Board, at an interscholastic competition, an extra-curricular event, or at any other school program or activity that is not located in a school or on property that is owned or controlled by the Governing Board.
- B. The student commits an act at school, on other school property, at an interscholastic competition, extra-curricular event, or any other school program or activity and the act: 1) would be a criminal offense if committed by an adult; and 2) results in serious physical harm to person(s) as defined in R.C. 2901.01(A)(5), or to property as defined in R.C. 2901.01(A)(6).
- C. The student makes a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat.

- D. The student engages in behavior of such a nature that suspension or expulsion is necessary to protect the immediate health and safety of the student, the student's fellow classmates, the classroom staff and teachers, or other school employees.

Prior to suspending or expelling a student in any of grades Pre-K through 3, the Superintendent and/or designee shall, whenever possible, consult with a mental health professional under contract. If the events leading up to the student's suspension or expulsion from school indicate that the student is in need of additional mental health services, the Superintendent and/or designee or the ESC's mental health professional shall assist the student's parent or guardian with locating providers or obtaining such services, including referral to an independent mental health professional, provided such assistance does not result in a financial burden to the ESC or the student's school.

If a student in any of grades Pre-K through 3 is suspended or expelled, the student shall be afforded the same notice and hearing, procedural, and educational opportunities as set forth in Governing Board policy and the law. The suspension or expulsion of a student in any of grades Pre-K through 3 shall not limit the Governing Board's responsibilities with respect to the provision of special education and related services to such student in accordance with Governing Board policy and the law. Further, the Governing Board shall not be limited in its authority to issue an in-school suspension to a student in any of grades Pre-K through 3, provided that the in-school suspension is served in a supervised learning environment.

If the Superintendent determines that a student's behavior on a school vehicle violates school rules, s/he may suspend the student from school bus-riding privileges for the length of time deemed appropriate for the violation and remediation of the behavior. Any such suspension shall comply with due process and the Student Code of Conduct/Student Discipline Code.

Unless otherwise specified above, the Governing Board authorizes the Superintendent to hold a suspension or expulsion in abeyance, and/or to reduce a suspension or expulsion in whole or in part, pending the student's meeting of specified criteria, which may include but not be limited to alternative educational options.

The Superintendent shall initiate expulsion proceedings against a student who has committed an act that warrants expulsion under Governing Board policy even if the student withdraws from school prior to the hearing or decision to impose the expulsion. The expulsion shall be imposed for the same duration it would have been had the student remained enrolled.

The Governing Board may temporarily deny admittance to any student who has been expelled from the schools of another Ohio ESC or an out- of-state ESC, if the student's expulsion period set by the other ESC has not expired. The expelled student shall first be offered an opportunity for a hearing. This provision also applies to a student who is the subject of a power of attorney designating the child's grandparent as the attorney-in-fact or caretaker authorization affidavit executed by the child's grandparent and is seeking admittance into the schools of this ESC in accordance with Governing Board Policy 5111.

The Governing Board may temporarily deny admittance to any student who has been suspended from the schools of another Ohio ESC, if the student's suspension period set by the other ESC has not expired. The suspended student shall first be offered an opportunity for a hearing before the Governing Board.

When a student is expelled from this ESC, the Superintendent shall send written notice to any college in which the expelled student is enrolled under Postsecondary Enrollment Options at the time the expulsion is imposed. The written notice shall indicate the date the expulsion is scheduled to expire and that the Governing Board has adopted a provision in Governing Board Policy 2271 under R.C. 3313.613 to deny high school credit for postsecondary courses taken during an expulsion.

If the expulsion is extended, the Superintendent shall notify the college of the extension.

The Superintendent may require a student to perform community service in conjunction with or in place of a suspension or expulsion. The Governing Board may adopt guidelines to permit the Superintendent to impose a community service requirement beyond the end of the school year in lieu of applying the expulsion into the following year.

A copy of this policy is to be posted in a central location in each school and made available to students and parents upon request. Key provisions of the policy should also be included in the parent-student handbook.

5610.02 - IN-SCHOOL DISCIPLINE

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

It is the purpose of this policy to allow for an alternative to out-of-school suspension. The availability of in-school discipline options is dependent upon the financial ability of the Governing Board to support them.

In-school discipline shall only be offered at the discretion of the principal/designee for offenses found in the Student Code of Conduct/Student Discipline Code.

### 5610.03 - EMERGENCY REMOVAL OF STUDENTS

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

If a student's presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process taking place either in a classroom or elsewhere on ESC premises, then the Superintendent, principal, assistant principal, or program manager may remove the student from curricular activities or from the ESC premises. A teacher may remove the student from curricular activities under the teacher's supervision, but not from the premises. If a teacher makes an emergency removal, the teacher shall notify a building administrator of the circumstances surrounding the removal in writing, as soon as practicable. Because such removal is not subject to the normal suspension and expulsion procedures, no prior notice or hearing is required for any removal under this policy.

A due process hearing shall be held on the next school day after the removal is ordered. Written notice of the hearing and the reason for the removal and any intended disciplinary action shall be given to the student as soon as practical prior to the hearing. If the student is subject to out-of-school suspension, the student shall have the opportunity to appear at an informal hearing before the principal, assistant principal, Superintendent, or designee and has the right to challenge the reasons for the intended suspension or otherwise explain his/her actions. Within one (1) school day of the decision to suspend, written notification shall be given to the parent(s)/guardian(s) or custodian of the student. This notice shall include the reasons for the suspension, the right of the student or parent(s)/guardian(s) to appeal to the Governing Board or its designee and the student's right to be represented in all appeal proceedings. If it is probable that the student may be subject to expulsion, the hearing shall take place on the next school day after the date of the initial removal and shall be held in accordance with the procedures outlined in the Governing Board Policy 5611 – Due Process Rights. The person who ordered or requested the removal shall be present at the hearing.

A student in any of grades pre-kindergarten through 3 may be removed only for the remainder of the school day and shall be permitted to return to any curricular and extra-curricular activities on the next school day (following the day in which the student was removed or excluded). When a student in any of grades pre-kindergarten through 3 is removed and returned to his/her curricular and extra-curricular activities the next school day, the Superintendent or designee is not required to hold a hearing (or provide written notice of same).

The Superintendent or designee shall not initiate suspension or expulsion proceedings against a student in any grades pre-kindergarten through 3 who was removed unless the student has committed one (1) of the following acts:

- A. The student brings a firearm or knife capable of causing serious bodily injury to an ESC building or on to any other property (including an ESC vehicle) owned,

controlled, or operated by the Governing Board, to an interscholastic competition, an extra-curricular event, or to any other ESC program or activity that is not located in on ESC property that is owned or controlled by the Governing Board. Similarly, the Superintendent or designee can initiate suspension or expulsion proceedings if the student possesses a firearm or knife capable of causing serious bodily injury on any ESC property (including an ESC vehicle) owned, controlled, or operated by the Governing Board, at interscholastic competition, an extra-curricular event, or at any other ESC program or activity that is not located on ESC property that is owned or controlled by the Governing Board.

- B. The student commits an act at the ESC, on other ESC property, at an interscholastic competition, extra-curricular event, or any other ESC program or activity and the act: (1) would be a criminal offense if committed by an adult; and (2) results in serious physical harm to person(s) as defined in R.C. 2901.01(A)(5), or to property as defined in R.C. 2901.01(A)(6).
- C. The student makes a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat.
- D. The student engages in behavior of such a nature that suspension or expulsion is necessary to protect the immediate health and safety of the student, the student's fellow classmates, the classroom staff and teachers, or other ESC employees.

If the Superintendent or principal/program manager reinstates a student prior to the hearing for emergency removal, the teacher may request and shall be given written reasons for the reinstatement. The teacher cannot refuse to reinstate the student.

In an emergency removal, a student can be kept from class until the matter of the misconduct is disposed of either by reinstatement, suspension, or expulsion.

## 5611 - DUE PROCESS RIGHTS

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

The Governing Board recognizes that students have limited constitutional right when it comes to their education.

Accordingly, the Governing Board establishes the following procedures which Governing Board Administrators shall use when dealing with students:

### A. **Student subject to suspension:**

When a student is being considered for an out-of-school suspension by the Superintendent, principal, or other administrator:

1. The student shall be informed in writing of the potential suspension and the reasons for the proposed action.
2. The student shall be provided an opportunity for an informal hearing to challenge the reason for the intended suspension and to explain his/her actions.
3. An attempt shall be made to notify parents or guardians by telephone if a suspension is issued.
4. Within one (1) school day of the suspension the Superintendent, principal, or other administrator shall notify the parents, guardians, or custodians of the student and the Treasurer of the Governing Board. The notice shall include the reasons for the suspension and the right of the student, parent, guardian, or custodian to appeal to the Governing Board or its designee; the right to be represented at the appeal; and the right to request the hearing be held in executive session if before the Governing Board. The notice shall also specify that if the student, parent, guardian, or custodian intends to appeal the suspension to the Governing Board or its designee, such notice of appeal shall be filed, in writing, with the Treasurer of the Governing Board or the Superintendent within fourteen (14) calendar days after the date of the notice to suspend. If the offense is one for which the ESC may seek permanent exclusion, then the notice shall contain that information.
5. Notice of this suspension shall also be sent to the:

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- a. Superintendent;
  - b. Governing Board Treasurer;
  - c. student's school record (not for inclusion in the permanent record).
6. If a student leaves school property without permission immediately upon violation (or suspected violation) of a provision of the Student Code of Conduct/Student Discipline Code or prior to an administrator conducting an informal hearing as specified above, and the student fails to return to school on the following school day, the principal, assistant principal, Superintendent, or any other administrator, may send the student and his/her parent(s)/guardian(s) notice of the suspension, and offer to provide the student and/or his/her parents an informal hearing upon request to discuss the reasons for the suspension and to allow the student to challenge the reasons and to explain his/her actions, any time prior to the end of the suspension period.

#### **Appeal of Suspension to the Governing Board or its designee**

The student who is eighteen (18) or older or the student's parent(s) or guardian(s) may appeal the suspension to the Governing Board or its designee. They may be represented in all such appeal proceedings.

A verbatim record shall be kept of the hearing which may be held in executive session at the request of the student, parent, or guardian, if held before the Governing Board.

Notice of appeal shall be filed, in writing, with the Treasurer or the Superintendent within five (5) calendar days after the date of the notice to suspend.

#### **Appeal to the Court**

Under Ohio law, appeal of the Governing Board's or its designee's decision may be made to the Court of Common Pleas.

#### **B. Students subject to expulsion:**

When a student is being considered for expulsion by the Superintendent:

1. The Superintendent shall give the student and parent, guardian, or custodian written notice of the intended expulsion, including reasons for the intended expulsion.
2. The student and parent or representative have the opportunity to appear before the Superintendent or designee to challenge the proposed action or

to otherwise explain the student's actions. The written notice shall state the time and place to appear, which shall not be earlier than three (3) school days nor later than five (5) school days after the notice is given, unless the Superintendent grants an extension upon request of the student or parent.

3. Within one (1) school day of the expulsion, the Superintendent shall notify the parents, guardians, or custodians of the student and Treasurer of the Governing Board. The notice shall include the reasons for the expulsion and the right of the student, parent, guardian, or custodian to appeal to the Governing Board or its designee; the right to be represented at the appeal; and the right to request the hearing be held in executive session if before the Governing Board. If the offense is one for which the ESC may seek permanent exclusion, then the notice shall contain that information.

#### **Appeal of Expulsion to the Governing Board**

A student who is eighteen (18) or older or a student's parent(s) or guardian(s) may appeal the expulsion by the Superintendent to the Governing Board or its designee. They may be represented in all such appeal proceedings and shall be granted a hearing before the Governing Board or its designee.

A verbatim record shall be kept of the hearing which may be held in executive session at the request of the student, parent, or guardian.

Notice of appeal shall be filed, in writing, within fourteen (14) calendar days after the date of the Superintendent's decision to expel with the Treasurer of the Governing Board or the Superintendent.

While a hearing before the Governing Board may occur in executive session, the Governing Board shall act in public.

#### **Appeal to the Court**

Under applicable laws and regulations, the decision of the Governing Board may be further appealed to the Court of Common Pleas.

#### **C. Students subject to emergency removal:**

Students whose conduct warrants emergency removal shall be dealt with in accordance with the rights and procedures outlined in Governing Board Policy 5610.03 – Emergency Removal.

#### **D. Students subject to permanent exclusion:**

Students whose conduct is that for which permanent exclusion is warranted shall be dealt with in accordance with the rights and procedures outlined in Governing Board Policy 5610.01 – Permanent Exclusion of Nondisabled Students.

E. **Students subject to suspension from bus riding/transportation privileges:**

Students whose conduct warrants suspension from bus riding and/or transportation services shall be dealt with in accordance with the rights and procedures outlined in Governing Board Policy 5610.04 - Suspension of Bus Riding/Transportation Privileges.

~~The Superintendent shall ensure that all members of the staff use the above procedures when dealing with students.~~ In determining whether disciplinary action set forth in this policy is to be implemented, Governing Board Administrators shall use a preponderance of evidence standard. Further, any individual charged with making a disciplinary determination under this policy shall retain all documents, electronically stored information (“ESI”), and electronic media (as defined in Policy 8315 - Information Management (i.e., “Litigation Hold”)) created and/or received as part of an investigation. In addition, this statement of due process rights is to be placed in all student handbooks in a manner that shall facilitate understanding by students and their parents.

These procedures shall not apply to in-school disciplinary alternatives including in-school suspensions. An in-school suspension is one served entirely in a supervised learning environment. Nor shall these disciplinary alternative procedures apply to students who are prohibited by authorized school personnel from all or part of their participation in co-curricular, interscholastic, and/or non-interscholastic extra- curricular activities.

## 5630 - CORPORAL PUNISHMENT

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

While recognizing that students may require disciplinary action in various forms, the Governing Board does not condone the use of unreasonable force and fear as an appropriate procedure in student discipline.

Professional staff should not find it necessary to resort to physical force or violence to compel obedience. If all other means fail, staff members may always resort to removal of the student from the classroom or school through suspension or expulsion procedures.

Professional staff as well as classified staff may, within the scope of their employment, use and apply reasonable and necessary force and restraint to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon or within the control of the student, in self-defense, or for the protection of persons or property.

Corporal punishment is not permitted. If any employee threatens to inflict, inflicts, or causes to inflict unnecessary, unreasonable, irrational, or inappropriate force upon a student, s/he may be subject to discipline by this Governing Board and possibly charges of child abuse as well. This prohibition applies as well to volunteers and those with whom the ESC contracts for services.

## 5630.01 - POSITIVE BEHAVIOR INTERVENTION AND SUPPORTS AND LIMITED USE OF RESTRAINT AND SECLUSION

**This policy governs student discipline at ESC educational services/schools/programs. Nothing in this policy supersedes the home school's rights and/or obligations to discipline students pursuant to the home school's policies, administrative guidelines, and applicable rules and regulations.**

The Governing Board is committed to implementation of Positive Behavior Intervention and Supports (PBIS) framework on a Center-wide basis and the establishment of a school environment focused on the care, safety, and welfare of all students and staff members. Staff are directed to work to prevent the use of physical restraint and/or seclusion. The PBIS framework shall serve as the foundation for the creation of a learning environment that promotes the use of evidence-based academic and behavioral practices aimed at enhancing academic, social, and behavioral outcomes for all students. An emphasis shall be placed on promoting positive interventions and solutions to potential crises. If a student's behavior, however, presents a threat of immediate physical harm to the student or others, staff may, as a last resort (i.e., there is no other safe and effective intervention available) and in accordance with the terms of this policy, use approved physical restraint or seclusion to maintain a safe environment.~~The Governing Board is committed to the ESC wide use of Positive Behavior Intervention and Supports ("PBIS") with students. Student Personnel shall work to prevent the need for the use of restraint and/or seclusion. PBIS emphasizes prevention of student behavior problems through the use of non aversive techniques, which should greatly reduce, if not eliminate, the need to use restraint and/or seclusion.~~

~~Professional staff members and support staff determined appropriate by the Superintendent are permitted to physically restrain and/or seclude a student, but only when there is immediate risk of physical harm to the student and/or others, there is no other safe and effective intervention possible, and the physical restraint or seclusion is used in a manner that is age and developmentally appropriate and protects the safety of all children and adults at school.~~

All physical restraint and seclusion shall only be done in accordance with this policy, which is based on the standards adopted by the State Governing Board regarding the use of student restraint and seclusion.

Training in methods of PBIS and the use of physical restraint and seclusion shall be provided to all professional staff and support staff determined appropriate by the Superintendent. Training shall be in accordance with the State's Standards. ~~Only Absent an emergency, only~~ school staff who are trained in permissible seclusion and physical restraint measures shall use such techniques.

Every use of restraint and seclusion shall be documented and reported in accordance with this policy. This policy shall be made available to parents annually and shall be published on the ESC's website.

### DEFINITIONS

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**Aversive behavioral interventions** ~~mean an intervention that is~~ means intervention that are intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as application of noxious, painful, and/or intrusive stimuli, including any form of noxious, painful or intrusive spray, inhalant, or taste, or other sensory stimuli such as climate control, lighting, and sound.

Behavioral Intervention Plan (“BIP”) means a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, by strengthening replacement skills, teaching new skills and by providing positive behavior intervention and supports and services to address behavior.

**Chemical restraint** means a drug or medication used to control a student’s behavior or restrict freedom of movement that is not:

- A. Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under Ohio law, for the standard treatment of a student’s medical or psychiatric condition; and
- B. Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under Ohio law.

**De-escalation techniques** are interventions that are used to prevent violent and aggressive behaviors and reduce the intensity of threatening, violent and disruptive incidents ~~strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.~~

**Functional behavior assessment (“FBA”)** is a school-based process for students with disabilities and students without disabilities that includes the student's parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment. Consent from the parent and, as appropriate, the child (eighteen (18) years of age or older), must be obtained at the initial Functional Behavior Assessment ~~collaborative problem-solving process that is used to describe the “function” or purpose that is served by a student’s behavior. Understanding the “function” that an impeding behavior serves for the student assists directly in designing educational programs and developing behavior plans with a high likelihood of success.~~

**Mechanical restraint** means any method of restricting a student’s freedom of movement, physical activity, or normal use of the student’s body, using an appliance or device manufactured for this purpose. Mechanical restraint does not mean ~~devices~~ a device used by ~~trained~~ trained Student Personnel ~~school personnel~~, or used by a student, for the specific and approved therapeutic or safety purposes for which ~~such device~~ the device was ~~s~~ were designed and, if applicable, prescribed, including:

- A. restraints for medical immobilization;

- B. adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or
- C. vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

**Parent** means:

- A. a biological or adoptive parent;
- B. a guardian generally authorized to act as the child’s parent, or authorized to make decisions for the child (but not the State if the child is a ward of the State);
- C. an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare;
- D. a surrogate parent who has been appointed in accordance with A.C. 3301- 51-05(E); or
- E. any person identified in a judicial decree or order as the parent of a child or the person with authority to make educational decisions on behalf of the child.

**Physical escort** means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

**Physical restraint** means the use of physical contact that immobilizes or reduces the ability of a student to move ~~his/her~~the student’s arms, legs, body, or head freely. Physical restraint does not include a physical escort, mechanical restraint, or chemical restraint. Physical restraint does not include brief physical contact for the following or similar purposes to:

- A. break up a fight;
- B. knock a weapon away from a student’s possession;
- C. calm or comfort;
- D. assist a student in completing a task/response if the student does not resist the contact; or
- E. prevent imminent risk of injury to the student or others ~~an impulsive behavior that threatens the student’s immediate safety (e.g., running in front of a car).~~

**Positive Behavior Intervention and Supports (“PBIS”)** means multi-tiered, school-wide, behavioral framework developed and implemented for the purpose of improving a school-wide

~~systematic approach to embed evidence-based practice and data-driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students. PBIS includes a decision-making framework that guides selection, integration, and implementation of evidence-based academic and behavior practices for improving academic and behavior outcomes for all students. PBIS encompasses a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors, and teach appropriate behaviors to students.~~

~~**PBIS Leadership Team** means the assigned team at the Center and building level that plans, coaches and monitors PBIS implementation in the Center and buildings. The PBIS Leadership Teams may include, but is not limited to, school administrators, teacher representatives across grade level and programs, staff able to provide behavioral expertise, and other representatives identified by the Center or school such as bus drivers, food service staff, custodial staff, and paraprofessionals. **Positive Behavior Support Plan** means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.~~

~~**Prone restraint** means physical or mechanical restraint while the student is in the face-down position, for an extended period of time.~~

~~**Seclusion** means the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.~~

~~**Student** means an individual a child or adult aged three (3) to twenty one (21) enrolled in the ESC.~~

~~**Student Personnel** means teachers, principals, counselors, social workers, school resource officers, teacher's aides, psychologists, bus drivers, related service providers, nursing staff, or other ESC staff who interact directly with students.~~

~~**Timeout** means a behavioral intervention in which the student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.~~

## **POSITIVE BEHAVIORAL INTERVENTION AND SUPPORTS FRAMEWORK**

~~The ESC will implement PBIS on a system-wide basis in accordance with R.C. 3319.46 and A.C. 3301-35-15. The ESC's PBIS framework involves comprehensive, school-wide data systems that enable monitoring of academic progress, behavioral incidents, attendance, and other critical indicators across classrooms. The administration is encouraged to use data-based decision making to select, monitor, and evaluate outcomes, practices, and systems. The PBIS framework further involves a school-wide investment in evidence-based curricula and effective instructional~~

strategies, matched to students' needs, and data to support teachers' academic instruction. Evidence-based practices along a multi-tiered continuum of supports will be used. The ESC's PBIS framework will further focus on improving staff climate and culture regarding the role of discipline in the classroom, by using positive and proactive communication and staff recognition. Finally, classroom practices shall be linked to and aligned with the school-wide system so progress monitoring can occur with fidelity and target outcomes. The PBIS framework will strive to enable accurate and sustainable implementation of practices.

As part of its implementation of the PBIS framework, the ESC will provide Student Personnel with appropriate professional development, engage in explicit instruction of school-wide behavior expectation, employ consistent systems of acknowledging and correcting behavior, create teaching environments designed to eliminate behavior triggers, and promote family and community involvement. Positive Behavioral Intervention and Supports ("PBIS") creates structure in the environment using a non-aversive effective behavioral system to improve academic and behavior outcomes for all students.

The PBIS ~~framework prevention-oriented framework or approach~~ shall apply to all students and staff, and in all settings. It shall include:-

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PBIS shall include:

- A. school staff trained to identify conditions such as where, under what circumstances, with whom, and why specific ~~behaviors~~inappropriate behavior may occur;
- B. functional behavior ~~preventative~~ assessments that include:
  1. review of existing data;
  2. interviews with parents, family members, and students; and
  3. examination of previous and existing behavior~~al~~ intervention plans.
- C. development and implementation of ~~preventative behavioral interventions,~~ positive behavior intervention and supports, and the teaching of appropriate behavior, including:
  1. modification of environmental factors that escalate inappropriate behavior;
  2. supporting the attainment of appropriate behavior; and
  3. use of ~~verbal~~ de-escalation techniques to defuse potentially violent dangerous behavior.

The Superintendent shall develop emergency procedures for the ESC.

## PROFESSIONAL DEVELOPMENT FOR IMPLEMENTATION OF PBIS

In order to successfully implement the PBIS framework on a Center-wide basis, the Governing Board shall provide for Student Personnel shall receive professional development as follows:

A. the professional development will occur at least every three (3) years;

B. the professional development must be provided by a building or Center PBIS Leadership Team or an appropriate State, regional, or national source in collaboration with the building or Center PBIS Leadership Team;

C. the trained PBIS Leadership team will provide the professional development in accordance with the Center-developed PBIS training plan, which the Superintendent will develop;

D. the Superintendent shall retain records of completion of the professional development; and

E. the professional development will include the following topics:

1. an overview of PBIS;
2. the process for teaching behavioral expectations;
3. data collection;
4. implementation of PBIS with fidelity;
5. consistent systems of feedback to students for acknowledgment of appropriate behavior and corrections for behavior errors; and
6. consistency in discipline referrals.

F. the training will be appropriately modified for the intended audience.

The Superintendent is charged with arranging for continuous training structures to be in place to provide ongoing coaching and implementations with fidelity.

## **SECLUSION**

Seclusion may be used only when a student's behavior poses an immediate risk of physical harm to the student or others and no other safe ~~or and~~ effective intervention is ~~possible~~ available. Seclusion may be used only as a last resort ~~to provide safety intervention that provides~~ the student with an opportunity to regain control of ~~the his/her actions~~ students actions. Seclusion shall be used in a manner that is age and developmentally appropriate, for the minimum amount of time

necessary for the purpose of protecting the student and/or others from physical harm, and otherwise in compliance with this Policy and the Ohio Department of Education's ("ODE") corresponding policy.

Seclusion shall be implemented only by Student Personnel who have been trained in accordance with this Policy to protect the care, welfare, dignity, and safety of the student.

**Additional requirements for the use of seclusion:**

If Student Personnel use seclusion, they shall:

- A. continually observe the student in seclusion for indications of physical or mental distress and seek immediate medical assistance if there is a concern;
- B. use verbal communication strategies and research-based de-escalation techniques in an effort to help the student regain control as quickly as possible;
- C. remove the student from seclusion when the immediate risk of physical harm to the student and/or others has dissipated;
- D. conduct a debriefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs; ~~and~~
- E. complete all required reports and document their observations of the student;
- F. ensure safety of other students and protect the dignity and respect of the student involved;
- G. combine the use of seclusion with other non-physical interventions (which are always preferred) that will diminish the need for seclusion in the future;
- H. if at any point the staff assess that the intervention is insufficient to maintain safety of all involved, contact emergency personnel; and
- ~~E.I. use seclusion for the least amount of time necessary;~~

**Requirements for a room or area used for seclusion:**

A room or area used for seclusion shall provide for adequate space, lighting, ventilation, and clear visibility in order to allow Student Personnel to observe the student. ~~clear visibility, and the safety of the student.~~

A room or area used for seclusion *shall not be locked* or otherwise prevent the student from exiting the area should staff become incapacitated or leave the area.

**Additional prohibited seclusion practices:**

~~Seclusion shall never be used as a punishment or to force compliance.~~

Seclusion shall not be used:

- A. for the convenience of staff;
- B. as a substitute for an educational program;
- C. as a form of discipline or punishment;
- D. as a substitute for ~~other less restrictive means of assisting a student in regaining control~~ less restrictive alternatives;
- E. as a substitute for inadequate staffing;
- F. as a substitute for staff training in positive behavior intervention and supports framework and crisis management ~~supports and crisis prevention and intervention~~; or
- G. as a means to coerce, retaliate, or in a manner that endangers a student, ~~or~~
- H. ~~if it deprives the student of basic needs.~~

Seclusion of preschool-age children is prohibited, except that a preschool-age child may be ~~secluded from his or her~~ separated from classmates, either in the classroom or in a safe, lighted, and well-ventilated space, for an amount of time that is brief in duration and appropriate to the child's age and development, if the child is always within sight and hearing of a preschool staff member.

**PHYSICAL RESTRAINT**

Prone restraint, including any physical restraint that obstructs the airway of the student, or any physical restraint that impacts a student's primary mode of communication, is prohibited. Student Personnel may use physical restraint only as a last resort and in accordance with this policy and the requirements of A.C. 3301-35-15. ~~There are different types of restraint, as defined above, including physical restraint, prone restraint, mechanical restraint, and chemical restraint. The use of restraint other than physical restraint is prohibited.~~

Physical restraint may be used only when the student's behavior poses an immediate risk of physical harm to the student and/or others and no other safe ~~and~~ or effective intervention is available~~possible~~. The physical restraint shall be implemented in a manner that is age and developmentally appropriate, does not obstruct the student's ability to breathe, does not interfere with the student's ability to communicate in ~~his/her~~ the student's primary language or mode of communication, and otherwise in compliance with this policy and the ODE's corresponding model policy.

Only Student Personnel trained in safe restraint techniques may implement physical ~~Physical restraint shall be implemented only by Student Personnel who have been trained in accordance with this Policy to protect the care, welfare, dignity, and safety of the student~~, except in the case of rare and unavoidable emergency situations when trained personnel are not immediately available. Student Personnel must be trained to protect the care, welfare, dignity, and safety of the student.

**Additional requirements for the use of physical restraint:**

If Student Personnel use physical restraint, they shall:

- A. continually observe the student in restraint for indications of physical or mental distress and seek immediate medical assistance if there is a concern;
- B. use ~~verbal communication~~ strategies and research-based de-escalation techniques in an effort to help the student regain control;
- C. remove the student from physical restraint immediately when the immediate risk of physical harm to the student and/or others has dissipated;
- D. conduct a debriefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs; ~~and~~
- E. complete all required reports and document their observations of the student;
- F. implement in a manner that accommodates age and body size diversity;
- G. ensure safety of other students and protect the dignity and safety of the student involved;
- H. combine with other non-physical interventions (which are always preferred) that will diminish the need for physical intervention in the future;
- I. use the least amount of force necessary for the least amount of time necessary; and
- E.J. if at any point the staff assesses the intervention is insufficient to maintain safety for all involved, contact emergency personnel.

Physical restraint shall not be used for punishment or discipline, or as a substitute for other less restrictive means of assisting a student in regaining control.

### Prohibited ~~Restraint~~ Practices

The following ~~restraint~~ practices are prohibited under all circumstances, including emergency safety situations:

- A. ~~prone restraint; as defined in Executive Order 2009-13 (which defines prone restraint to mean "all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time");~~
- ~~B. physical restraint that restricts the airway of a student or obstructs the student's ability to breathe;~~
- B. any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that:
  - 1. involves the use of pinning down a student by placing knees to the torso, head, or neck of the student;
  - 2. uses pressure point, pain compliance, or joint manipulation techniques;
  - 3. otherwise involves techniques that are used to unnecessary cause pain;
  - 4. causes loss of consciousness or harm to the neck or restricting respiration in any way;
  - 5. involves dragging or lifting of the student by the hair or ear or any type of mechanical restraint;
  - 6. uses other students or untrained staff to assist with the hold or restraint; and
  - 7. involves securing a student to another student or fixed object;
- C. corporal punishment as defined in R.C. 3319.41;
- D. child endangerment as defined in R.C. 3319.41;
- ~~C.E. deprivation of basic needs;~~
- ~~D. physical restraint that impacts the student's primary mode of communication;~~
- E.F. seclusion or restraint of preschool-age students, in violation of A.C. 3301-37-10(D) and A.C. 3301-35-15 except for holding a child for a short period of time, such as in a protective hug, so that the child may regain control;
- ~~F. restraint that deprives the student of basic needs;~~

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G. ~~restraint that unduly risks serious harm or needless pain to the student, including physical restraint that involves the intentional, knowing, or reckless use of any of the following techniques:~~

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- 1. ~~using any method that is capable of causing loss of consciousness or harm to the neck or restricting/obstructing respiration in any way;~~
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- 2. ~~pinning down the student by placing knees to the torso, head and/or neck of the student;~~
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- 3. ~~using pressure points, pain compliance, or joint manipulation;~~
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- 4. ~~dragging or lifting of the student by the hair or ear or by any type of mechanical restraint;~~
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- 5. ~~using other students or untrained staff to assist with the hold or restraint; or~~
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- 6. ~~securing the student to another student or to a fixed object.~~

~~H.G. mechanical restraint; (that does not include devices used by trained Student Personnel, or by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed); or~~

~~H. chemical restraint; (which does not include medication administered as prescribed by a licensed physician).~~

~~I. aversive behavioral interventions; and~~

~~H.J. seclusion in a locked room or area.~~

#### **ADDITIONAL PROHIBITED PRACTICES**

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The following practices are prohibited under all circumstances, including emergency safety situations:

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- A. ~~corporal punishment;~~
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- B. ~~child endangerment as defined in R.C. 2919.22; and~~
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- C. ~~aversive behavioral interventions.~~

#### **MULTIPLE INCIDENTS OF RESTRAINT AND/OR SECLUSION - CONDUCTING A FUNCTIONAL BEHAVIOR ASSESSMENT AND DEVELOPING A BEHAVIOR**

December 16, 2021 Proposed Amendments

~~**INTERVENTION PLANFUNCTIONAL BEHAVIORAL ASSESSMENT AND BEHAVIOR INTERVENTION PLAN**~~

After a student's third incident of physical restraint or seclusion in a school year, a meeting must occur within ten (10) school days of the third incident as follows:

For a student who has been found eligible for special education services or has a 504 plan, the student's individualized education program or 504 team must meet to consider the need to conduct or develop a FBA or BIP, or amend an existing FBA or BIP.

- A. For all other students (i.e., students not described in the preceding paragraph), a team, consisting of the student's parent, an administrator or designee, a teacher of the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members must meet to discuss the need to conduct or review a FBA and/or develop a BIP.
- B. For all other students (i.e. students not described in the preceding paragraph), a team, consisting of the student's parent, an administrator or designee, a teacher of the student, a staff member involved in the incident) if not the teacher or administrator already invited), and other appropriate staff members must meet to discuss the need to conduct or review a FBA and/or develop a BIP.
- C. Nothing in this section is meant to prevent the completion of a FBA or BIP for any student who might benefit from these measures, but has fewer than three (3) incidents of restraint or seclusion.
- D. Nothing in this section is meant to prevent the Center from conducting any evaluations or other obligations the staff feel are appropriate under the Individuals with Disabilities Education Improvement Act.

~~If a student repeatedly engages in dangerous behavior that leads to instances of restraint and/or seclusion, ESC personnel shall conduct a functional behavioral assessment to identify the student's needs and more effective ways of addressing those needs. If necessary, ESC personnel shall also develop a behavior intervention plan that incorporates positive behavioral interventions.~~

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**TRAINING AND PROFESSIONAL DEVELOPMENT FOR USE OF CRISIS MANAGEMENT AND DE-ESCALATION TECHNIQUES**

The ESC shall provide training and professional development for the use of crisis management and de-escalation techniques that includes the use of restraint and seclusion. Specifically, the ESC shall annually train an appropriate number of personnel in each building in evidence-based crisis management and de-escalation techniques, as well as the safe use of physical restraint and seclusion. At a minimum, the training will cover the following topics as follows:

- A. proactive measures to prevent the use of seclusion or restraint;
- B. crisis management;
- C. documentation and communication about the restraint or seclusion with appropriate parties;
- D. the safe use of restraint and seclusion;
- E. instruction and accommodation for age and body size diversity;
- F. directions for monitoring signs of distress during and following physical control; and
- G. debriefing practices and procedures.

The training will occur face-to-face and allow for a simulated experience of administering and receiving physical restraint so that participants can demonstrate proficiency in the topics identified above.

The Superintendent is charged with maintaining written or electronic documentation concerning the training provided that includes the following:

- A. the name, position, and building assignment of each person who has completed training;
- B. the name, position, and credentials of each person who has provided the training;
- C. when the training was completed; and
- D. what protocols, techniques, and materials were included in training.

As part of the required training, Student Personnel shall be trained to perform the following functions:

- A. identify conditions such as: where, under what conditions, with whom and why specific inappropriate behavior may occur; and
- B. use preventative assessments that include at least the following:
  - 1. a review of existing data;
  - 2. input from parents, family members, and students; and
- C. examination of previous and existing behavior intervention plans.

~~A. All Student Personnel, as defined in this policy, shall be trained annually on the requirements of the Ohio Department of Education's Policy on Positive Behavior Intervention and Supports, and Restraint and Seclusion; applicable laws and regulations; and this policy.~~

~~B. the Superintendent, in consultation with each school buildings or program manager and/or assistant principal, shall identify which ESC employees should receive additional training so that an adequate number of personnel in each building are trained in crisis management and de-escalation techniques, including the use of restraint and seclusion. ESC employees who receive such additional training shall keep their training current on an annual basis.~~

~~C. The Superintendent shall develop a plan to provide training to school personnel, as defined in this policy, so that Positive Behavior Intervention and Supports are implemented on an ESC wide basis.~~

~~Implementation of PBIS throughout the ESC may be a multi-year process, with training taking place over several years.~~

~~The ESC shall maintain written or electronic documentation on training provided and lists of participants in each training.~~

Only individuals trained in accordance with this policy in the appropriate use of restraint and seclusion may use those techniques.

### **MONITORING AND COMPLAINT PROCEDURES**

The Superintendent shall develop a monitoring procedure to ensure that this policy is appropriately implemented.

Any parent of a child enrolled in school in the ESC may submit a written complaint to the Superintendent regarding an incident of restraint or seclusion. The Superintendent shall investigate each written complaint and respond in writing to the parent's complaint within thirty (30) days of receipt of the complaint.

### **REQUIREMENTS FOLLOWING AN INCIDENT OF SECLUSION OR PHYSICAL RESTRAINT**~~REQUIRED DATA AND REPORTING~~

Each use of physical restraint or seclusion shall be:

~~A. documented in writing;~~

~~B.A. reported to the building administration immediately;~~

~~C.B.~~ reported to the parent immediately; and

~~D.C.~~ documented in a written report ~~;~~ (see Ohio Department of Education's Model Restraint and Seclusion Debriefing Form).

A copy of the written report shall be ~~issued made available~~ to the student's parent or guardian within twenty-four (24) hours of the use of restraint or seclusion. The Center shall maintain the written report, including placing a copy of the written report in the student's file. ~~A copy of the written report shall also be maintained in the student's file.~~

All written documentation of the use of restraint or seclusion are educational records pursuant to the Family Educational Right to Privacy Act ("FERPA"), and ESC personnel are prohibited from releasing any personally identifiable information to anyone other than the parent, in accordance with FERPA's requirements.

The Superintendent shall develop a process for the collection of data regarding the use of physical restraint and seclusion.

~~The administration shall develop a support plan for substitute teachers if they need assistance with PBIS or crisis management and de-escalation (including restraint and seclusion).~~

The Superintendent shall report information ~~concerning the~~ regarding the ESC's use of restraint and seclusion annually to the Ohio Department of Education in the form and manner prescribed by the Department as requested by that agency, and shall make the ESC's records concerning PBIS, restraint and seclusion available to the staff of the Ohio Department of Education upon request.

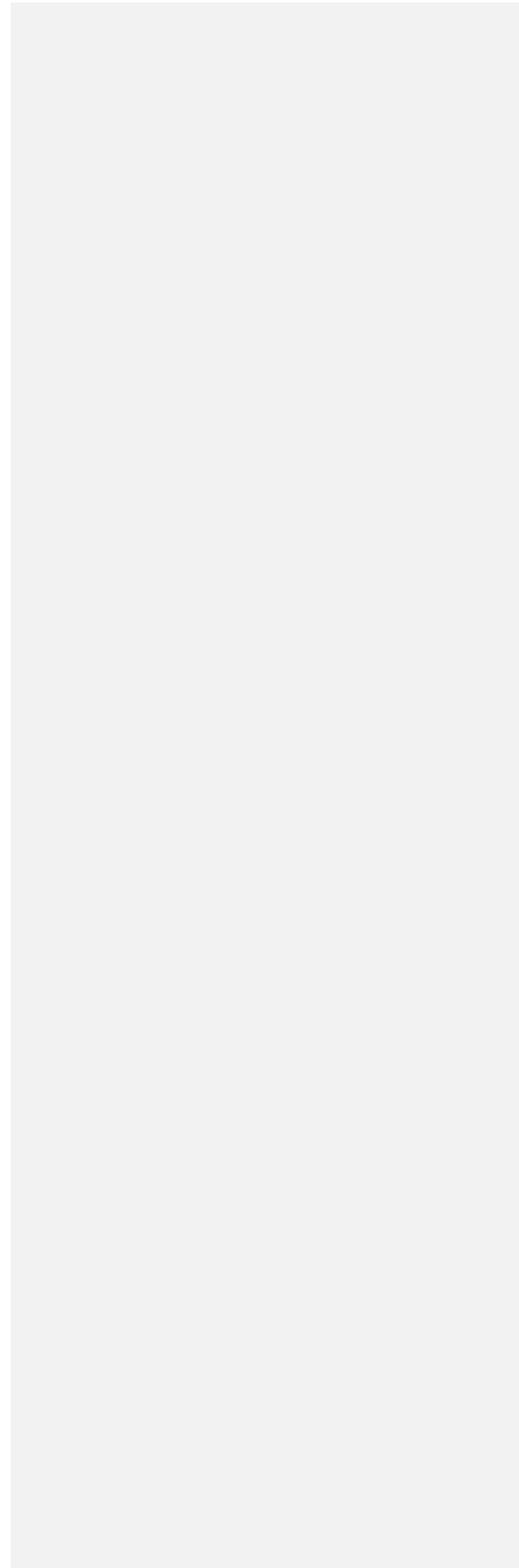
\* Adapted from the Ohio Department of Education's ~~Policy on~~ Positive Behavior Intervention and Supports, and Restraint and Seclusion Model Policy and Procedures, issued July 2021, adopted January 15, 2013.

#### 5751 - PARENTAL STATUS OF STUDENTS

No student, whether married or unmarried, who is otherwise eligible to attend school in the ESC shall be denied an educational program solely because of pregnancy, childbirth, pregnancy-related disabilities, or actual or potential parenthood.

The Governing Board reserves the right to require as a prerequisite for attendance in the regular classes of the schools and the co-curricular and extra-curricular programs of the schools that each pregnant student present to the Superintendent her physician's written statement that such activity shall not be injurious to her health nor jeopardize her pregnancy.

A pregnant student shall be considered on an excused absence for so long a period as is deemed medically necessary by the student's physician. At the conclusion of the absence, the student shall be reinstated to the status she held when the absence began.



## 5771 - SEARCH AND SEIZURE

The Governing Board recognizes that the privacy of students or their belongings may not be violated by unreasonable search and seizure and directs that no student be searched without reasonable suspicion or in an unreasonable manner.

The Governing Board acknowledges the need for in-school storage of student possessions and shall provide storage places, including desks and lockers, for that purpose. Such spaces remain the property of the Governing Board and, in accordance with law, may be the subject of random search. Where locks are provided for such places, students may lock them against incursion by other students, but in no such places shall students have such an expectation of privacy as to prevent examination by a school official.

School authorities are charged with the responsibility of safeguarding the safety and well-being of the students in their care. In the discharge of that responsibility, school authorities may search the person or property, including vehicles or the locker, of a student, with or without the student's consent, whenever they reasonably suspect that the search shall turn up evidence of a violation of law or of school rules. The extent of the search shall be governed by the seriousness of the alleged infraction and the student's age.

This authorization to search shall also apply to all situations in which the student is under the jurisdiction of the Governing Board or ESC personnel.

Administrators are permitted to conduct a random search of any student's locker and its contents at any time, providing proper notice has been posted in the locker areas of each building.

Administrators may confiscate personal devices such as but not limited to cell phones and iPods, and the school may retain such devices for a brief period of time.

Students shall not have an expectation of privacy for content within personal devices if there is reasonable suspicion of imminent risk or harm or violation of the law or school rules.

Administrators are authorized to arrange for the use of a breath-test instrument for the purpose of determining if a student has consumed an alcoholic beverage. It is not necessary for the test to determine blood-alcohol level since the Governing Board has established a zero tolerance for alcohol use.

The Governing Board also authorizes the use of canines, trained in detecting the presence of drugs or devices, when the Superintendent or Superintendent's designee has reasonable suspicion that illegal drugs or devices may be present in a school or as a routine preventative measure. This means of detection shall be used only to determine the presence of drugs in locker areas and other places on school property where such substances may be concealed. Canine detection shall be conducted in collaboration with law enforcement authorities or with organizations certified in canine detection.

Except as provided below, a request for the search of a student or a student's possessions shall be directed to the principal who shall seek the freely offered consent of the student to the inspection. Whenever possible, a search shall be conducted by the principal in the presence of the student and a staff member other than the principal. A search prompted by the reasonable belief that health and safety are threatened shall be conducted with as much speed and dispatch as may be required to protect persons and property.

Where the inappropriate substances or objects are found, the principal shall be responsible for the recording in writing of the student search, including the reasons for the search; information received that established the need for the search and the name of informant, if any; the persons present when the search was conducted; any substances or objects found; and the disposition made of them. The principal shall be responsible for turning over any illegal or dangerous substance or object taken from a student to the police.

## 5772 - WEAPONS

The Governing Board prohibits students from possessing, storing, making, or using a weapon, including a concealed weapon, in a school safety zone and any setting that is under the control and supervision of the Governing Board for the purpose of school activities approved and authorized by the Governing Board including, but not limited to, property leased, owned, or contracted for by the Governing Board, a school-sponsored event, or in a Governing Board-owned vehicle.

The term “weapon” means any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to, firearms, guns of any type whatsoever, including air and gas-powered guns (whether loaded or unloaded), knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

Policy exceptions include:

- A. items pre-approved by the building principal as part of a class or individual presentation under adult supervision, if used for the purpose and in the manner approved (working firearms and any ammunition shall never be approved as a part of a presentation);
- B. theatrical props used in appropriate settings.

Students shall report any information concerning weapons and/or threats of violence by students, staff members, or visitors to the principal. Failure to report such information may subject the student to disciplinary action.

This policy shall be implemented through the Code of Conduct/Student Discipline Code, Governing Board Policy 5610, and Governing Board Policy 5610.01.

The Superintendent shall refer any student who violates this policy to the student’s parents or guardians and to the criminal justice or juvenile delinquency system. The student may also be subject to disciplinary action, up to and including expulsion.

This policy shall be published annually in all ESC student and staff handbooks. Publication is not a precondition to enforcement of this policy.

## 5780 - STUDENT/PARENT RIGHTS

The Governing Board recognizes that students possess not only the right to an education but many of the rights of citizenship as well.

In providing students the opportunity for an education to which they are entitled, the Governing Board shall attempt to offer nurture, counsel, and custodial care appropriate to their age and maturity. At the same time, the Governing Board recognizes that no student may be deprived of the basic right to equal access to the educational program, and his/her constitutional right to due process and free expression and association as appropriate for the school environment.

Attendant to the rights afforded to each student, however, are certain responsibilities, which include respect for the rights of others, obedience to properly constituted school authority, and rules of the ESC.

Since a student who has reached the age of majority possesses the full rights of an adult, s/he may authorize those school matters previously handled by his/her parents, but s/he also assumes the responsibility for his/her performance in school, attendance, and compliance with school rules.

Parents also have rights in the school system to know about their student's educational experience. Specific rights are listed in topic areas of these policies.

In addition, parents have the right to inspect any instructional materials used as part of the educational curriculum for their student. Instructional materials mean instructional content, regardless of format, that is provided to the student, including printed or representational materials, audio-visual materials, and materials available in electronic or digital formats (such as materials accessible through the Internet). Instructional material does not include academic tests or academic assessments.

This policy shall not supersede any rights under the Family Education Rights and Privacy Act.

## 5830 - STUDENT FUND-RAISING

The Governing Board acknowledges that the solicitation of funds from students by students shall be limited since compulsory attendance laws make the student a captive donor and since such solicitation may disrupt the program of the schools.

For purposes of this policy “student fund-raising” shall include student solicitation and collection of money for any purpose including collection of money in exchange for tickets, papers, or any other goods or services. “Student fund-raising” also includes giving away goods or services, but suggesting a monetary donation.

The Governing Board shall permit student fund-raising in school, on school property, or at any school-sponsored event only when the profit therefrom is to be used for school purposes or for an activity connected with the schools.

Student fund-raising by approved school organizations, those whose funds are managed by the Treasurer, may be permitted in school by the principal. For any fund-raisers, including those operated by student clubs and organizations, parent groups, or boosters clubs, that involve the sale of food items and/or beverages to students that shall be consumed on the school campus (any area of property under the jurisdiction of the school that is accessible to students during the school day) during the school day (the period from the midnight before, to thirty (30) minutes after the end of the official school day), the food items and/or beverages to be sold shall comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards, and also be consistent with requirements set forth in Governing Board Policy 8550, Competitive Foods.

Student fund-raising by approved school organizations off school grounds may be permitted as determined by the Superintendent.

Fund-raising by students on behalf of school-related organizations whose funds are not managed by the Treasurer may be permitted on school grounds.

#### **5850 - SCHOOL SOCIAL EVENTS**

The Governing Board recognizes the value of student social events and class trips in enhancing and enriching the school experience for the children of this community.

The Governing Board shall make school facilities available and provide appropriate staff for the conduct of social events within the school facilities which have been approved by the Superintendent. For social events which take place outside school facilities, approval is required by the Superintendent.

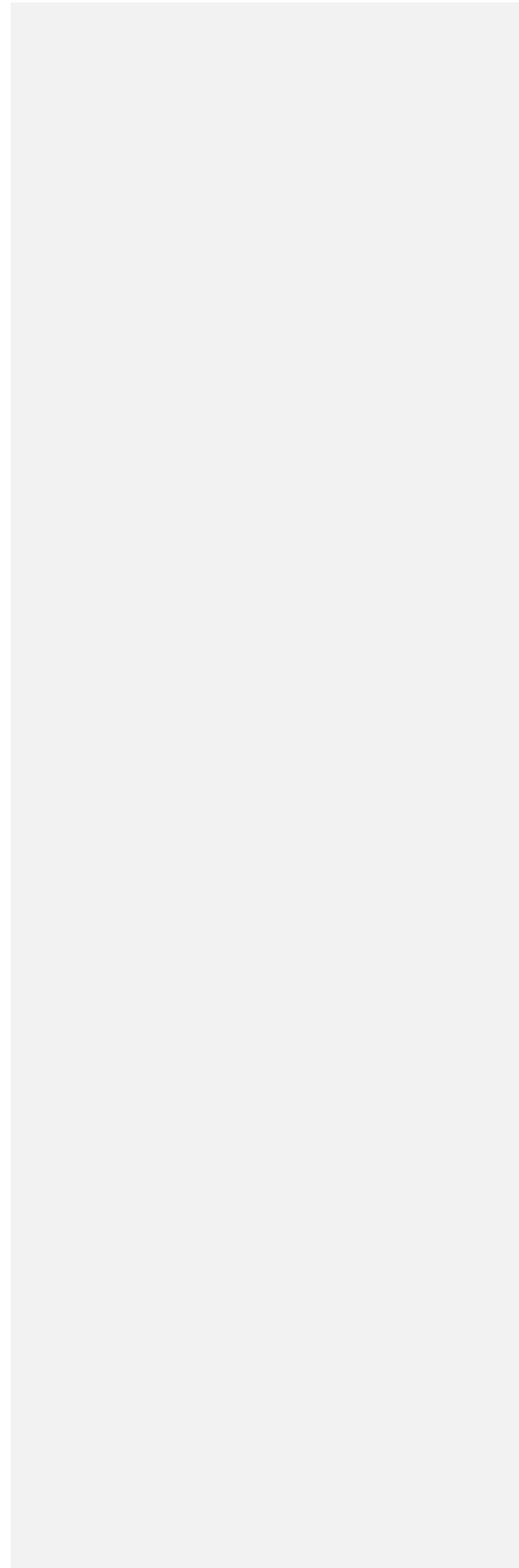
As voluntary participants in school social events and class events, students shall be held responsible for compliance with rules set forth for their conduct, and infractions of those rules shall be subject to the same disciplinary measures as are applied during the regular school program.

Participation in school events is not a right and may be denied to any student who has demonstrated disregard for the rules of the school.

# **FINANCES**

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## 6105 - AUTHORIZATION TO USE FACSIMILE SIGNATURE

The Governing Board authorizes the Treasurer, to prepare and utilize a facsimile signature, in lieu of their manual signature, and to affix such facsimile signature to any of the following instruments: checks; drafts; warrants; vouchers; or other instruments for the payment of money and necessary or desirable in connection with the withdrawal of Governing Board funds for and on its behalf. The individuals specified above may affix their manual or facsimile signature to the instruments identified so long as they continue to act as such officers/employees. The use of facsimile signatures is expressly approved by the Governing Board. Said checks, drafts, warrants, vouchers, or other instruments for the payment of money may be drawn or relate to the accounts of the ESC with the various financial institutions (depositories/banks) with which the ESC conducts business.

The Governing Board directs that the financial institutions (depositories/banks), with which the ESC does business, are authorized, and requested to accept, honor, cash, pay or transfer, without limit as to the amount or without further inquiry, checks bearing the authorized signature(s) as provided by the immediately preceding paragraph whether tendered in payment of an individual obligation or deposited in the account of the ESC. The Treasurer is directed to provide written notice of the adoption of any facsimile signature to the depository from which funds are to be withdrawn, which notice shall include a description of the device to be used, a specimen of such facsimile signature, and a copy of this policy. Prior to use of the facsimile signature, the written approval of such depository shall be obtained.

Facsimile signature is defined to include, but is not limited to, the reproduction of any authorized signature by a copper plate or by a photographic, photostatic, or mechanical device. Facsimile signature does not authorize the use of a rubber stamp signature for any of the instruments detailed above.

In order to protect the Governing Board and its employees from loss, damage or expense occasioned by the unauthorized use of a facsimile signature, the Governing Board directs the Treasurer to procure for the ESC and for the individuals identified above a surety bond in such amount as approved by its legal advisor.

The actual facsimile signature should be maintained under the care, custody, and control of the Treasurer/CFO's Department and, as further precaution, all checks shall be entered into the check register so that all numbers can be accounted for.

The Treasurer and Governing Board President are authorized, on behalf of the Governing Board, to sign employment contracts, duly acted upon by the Governing Board, by facsimile signature.

**6107 - AUTHORIZATION TO ACCEPT AND DISTRIBUTE ELECTRONIC RECORDS AND TO USE ELECTRONIC SIGNATURES**

Unless a provision of law enacted after September 14, 2000, specifically prohibits the use of an electronic record for the specified purpose, the Governing Board authorizes the acceptance and distribution/transmission of electronic records and electronic signatures to and from ESC staff and other persons, as well as between ESC staff members. The Governing Board further authorizes ESC staff to create, generate, send, communicate, receive, store, process, use, and rely upon electronic records and electronic signatures. The Superintendent shall put in place measures to protect the integrity, security, and accessibility of electronic signatures and electronic records to comply with the mandates of State and Federal agencies or programs, including Medicaid.

All ESC staff shall comply with all provisions of the Uniform Electronic Transaction Act when creating, generating, sending, communicating, receiving, storing, processing, using, and relying upon electronic records. Further, all ESC staff and other persons who use electronic signatures when completing transactions with the Governing Board shall do so in compliance with State law.

With regard to the acceptance and distribution/transmission of electronic records and electronic signatures, the Superintendent may specify the following:

- A. The manner and format in which the electronic records shall be created, generated, sent, communicated, received, and stored, and the systems established for those purposes.
- B. If electronic records shall be signed by electronic means, the type of electronic signature that is required, the manner and format in which the electronic signature shall be affixed to the electronic record, and the identity of, or criteria that shall be met, by any third party used by a person filing a document to facilitate the process.
- C. Control processes and procedures as appropriate to provide for adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.
- D. Any other required attributes for electronic records that are specified for non-electronic records or reasonably necessary under the circumstances.

## 6108 - AUTHORIZATION TO MAKE ELECTRONIC FUND TRANSFERS

The Governing Board authorizes electronic fund transfers (EFTs) for any purpose including direct deposit, wire transfer, withdrawal, investment, or payment, provided such EFTs are consistent with the provisions of R.C. Chapter 1304 and the Electronic Fund Transfer Act. Upon the recommendation of the Treasurer/CFO, the Governing Board shall approve the financial institutions that are authorized to receive monetary transactions through electronic or other medium.

Upon the recommendation of the Treasurer/CFO, the Governing Board shall then approve written agreements with financial institutions with whom EFTs shall be made.

Such agreements shall set forth internal controls required by applicable laws and regulations that shall provide adequate integrity, security, confidentiality, and auditability of business transactions conducted by electronic commerce, including, but not limited to, the following:

- A. the official title of the bank account(s) subject to the agreement and each type of transaction approved, such as deposits, disbursements, or transfers, shall be specified;
- B. the manual signatures of the Governing Board President, Treasurer/CFO, and the employees authorized to initiate EFTs shall be contained therein;
- C. a requirement that the ESC maintain documentation signed by the initiator and authorizer of the EFTs to confirm the authenticity of the EFTs;
- D. a requirement that, when funds are properly delivered to the receiving institution, that institution agrees to become responsible for prompt and diligent processing of the funds;
- E. a requirement that written or printed documentation from the financial institution acknowledging such transactions, including but not limited to deposit slips, debit and credit memos, trust receipts, transfer acknowledgements, or cancelled warrants, shall be provided so that it may be kept in the official files of the ESC, which shall be maintained in a manner which facilitates easy review and validation of transactions.

All ESC staff shall comply with all provisions of the Uniform Electronic Transaction Act when creating, generating, sending, communicating, receiving, storing, processing, using, and relying upon electronic records. Further, all ESC staff and other persons who use electronic signatures when completing transactions with the Governing Board shall do so in compliance with applicable laws and regulations.

## 6110 - GRANT FUNDS

### Grant Administration

- A. The administration of grants shall adhere to all applicable Federal, State, local and grantor rules, and regulations, including the terms and conditions of the Federal awards, as well as ESC policies.
- B. The Superintendent is responsible for the efficient and effective administration of grant awards through the application of sound management practices.
- C. The Superintendent is responsible for administering grant funds in a manner consistent with underlying agreements, applicable statutes, regulations and objectives, and the terms and conditions of the grant award.
- D. The ESC, in recognition of its unique combination of staff, facilities, and experience, shall employ internal controls, including the organizational and management strategies necessary to assure proper and efficient administration of grant awards.
- E. All Federal funds received by the ESC shall be used in accordance with the applicable Federal law and regulations and the terms and conditions of the Federal award. The Superintendent shall require that each draw of Federal monies be aligned with the ESC's payment process (whether reimbursement, cash advance or a combination). If funds are permitted to be drawn in advance, all draws shall be as close as administratively feasible to the related program expenditures and that, when restricted, such monies are used to supplement programs and funding and not to supplant or replace existing programming or current funding.
- F. The Superintendent is authorized to sign related documents for grant administration, including documents required for submittal of grant proposals.

### Financial Management

The financial management of grant funds shall be in compliance with all applicable Federal, State, local and grantor rules, regulations, and assurances as well as ESC policies.

The ESC shall provide for the following:

- A. Identification, in ESC accounts, of all grant awards received and expended and the programs under which they were received. For Federal programs and awards, identification shall include the Catalog of Federal Domestic Assistance ("CFDA") title and number, Federal award identification number and year, name of the Federal agency and name of the pass-through entity, as applicable.

- B. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements of the grant.
- C. Records that identify adequately the source and application of funds provided for Federally-funded activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.
- D. Effective control over, and accountability for, all funds, property, and other assets. The ESC shall adequately safeguard all assets and assure that they are used solely for authorized purposes.

Further, the ESC shall:

- 1. establish and maintain effective internal control over the Federal award that provides reasonable assurance that the ESC is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
  - 2. comply with Federal statutes, regulations and the terms and conditions of the Federal award;
  - 3. evaluate and monitor the ESC's compliance with statutes, regulations and the terms and conditions of the Federal award;
  - 4. take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
  - 5. take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and obligations of confidentiality.
- E. Comparison of expenditures with budget amounts for each Federal award.
  - F. Recordkeeping and written procedures to the extent required by Federal, State, local and grantor rules and regulations pertaining to the grant award and accountability, including, but not limited to, the following areas:
    - 1. cash management,
    - 2. allowability,
    - 3. conflict of interest,

4. procurement,
  5. equipment management,
  6. conducting technical evaluations of proposals and selecting recipients,
  7. compensation and fringe benefits, and
  8. travel.
- G. Disclosure of any potential conflict of interest and all mandatory violation disclosures potentially affecting the Federal award/grant to the Federal awarding agency or pass through agency in accordance with applicable Federal policy.
- H. Insurance coverage for real property and equipment, if applicable, equivalent to such property owned by the ESC.

#### **Program Income**

Program income means gross income earned by a grant recipient that is directly generated by a supported activity or earned as a result of the Federal award during the grant's period of performance.

It includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by a recipient are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment or supplies are not program income.

Unless it has received prior approval to use a different method or the terms and conditions of the grant authorize a different method, the ESC uses the deduction method of accounting for program income. Under the deduction method, program income is deducted from total allowable costs to determine the net allowable costs. Program income shall only be used for current costs unless the ESC is otherwise directed by the Federal awarding agency or pass-through entity.

## 6112 - CASH MANAGEMENT OF GRANTS

In order to provide reasonable assurance that all assets, including Federal, State, and local funds, are safeguarded against waste, loss, unauthorized use, or misappropriation, the Superintendent shall implement internal controls in the area of cash management.

The ESC's payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury or the Ohio Department of Education (ODE) (pass-through entity) and disbursement by the ESC, regardless of whether the payment is made by electronic fund transfer, or issuance or redemption of checks, warrants, or payment by other means.

The ESC shall use forms and procedures required by the grantor agency or pass-through entity to request payment. The ESC shall request grant fund payments in accordance with the provisions of the grant. Additionally, the ESC's financial management systems shall meet the standards for fund control and accountability as established by the awarding agency.

The Superintendent is authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as deemed appropriate when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

When the ESC uses a cash advance payment method, the following standards shall apply:

- A. The timing and amount of the advance payment requested shall be as close as is administratively feasible to the actual disbursement for direct program or project costs and the proportionate share of any allowable indirect costs.
- B. The ESC shall make timely payment to contractors in accordance with contract provisions.
- C. To the extent available, the ESC shall disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- D. The ESC shall account for the receipt, obligation, and expenditure of funds.
- E. Advance payments shall be deposited and maintained in insured accounts whenever possible.
- F. Advance payments shall be maintained in interest bearing accounts unless the following apply:
  1. The ESC receives less than \$120,000 in Federal awards per year.

2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
  3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
  4. A foreign government or banking system prohibits or precludes interest bearing accounts.
- G. Pursuant to Federal law and regulations, the ESC may retain interest earned in an amount up to \$500 per year for administrative costs. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts shall be remitted annually to the Department of Health and Human Services Payment Management System (“PMS”) through an electronic medium using either Automated Clearing House (“ACH”) network or a Fedwire Funds Service payment. Remittances shall include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that shall assist in the timely posting of interest earned on Federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another Federal agency payment system.

**6140 - DEPOSITORY AGREEMENTS**

The Governing Board shall adopt a resolution at least every five (5) years designating those banks and other depositories of public funds in which the Treasurer may deposit active and/or interim funds of the ESC and authorizing the Treasurer to enter agreements with said banks and other depositories on behalf of the Governing Board. The Governing Board shall also make periodic changes if it is in the Governing Board's best interest to appoint an additional depository or if one (1) or more of the designated depositories are found to be insolvent or operating in an unsound manner.

## 6144 - INVESTMENTS

The Governing Board authorizes the Treasurer/CFO to make investments of available monies from the funds of the ESC in securities authorized by State law. These shall include:

- A. bonds, notes, or other obligations of or guaranteed by the United States, or those for which the faith of the United States is pledged for payment of principal and interest thereon but does not include stripped principal or interest obligations of such obligations;
- B. bonds, notes, debentures, or any other obligations or securities directly issued by a Federal government agency or instrumentality;
- C. interim deposits in Governing Board-approved depositories;
- D. bonds and other obligations of the State or the political subdivisions of this state, provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply the:
  - 1. bonds or other obligations are payable from the political subdivision's general revenues and backed by the full faith and credit of the political subdivision;
  - 2. bonds or other obligations are rated, at the time of purchase, in the three (3) highest classifications established by at least one (1) nationally recognized standard rating service and purchased through a registered securities broker or dealer;
  - 3. aggregate value of the bonds or other obligations does not exceed twenty percent (20%) of interim monies available for investment at the time of purchase; and
  - 4. Treasurer/CFO is not the sole purchaser of the bonds or other obligations at original issuance.
- E. no-load money market mutual funds consisting exclusively of obligations described in A. and B. above or repurchase agreements secured by such obligations, provided such investments are made only through eligible institutions authorized by R.C. 135.03; and
- F. the Ohio Subdivision Fund ("STAR Ohio").

Under no circumstances may the Treasurer/CFO invest in a derivative as defined by the Revised Code, reverse repurchase agreements, or other funds prohibited by law. The Treasurer/CFO shall

also not make investments which s/he does not reasonably believe can be held until the maturity date or leverage any investment.

No investment shall be made under division (D), as described above, unless the Treasurer/CFO has completed additional training that has been approved by the Treasurer of State and is either conducted by or provided under the supervision of the Treasurer of State.

The Treasurer/CFO is also authorized to enter into written repurchase agreements with any eligible institution in accordance with R.C. 135.03 provided that under the terms of the agreement the eligible institution agrees unconditionally to repurchase any of the securities listed in divisions (A) through (E), above. Such agreements may be either overnight or within a time not to exceed thirty (30) days and shall comply with the requirements of R.C. 135.14(E).

Upon a two-thirds (2/3's) vote of its members, the Governing Board may authorize the Treasurer/CFO to invest to a maximum of forty percent (40%) of the ESC's interim funds in either of the following:

- A. Commercial paper notes issued by a for-profit corporation, business trust or association, real estate investment trust, common-law trust, unincorporated business, or general or limited partnership which has assets exceeding \$500,000,000. Such notes shall:
  - A. be rated at the time of purchase in the highest classification established by at least two (2) nationally recognized standard rating services;
  - B. have an aggregate value that does not exceed ten percent (10%) of the outstanding commercial paper of the issuing entity;
  - C. mature not later than 270 days after purchase; and
  - D. be limited to the aggregate of five percent (5%) of interim monies available for investment at the time of purchase, when issued by a single issuer.
- B. Bankers' acceptances of banks that are insured by the Federal Deposit Insurance Corporation ("FDIC") and that mature no later than 180 days after purchase.

Investments made by the Treasurer/CFO shall mature within five (5) years from the date of settlement unless they are matched to a specific obligation or debt of the ESC.

The Treasurer/CFO shall prepare annually and submit to the Governing Board, the Superintendent of Public Instruction, and the Auditor of State, on or before August 31st, a report listing each investment made pursuant to (A) and (B) above, during the preceding fiscal year, income earned from such investments, fees and commissions paid in connection with the investments, and any other information required by the Governing Board, Superintendent, and the Auditor of State.

The purpose of the investments is to maximize the returns on the ESC's excess cash balances consistent with safety of those monies and with the desired liquidity of the investments.

In making investments authorized by R.C. 135.14, the Treasurer/CFO may retain the services of an investment advisor, provided the advisor is licensed by the Division of Securities under R.C. 1707.141, or is registered with the Securities and Exchange Commission, and possesses experience in public funds investment management, specifically in the area of State and local government investment portfolios, or the advisor is an eligible institution in accordance with R.C. 135.03.

Whenever the Treasurer/CFO classifies public money as interim funds, the Treasurer/CFO shall notify the Governing Board within thirty (30) days. If the Governing Board does not agree with the Treasurer/CFO's classification or investment(s), the Governing Board may order the Treasurer/CFO to sell or liquidate any investment(s) or deposits. The Governing Board's order shall specifically describe the investment(s) or deposit(s) and fix the date upon which they are to be sold or liquidated for cash at the current market price. Neither the Treasurer/CFO nor the members of the Governing Board shall be held accountable for any loss occasioned by sales or liquidations of investment(s) or deposit(s) at prices lower than their cost. Any loss or expense incurred in making such sales or liquidation is payable as other expenses of the Treasurer/CFO's office.

Unless the ESC's annual portfolio of investments is \$100,000 or less, the Treasurer/CFO shall place on file with the Auditor of State a written investment policy that has been approved by the Governing Board and signed by all entities conducting investment business with the Governing Board.

Earnings on an investment may become a part of the fund from which the investment was made unless set forth below or otherwise specified by law:

- A. Interest earned in any trust funds (funds 007 or 008) is received directly into that fund, based on the following formula:

$(\text{prior end of month fund balance} \div \text{prior end of month fund balance for all funds}) \times (\text{current month's interest})$

- B. Interest may be posted directly to funds other than those mentioned above as a result of specific Governing Board action.

The Treasurer/CFO, acting in accord with the law, may withdraw funds from approved public depositories or sell negotiable instruments prior to maturity.

Provided the Governing Board has no outstanding obligation(s) with respect to a loan received under the authority of R.C. 3313.483, the Treasurer of State and the Governing Board issuing obligations under R.C. Chapter 133 that mature within one (1) year from the original date of issuance may enter into an agreement providing for:

- A. the purchase of those obligations by the Treasurer of State on terms and subject to conditions set forth in the agreement;
- B. the payment by the Governing Board to the Treasurer of State of a reasonable fee as consideration for the agreement of the Treasurer of State to purchase those obligations.

**6145 - BORROWING**

Upon the initiative of the Governing Board and as provided by the laws of the State of Ohio, including the Uniform Bond Law and the Ohio Constitution the Treasurer shall prepare the data and applications regarding the borrowing of State Aid Notes, Tax Anticipation Notes, and Bond Issues.

Bids shall be solicited for all short term loans which the Governing Board has authorized. Funds shall be borrowed from the responsible organization offering the most favorable terms, as approved by the Governing Board.

**6150 - TUITION INCOME**

The Governing Board shall assess tuition for attendance in ESC educational services/schools/programs.

The Treasurer shall be responsible for the assessment and attempted collection of tuition. Tuition billing may be assessed daily in advance of the period for which the billing is made.

When payment of tuition is more than thirty (30) days overdue, services may be terminated to the extent permitted by law.

**6151 - BAD CHECKS**

When the ESC receives a check from an individual or entity that, when deposited, is returned, dishonored, or marked “insufficient funds,” the Treasurer shall provide an opportunity for the payer to make proper payment, as well as any insufficient fund and related fees, or to arrange for a satisfactory payment schedule. If payment is not received within seven (7) calendar days, the payment schedule is not adhered to, or the monies do not appear to be collectable, the Governing Board authorizes the Treasurer to remove the fee or charge from the ESC’s Accounts Receivable and to take appropriate action against the individual or entity.

**6210 - FISCAL PLANNING**

The Governing Board shall collect and assemble the information necessary to discharge its responsibility for the fiscal management of the ESC and to plan for the financial needs of the educational program. Accordingly, the Governing Board directs the Treasurer to report to the Governing Board any serious financial implications that emerge from the ESC's ongoing fiscal planning.

**6233 - AMENITIES FOR PARTICIPANTS AT MEETINGS AND/OR OTHER OCCASIONS**

The Governing Board recognizes the value in providing meals, refreshments, and/or other amenities for staff, students, citizens, advisory groups who participate in meetings and staff development sessions, or on other occasions as deemed appropriate by the administration.

The Governing Board hereby affirms that these expenses do serve a valid and proper public purpose. The Governing Board believes that the “public purpose” served is the promotion of education, enhancement of morale, and rapport, and the encouragement of participation in said activities. However, under no circumstances shall public funds be expended for the purchase of alcoholic beverages.

## 6320 - PURCHASES

### **Quotations and Bids**

It is the policy of the Governing Board that the Treasurer seek at least three (3) price quotations on purchases of more than \$25,000 for a single item, except in cases of emergency or when the materials purchased are of such a nature that price negotiations would not result in a savings to the ESC or when the item is subject to formal bid. Standardized purchasing procedures of the ESC shall be followed when purchasing on the basis of price quotations from vendors.

### **Limitations**

All purchases that are within the amount contained in the fund of the appropriation may be made upon authorization of the Treasurer.

The Treasurer is authorized to adjust appropriations within a fund in order to make necessary purchases and shall report such modifications at the following regular Governing Board meeting.

### **“Blanket” Certificates**

The Treasurer may issue “blanket” purchase orders (certificates) for a sum not exceeding an amount established by resolution of the Governing Board against any specific line item account over a period of time, not to extend beyond the end of the fiscal year in which it is issued. Only one (1) “blanket” purchase order (certificate) may be outstanding at any one (1) particular time for any one (1) particular line item appropriation.

### **“Super Blanket” Certificates**

The Treasurer may issue “super blanket” purchase orders (certificates) for any amount for expenditures and contracts from a specific line-item appropriation account in a specified fund for most professional services, fuel, oil, food items, and any other specific recurring and reasonably predictable operating expense. Such a purchase order (certificate) shall not extend beyond the fiscal year.

### **Contracts for Development and Improvement of Facilities**

All contemplated contracts for professional design services such as from an architect or for construction management shall be in accordance with R.C. 9.33, 9.333, and 153.54 et seq.

### **Competitive Bidding**

When the Governing Board determines to build, repair, enlarge, improve, or demolish a school building the cost of which will exceed \$50,000, or for the purchase (or lease-purchase) of school buses, the Treasurer or designee shall obtain competitive bids.

In accordance with statute, the Governing Board may elect to forego the bidding for contracts in any of the following situations if:

- A. the Governing Board elects and declares by resolution to participate in purchase contracts, in accordance with R.C. Chapter 125 and the terms and conditions prescribed by the Department of Administrative Services;
- B. the Governing Board determines and declares by resolution adopted by two-thirds (2/3's) of its members that any item is available and can be acquired from a single source;
- C. the Governing Board declares by resolution adopted by two-thirds (2/3's) of its members that the installation, modification, and/or remodeling subject to contracting is involved in an energy conservation measure undertaken through an installment payment contract under R.C. 3313.372 or pursuant to R.C. 133.06(G);
- D. the Governing Board finds and determines that an urgent necessity exists (as defined by statute) with respect to a particular improvement; and
- E. pursuant to R.C. 9.48, the Governing Board participates in a joint purchasing program, operated by or through a national or State association of political subdivisions in which the Governing Board is eligible for membership or through the Federal government or another political subdivision.

The Superintendent shall verify that the specifications for any public improvement project for which bids are solicited do not require any bidder to:

- A. enter into agreements with labor organizations on said public improvement; or
- B. enter into an agreement that requires its employees to become members of or pay fees or dues to a labor organization as a condition of employment or continued employment.

Bidding shall be conducted in accordance with R.C. 3313.46 and related statutes.

Bids shall be sealed and shall be opened by the Treasurer or designee in the presence of at least one (1) witness.

#### **Soliciting of Bids**

The Governing Board, by resolution, may award a bid to the lowest responsible bidder. For a bidder to be deemed responsible, the Governing Board may request evidence from the bidder concerning:

- A. the experience (type of product or service being purchased, etc.) of the bidder;

- B. the financial condition;
- C. the conduct and performance on previous contracts (with the ESC or other agencies);
- D. the bidder's facilities;
- E. management skills;
- F. the ability to execute the contract properly; and
- G. a signed affidavit affirming that neither the bidder nor any sub-contractor has entered into an agreement with any labor organization regarding the public improvement project.

#### **Awarding of Bids**

The Governing Board shall approve all contracts resulting from competitive bids prior to being awarded. The Governing Board reserves the right to reject any or all bids.

In situations in which the Governing Board has resolved to award a bid to the lowest responsible bidder and the low bidder does not meet the considerations specified above, the Governing Board shall so notify the bidder, in writing, by certified mail.

#### **Purchase of School Buses and Certain Other Motor Vehicles**

The Governing Board shall use competitive bidding to enter into an agreement for the purchase or lease-purchase of a school bus unless an exception to bidding applies. The term "school bus" includes any vehicle designed to carry more than nine (9) passengers excluding the driver. Bids shall indicate that prior to delivery of the bus must comply with all applicable State laws and regulations, including the Ohio Pupil Transportation Operation and Safety Rules. No bid bonds will be required unless requested by the Governing Board during the competitive bidding process. The Governing Board is not required to use competitive bidding to rent or lease a school bus as long as the agreement does not include a provision for purchase of the bus.

For the purchase of motor vehicles other than school buses, the Governing Board will follow the adopted procedures to obtain price quotations prior to purchase when applicable. Standardized purchasing procedures of the ESC shall be followed when purchasing a motor vehicle other than a school bus.

#### **Lease-Purchase Agreements**

Lease-purchase agreements entered into by the Governing Board shall be in accordance with R.C. 3313.375. Such agreements shall be a series of not more than thirty (30) one-year renewable lease

terms, after which time ownership is transferred to the Governing Board if all obligations of the Governing Board under the agreement have been satisfied.

### **Purchases from the State**

In accordance with State law (R.C. 4115.31 et seq.), the Superintendent shall purchase products and services which are available from the Ohio Industries for the Handicapped (OIH) when such products or services are needed by the ESC. The Superintendent is to maintain the current catalog provided by OIH and inform all ESC personnel who may be purchasing products or services of the catalog's current listings.

### **Requirements**

Before the Treasurer places a purchase order, s/he shall check as to whether the proposed purchase is subject to bid, whether sufficient funds exist in the budget, and whether the material might be available elsewhere in the ESC. All purchase orders shall be numbered consecutively.

In the interests of economy, fairness, and efficiency in its business dealings, the Governing Board requires that:

- A. items commonly used in the various schools or units thereof, be standardized whenever consistency with educational goals can be maintained; and
- B. where the requisitioner has recommended a supplier, the Treasurer may make alternate suggestions to the requisitioner if, in his/her judgment, better service, delivery, economy, or utility can be achieved by changing the proposed order.

The Governing Board may acquire equipment as defined in law by lease, by installment payments, by entering into lease-purchase agreements, or by lease with an option to purchase, provided the contract sets forth the terms of such a purchase.

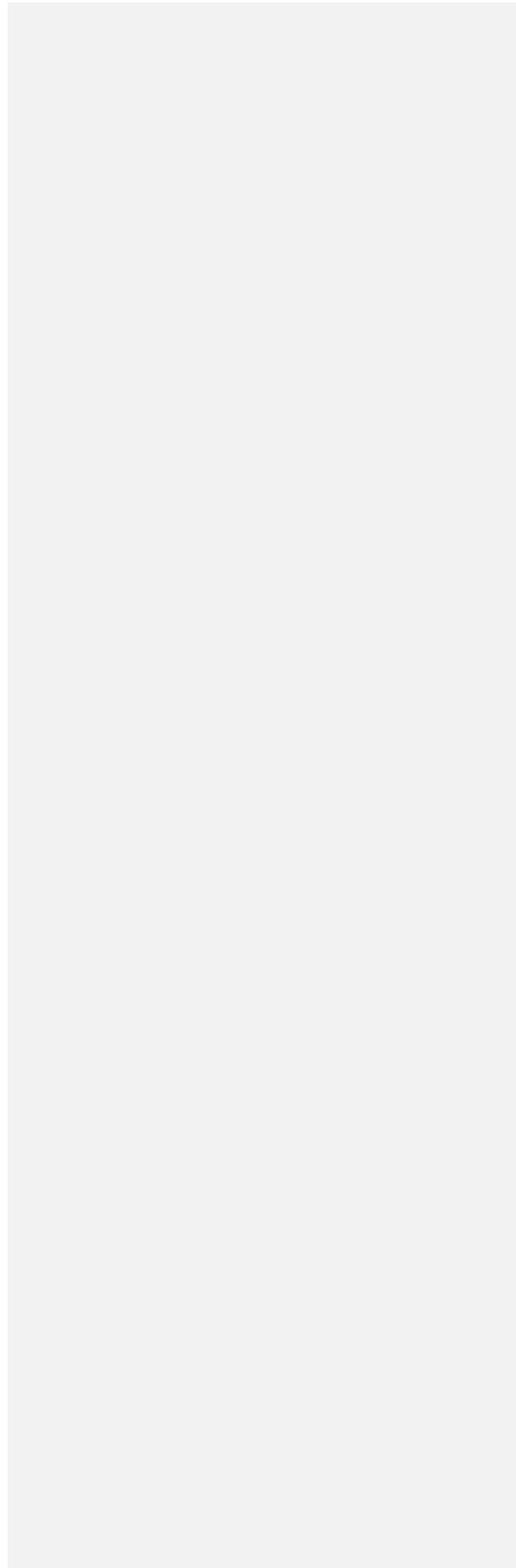
### **Reverse Auctions**

It is the policy of the Governing Board to permit the use of a reverse auction to purchase services and supplies whenever it is determined that the reverse auction process shall be advantageous to the ESC (e.g., result in a cost savings to the ESC). To that end, vendors may submit proposals when competing to sell services and/or supplies in an open environment via the Internet. While the reverse auction process may be used to purchase supplies such as equipment, materials, tangible assets and insurance, the process may not be used to purchase real property or interests in real property. The process may also be used to purchase services such as the furnishing of labor, time, or effort by a person, provided such services do not involve the delivery of a specific end product other than a report, and are not being furnished in connection with an employment agreement.

The Governing Board shall provide notice of the request for proposals and award contracts. When competitive sealed bidding and/or competitive sealed proposals for the purchase of services or supplies are required by law, purchases made by reverse auction shall satisfy such legal requirement.

**Procurement – Federal Grants**

The Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (34 CFR 80.36) for the administration and management of Federal grants and Federally-funded programs. The ESC shall maintain a compliance system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of this policy.



## 6325 - PROCUREMENT – FEDERAL GRANTS/FUNDS

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or ESC matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Governing Board policies, and administrative procedures.

The Superintendent shall have and use a procurement and contract administration system in accordance with the USDOE requirements (2 C.F.R. 200.317-.326), including affirmative steps for small and minority businesses and women's business enterprises, for the administration and management of Federal grants and Federally-funded programs. The ESC shall maintain oversight that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the ESC's documented general purchasing Governing Board Policy 6320.

All ESC employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award, and administration of contracts as established in Governing Board Policy 1130, Governing Board Policy 3113 and Governing Board Policy 4113 – Conflict of Interest.

The ESC shall avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the ESC may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

### **Competition**

All procurement transactions for the acquisition of property or services required under a Federal award shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgment. In order to promote objective contractor performance and eliminate unfair competitive advantage, the ESC shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business;
- B. unnecessary experience and excessive bonding requirements;
- C. noncompetitive pricing practices between firms or between affiliated companies.
- D. noncompetitive contracts to consultants that are on retainer contracts;
- E. organizational conflicts of interest;
- F. specification of only a “brand name” product instead of allowing for an “or equal” product to be offered and describing the performance or other relevant requirements of the procurement; or
- G. any arbitrary action in the procurement process.

Further, the ESC does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; or (2) the ESC is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the ESC uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The ESC allows vendors to apply for consideration to be placed on the list continuously.

The ESC shall require that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to provide maximum open and free competition. The ESC shall not preclude potential bidders from qualifying during the solicitation period.

#### **Solicitation Language**

The ESC shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Governing Board shall not approve any expenditure for an unauthorized purchase or contract.

### **Procurement Methods**

The ESC shall utilize the following methods of procurement:

A. Micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$5,000 (not to exceed \$5,000). To the extent practicable, the ESC shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Superintendent considers the price to be reasonable. The ESC maintains evidence of this reasonableness in the records of all purchases made by this method.

B. Small Purchases

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold of \$25,000. Small purchase procedures require that price or rate quotations shall be obtained from a minimum of three (3) adequate number of qualified sources.

C. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to \$25,000 and when the Governing Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which shall exceed \$25,000.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. a complete, adequate, and realistic specification or purchase description is available;
2. two (2) or more responsible bidders are willing and able to compete effectively for the business; and

3. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

4. Bids shall be solicited in accordance with the provisions of applicable laws and regulations and Governing Board Policy 6320. Bids shall be solicited from a minimum of three (3) adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
5. The invitation for bids shall include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
6. All bids shall be opened at the time and place prescribed in the invitation for bids; bids shall be opened publicly.
7. A firm fixed price contract award shall be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
8. The Governing Board reserves the right to reject any or all bids for sound documented reason.

D. Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one source submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

1. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
2. Proposals shall be solicited from a minimum of three (3) adequate number of sources.

3. The ESC shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
4. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The ESC may use competitive proposal procedures for qualifications- based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

E. Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. the item is available only from a single source;
2. the public exigency or emergency for the requirement shall not permit a delay resulting from competitive solicitation;
3. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the ESC; and/or
4. after solicitation of a number of sources, competition is determined to be inadequate.

F. Noncompetitive Purchases Through Educational Service Centers (ESCs)

Under State law, the Governing Board may enter into a contract with another educational service center ("ESC") that authorizes the other ESC to make purchases for supplies, materials, equipment, and services or the delivery of services on the Governing Board's behalf. These contracts promote operational efficiency and cost savings, and further enhance the educational experience for our students. Purchases made through such contracts are exempt from competitive bidding.

The Governing Board may apply for approval from ODE to use a noncompetitive purchasing method to procure personnel-based services from another ESC only when the following criteria are met:

1. The other ESC posts a list of all services it provides including costs of these services on its website;
2. The other ESC has been designated as “high performing” by the Ohio Department of Education, and
3. ODE as the passthrough state entity has determined that the other ESC was substantially in compliance with all audit rules and guidelines during the most recent audit conducted by the Auditor of State.

The Treasurer/CFO will submit an application and any required documentation to ODE on the designated form requesting approval for use of a noncompetitive purchasing method for personnel services. Purchases will not be made until the application is approved. Notice of approval will be maintained by the Treasurer/CFO.

#### **Contract/Price Analysis**

The ESC shall perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the ESC shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the ESC shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

#### **Time and Materials Contracts**

The ESC uses a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the ESC is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the ESC sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the ESC shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

## **Suspension and Debarment**

The ESC shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the ESC and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the ESC shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The ESC is subject to and shall abide by the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180.

Suspension is an action taken by the ESC that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 C.F.R. chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 C.F.R. Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 C.F.R. chapter 1). A person so excluded is debarred. (2 C.F.R. Part 180 Subpart H)

The ESC shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the ESC shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov); collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 C.F.R. Part 180 Subpart C)

## **Bid Protest**

The ESC maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request for Proposals ("RFP"s) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and

rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Governing Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

**Maintenance of Procurement Records**

The ESC maintains records sufficient to detail the history of all procurements. These records shall include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

**6350 - PROHIBITION AGAINST CONTRACTING WITH A PERSON AGAINST WHOM AN UNRESOLVED FINDING FOR RECOVERY HAS BEEN ISSUED**

The Governing Board shall not award a contract for goods, services or construction, which is paid in whole or in part with public funds, to a person against whom a finding for recovery has been issued by the Auditor of State on or after January 1, 2001, if the finding for recovery is unresolved.

**Findings for Recovery**

A finding for recovery is a determination by the Auditor of State that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated. A finding for recovery is unresolved unless:

- A. the money identified in the finding for recovery is paid in full to the State agency or political subdivision to whom the money was owed;
- B. the debtor has entered into a repayment plan that is approved by the Attorney General and the State agency or political subdivision to whom the money identified in the finding for recovery is owned;
- C. the Attorney General waives a repayment plan described in (B.) for good cause;
- D. the debtor and State agency or political subdivision to whom the money identified in the finding for recovery is owed have agreed to a payment plan established through an enforceable settlement agreement;
- E. the State agency or political subdivision desiring to enter into a contract with a debtor certifies, and the attorney general concurs, that all of the following are true:
  - 1. essential services that the State agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor;
  - 2. awarding a contract to the debtor for the essential services described above is in the best interest of the State; and
  - 3. good faith efforts have been made to collect the money identified in the finding for recovery.
- F. the debtor has commenced an action to contest the finding for recovery and a final determination on the action has not yet been reached.

**Verifying Status Regarding Findings for Recovery**

December 16, 2021 Proposed Amendments

Prior to the Governing Board awarding a contract for goods, services, or construction, paid in part or in whole with public funds, the Treasurer, as the Governing Board's designee, shall verify that the person or entity to whom the contract is to be awarded does not appear in the database maintained by the Auditor of State, listing those with findings for recovery against them. The Treasurer shall then print a certification page from the database, documenting that the person or entity is not subject to an unresolved finding for recovery, and keep this certification on file.

**Contracts Not Applicable**

This policy does not apply to contracts that meet the following criteria:

- A. The cost for the goods, services, or construction under the contract is estimated to cost less than \$25,000; or
- B. the aggregate cost for the goods, services, or construction under multiple contracts entered into within the fiscal year preceding the fiscal year within which the contract is being entered into by the same parties is estimated to cost less than \$50,000.

The policy may apply to a contract renewal of a contract previously entered into and renewed pursuant to that preceding contract as long as it is not exempt because of the contract amount.

The policy does not apply to contracts with bonding companies or insurance companies unless a court has entered a final judgment against the company and the company has not yet satisfied the final judgment.

The policy does not apply to employment contracts.

## 6423 - USE OF CREDIT CARDS

The Governing Board recognizes the value of an efficient method of payment and recordkeeping for certain expenses.

The Governing Board, therefore, authorizes the use of ESC credit cards. The name of the Governing Board shall appear on each ESC credit card and check related to a credit card account held by the ESC. A "credit card account" shall include any bank-issued credit card account, store-issued credit card account, financial institution-issued credit card account, financial depository-issued credit card account, affinity credit card account, or any other card account allowing the holder to purchase goods or services on credit or otherwise transact with the account, and any debit or gift card account related to the receipt of grant monies. The term expressly excludes any procurement card account, gasoline or telephone credit card account, or any other card account where merchant category codes are in place as a system of control for use of the account.

The authorization, handling and use of credit cards has been established to provide a convenient and efficient means to purchase goods and services from vendors. Credit cards, however, shall not be used in order to circumvent the general purchasing procedures established by State law and Governing Board policy. The Governing Board affirms that credit cards shall only be used in connection with Governing Board-approved or school-related activities and that only those types of expenses that are for the benefit of the ESC and serve a valid and proper public purpose shall be paid for by credit card. However, under no circumstances shall credit cards be used for personal purchases or the purchase of alcoholic beverages regardless of whether the purchase of such beverages is made in connection with a meal. Use of credit cards in an unauthorized or illegal manner may result in revocation of credit card privileges, disciplinary action and/or, where appropriate, may require the user to pay any and all inappropriate charges, including finance charges and interest assessed in connection with the purchase. Additionally, any officer or employee of the ESC who knowingly misuses a credit card account is guilty of the criminal offense of misuse of credit cards. Violations will be reported to the appropriate law enforcement authorities and any applicable licensure board(s).

The sum of all credit card accounts shall not exceed \$5,000.00.

Subject to the discretion of the Governing Board and the approval of the Superintendent, credit cards may be used for eligible goods and services including:

- A. transportation reservations and expenses;
- B. conference registrations;
- C. hotel reservation guarantees and expenses;
- D. reasonable meal expenses (both in-town and out-of-town), including a maximum gratuity of eighteen percent (18%), but excluding alcoholic beverages;

- E. purchases from vendors who do not accept purchase orders or vouchers, with prior approval from the Superintendent;
- F. safety and security reasons in connection with a student field trip, competition, and/or other activity or event, if monies are budgeted and deposited with the Treasurer/CFO in advance; and
- G. other purchases approved by the Superintendent on a case by-case basis.

The procedure for credit card issuance, credit card reissuance, credit card cancelation, and the process for reporting lost or stolen credit cards shall be as follows:

- A. Credit Card Issuance: To issue an ESC credit card to any employee, a formal written request shall be made to the Treasurer stating one or more of the reasons set forth in this policy as the purpose for the credit card usage.
- B. Credit Card Reissuance: To reissue an ESC credit card to any employee, a formal written request shall be made to the Treasurer stating whether the credit card has been lost, stolen, and/or possibly unauthorized used.
- C. Credit Card Cancelation: To cancel an ESC credit cards issued and/or reissued to any employee, the Treasurer/CFO shall make the proper notification to the credit card company.
- D. Reporting Lost or Stolen Credit Cards: Officers and employees are liable in person and upon official bond for any unauthorized use of credit cards and any officer or employee who suspects the loss, theft, or possibility of unauthorized use of a credit card must notify the Treasurer/CFO immediately, who shall notify the Governing Board.

The Governing Board prohibits the use of debit card accounts except for the receipt of grant monies. Any officer or employee of the ESC who uses a debit card account for any other purpose is guilty of the criminal offense of misuse of credit cards.

Use of the ESC credit card for any cash withdrawal transaction is strictly prohibited.

The Treasurer/CFO shall retain general possession and control of the credit card account or presentation instruments related to an account, such as credit cards and checks.

Inappropriate or illegal use of the credit card and/or failure to strictly comply with the limitations and requirements set forth in policies may result in a loss of credit card privileges, disciplinary action, up to and including termination, personal responsibility for any and all inappropriate charges, including finance charges and interest assessed in connection with the purchase, and/or possible referral to law enforcement authorities for prosecution. Violations will also be reported to the applicable licensure board(s).

The Governing Board authorizes the following employees to use ESC credit cards:

- A. Superintendent; and
- B. Treasurer/CFO;

Each request for use of an ESC credit card shall contain:

- A. date needed,
- B. date to be returned,
- C. purpose, and
- D. authorization.

Upon receipt of an ESC credit card, employees shall:

- A. Inform merchants that the purchase is for “official School ESC business” and is not subject to State or local sales tax. However, if the merchant fails to waive the tax, the employee shall pay it. For large purchases where the merchant refuses to waive the tax, the employee shall present a tax exemption form.
- B. Maintain credit cards in a secure fashion and prevent unauthorized charges to the account.
- C. Use reasonable care when making purchases online, refrain from providing the credit card number to unknown online merchants, and do not auto-save credit card number for any online account.
- D. Maintain sufficient documentation of all purchases, including, but not limited to, charge receipts, original cash register slip or other detailed receipt, and invoices.
- E. Provide documentation of all purchases to the Treasurer/CFO in a timely manner to ensure prompt payment.
- F. Immediately notify his/her immediate supervisor and the Treasurer/CFO if the card is lost or stolen, or if s/he becomes aware of a data breach which may involve the card.
- G. Refrain from allowing anyone else to use the credit card or account number.

- H. Refrain from splitting the costs of an invoice or purchase in order to circumvent the credit card process and established, pre-approved single purchase limits, monthly spending limits, and/or funds availability.

The officer or employee is liable in person and upon any official bond to reimburse the ESC the amount for which the officer or employee does not provide itemized receipts in accordance with the credit card policy described herein.

After use, ESC credit cards are to be returned to the Treasurer/CFO along with appropriate receipt copies of all charges within two (2) business days upon completion of any approved use.

Employees, when possible, shall include an original cash register slip or other detailed receipt (i.e., a receipt from a restaurant itemizing all purchases made), in addition to the receipt copy of all charges. In addition, employees shall include, shipping documents and receipts received with the merchandise.

Employees shall specify on the back of the receipt the following information:

- A. a brief description of the school-related purpose of the purchase;
- B. the names and affiliation of each attendee if a purchase is made on behalf of a group of individuals; and
- C. verification that family members or other individuals having no school-related purpose for their attendance paid their own expenses, if applicable

Failure to return ESC credit cards and/or receipts within the above-referenced time period may result in the suspension of credit card privileges and/or charges being deemed unrelated or unsubstantiated.

Employees shall be responsible for any and all unrelated or unsubstantiated purchases and shall be required to make full reimbursement to the ESC within thirty (30) business days.

If an employee reimburses the ESC for an unsupported purchase, it shall be documented in the monthly credit card reconciliation.

The Treasurer/CFO will keep a record/activity log of all credit card uses and review and approve all purchases to verify that the expenses are incurred in connection with Governing Board-approved or school-related activities, are for the benefit of the ESC, and serve a valid and proper public purpose prior to disbursing public funds for payment of such expenses.

Any and all reviews and approvals must be evidenced by the Treasurer/CFO's initials and/or signature.

In addition to evidencing review and approval of the purchase, the Treasurer/CFO should immediately send all questionable items to the employee purchasing the item for explanation. These explanations shall be approved by the employee's immediate supervisor and the Superintendent prior to the payment of such expenses. If an employee reimburses the ESC for a questionable purchase, it shall be documented in the monthly credit card reconciliation.

Upon review and approval, all appropriate documentation shall be forwarded to the Treasurer/CFO.

Upon receipt of the appropriate documentation, credit card expenditures will be paid through the Treasurer's office.

The Treasurer/CFO will monitor the credit card account(s) and reconcile all credit card accounts on a monthly basis.

The Treasurer/CFO shall file a report with the Governing Board annually, detailing all rewards received based on the use of ESC's credit card account.

**6424 - PROCUREMENT CARDS**

The Governing Board recognizes that procurement cards offer a convenient and efficient method of purchasing minor goods and services, and therefore authorizes use of procurement cards. The Board authorizes the Treasurer/CFO to obtain procurement cards for use with Governing Board - approved vendors. The name of the Educational Service Center shall appear on each card.

Procurement cards are cards issued to authorized employees to make purchases of designated items at authorized businesses, and are linked to either a credit card or bank account. They function like a credit card, except that there are more options for spending controls.

The Treasurer/CFO shall establish per purchase and per month dollar limits with each voucher for every procurement card, the total value of which shall not exceed Five Hundred Dollars and Zero Cents (\$500.00) per year. The Treasurer/CFO may also establish limits on the number of purchases that may be made per day, week, or month with the card. Purchases must be limited to items in the following Merchant Category Codes:

- A. Office supplies;
- B. Printing and stationery;
- C. Catering and other food purchases;
- D. Computers and software; and
- E. Other purchases approved by the Superintendent on a case-by-case basis.

The bank manages the procurement card and will provide invoices at least monthly. The Treasurer/CFO will approve these invoices prior to payment being made. Employees shall submit itemized receipts within two (2) days after purchases are made.

The Board authorized the following employees to use procurement cards:

- A. Superintendent
- B. \_\_\_\_\_
- C. \_\_\_\_\_

Employees who use a procurement card are subject to all procedures and restrictions that apply to the use of credit cards summarized in Policy 6423.

All approved cardholders must agree to abide by procurement card procedures and regulations set forth in this policy as well as Policy 6423 and relevant administrative guidelines. All transactions must be made by the individual to whom the card is issued. Employees are responsible for the

security and physical custody of the card. Lost or stolen cards shall be reported immediately to the Treasurer/CFO.

Employees may use procurement cards only for school-related purposes in accordance with State law and Governing Board policy. Procurement cards shall not be used or circumvent the general purchasing procedures required by Ohio law and Governing Board policy. The procurement card may never be used to purchase alcohol or personal items or services, nor is the personal gain of credit card rewards such as bonus points, frequent flyer miles, or any other affinity program reward program permitted under any circumstances.

Employees shall be responsible for any and all unrelated or unsubstantiated purchases and shall be required to make full reimbursement to the Center within thirty (30) calendar days.

Cardholders will immediately surrender their cards upon request of the Treasurer/CFO and/or Superintendent for administrative reasons and shall surrender their cards upon separation from employment. This policy and related administrative guideline cannot cover every issue, exception, or contingency that may arise during the cardholder use of the procurement card.

The Treasurer/CFO shall conduct independent regular reviews of each cardholder's activity to verify that the purchasing card is being used in accordance with this policy and administrative guidelines. Prices for commonly priced items should be periodically verified to prevent schemes of purposeful price inflation.

#### **PURCHASING CARDS**

~~The Governing Board recognizes that bank credit cards ("purchasing cards") offer an alternative to existing procurement processes and provide a convenient, efficient method of purchasing minor goods and services with a value of less than \$500. Governing Board employees authorized by the Treasurer may use purchasing cards only for school-related purposes in accordance with this policy. Purchasing cards shall not be used to circumvent the general purchasing procedures required by Ohio law and Governing Board policy.~~

~~All approved cardholders shall agree to abide by purchasing card procedures and regulations set forth in this policy. All transactions shall be made by the individual to whom the card is issued.~~

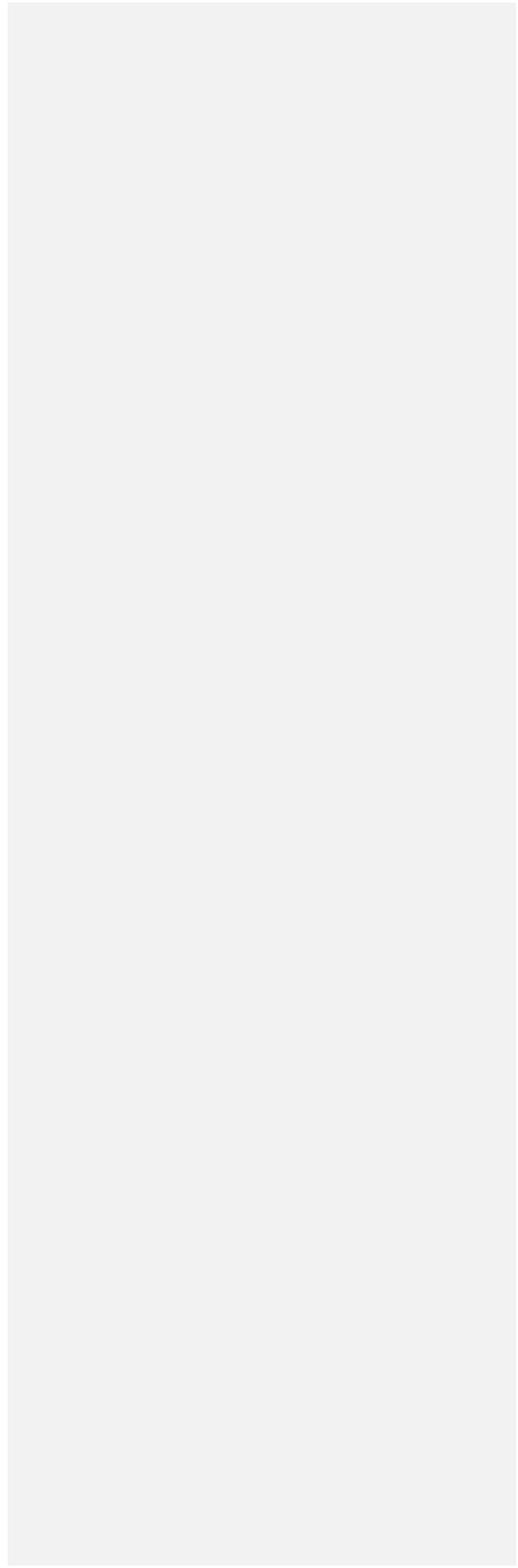
~~Purchasing card banks shall be provided no individual cardholder information (e.g., credit records or social security numbers) other than the individual cardholder's work address.~~

~~The Treasurer shall conduct independent regular reviews of each cardholder's activity to verify that the purchasing card is being used in accordance with this policy. Prices for commonly priced items should be periodically verified to prevent schemes of purposeful price inflation.~~

~~Cardholders shall use common sense and good judgement when using school resources. This policy cannot cover every issue, exception, or contingency that may arise during the cardholders use of the purchasing card.~~

- ~~Cardholders shall immediately surrender their cards upon request of the Treasurer for administrative reasons, and shall surrender their cards upon separation from employment.~~

- ~~The purchasing card may never be used for personal items or services, nor is the personal gain of credit card rewards such as bonus points, frequent flyer miles, or any other affinity program reward permitted under any circumstances.~~



#### 6440 - COOPERATIVE PURCHASING

The Governing Board recognizes the advantages of centralized purchasing in that volume buying tends to maximize value for each dollar spent. The Governing Board, therefore, encourages the administration to seek advantages in savings that may accrue to this ESC through joint agreements for the purchase of supplies, equipment, or services with the governing body(ies) of other governmental units.

The Governing Board authorizes the Superintendent to negotiate such joint purchase agreements for services, supplies, and equipment which may be determined to be required from time to time by the Governing Board and which the Governing Board may otherwise lawfully purchase for itself, with governmental contracting units as may be appropriate in accordance with applicable laws and regulations, the policies of this Governing Board, and the dictates of sound purchasing procedures.

Cooperative or joint purchases require an agreement approved by the Governing Board and the participating contracting body(ies) which shall specify the categories of equipment and supplies to be purchased; the manner of advertising for bids and of awarding contracts; the method of payment by each participating party and such other matters as may be deemed necessary to carry out the purposes of the agreement. Such agreements are subject to all legal bidding requirements.

**6450 - LOCAL PURCHASING**

The Governing Board recognizes its position as a major purchaser in this community, and while it is the intention of the Governing Board to purchase materials and supplies of quality at the lowest possible cost through widespread competition, if all other considerations are equal, the Governing Board prefers to purchase within the ESC from established local merchants.

## 6460 - VENDOR RELATIONS

The Governing Board shall not enter a contract knowingly with any supplier of goods or services to this ESC under which any Governing Board member or officer, employee, or agent of this ESC has any pecuniary or beneficial interest, direct or indirect, unless the person has not solicited the contract or participated in the negotiations leading up to the contract. This prohibition shall not prevent any person from receiving royalties upon the sale of any educational material of which s/he is the author and which has been properly approved for use in the schools of this ESC.

Governing Board members and school personnel shall not accept any form of compensation from vendors that might influence their recommendations on the eventual purchase of equipment, supplies, or services. Furthermore, Governing Board members and school personnel 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, Governing Board members or school personnel who recommend purchases shall not enter into a contractual arrangement with a vendor seeking to do business with the ESC, or a vendor with whom the ESC is doing business, whereby an individual Governing Board member or member of the school staff 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 Governing Board member or member of the school staff receives such compensation, albeit unsolicited, from a vendor, the Governing Board member or school staff member shall notify the Treasurer, in writing, that s/he received such compensation and shall thereafter promptly transmit said compensation to the Treasurer at his/her earliest opportunity.

Nothing herein shall prevent an ESC employee, who is not in a position to negotiate or authorize a contract with a vendor, from accepting a discount on goods purchased for personal use from a vendor with whom the Governing Board does business (i.e., that has a contract with the Governing Board) provided the vendor (a) extends the same discount to all of its customers and does not limit it to officials and employees of the ESC, (b) offers a uniform discount to all eligible school officials and employees, without limiting the offer to employees with official duties or responsibilities affecting the vendor's financial interest, and (c) does not offer the discount to school officials and employees in exchange for the performance of their public duties. Governing Board members and/or school personnel who negotiate or authorize a vendor's contract are prohibited from accepting any discount offered by the vendor for his/her personal use. Such individuals also shall not suggest that the vendor offer an employee discount as part of the public contract.

All sales persons, regardless of product, shall clear with the Superintendent's office before contacting any teachers, students, or other personnel of the ESC. Purchasing personnel shall not show any favoritism to any vendor. Each order shall be placed in accordance with policies of the Governing Board on the basis of quality, price, and delivery with past service a factor if all other considerations are equal.

In accordance with applicable laws and regulations, Governing Board Policy 4121, and Governing Board Policy 8142, a criminal background check is required of any non-teaching employee, including individuals employed by a private company/vendor under contract with the Governing Board to provide essential school services who shall work within the ESC in a position which does not require a license issued by the State Governing Board, is not for the operation of a vehicle for student transportation, but does involve routine interaction with a child or regular responsibility for the care, custody, or control of a child.

**6470 - PAYMENT OF CLAIMS**

The Governing Board directs the prompt payment of legitimate claims by suppliers of goods and services to the ESC.

Each bill or obligation of this Governing Board shall be fully itemized and verified before a voucher can be drawn for its payment.

When an invoice is received, the Treasurer or designee shall verify that a voucher is properly submitted and that the amount of the invoice is correct.

The originator of the purchase order shall verify that acceptable goods were received or satisfactory services were rendered and the date of receipt.

All payments shall be submitted for Governing Board review in the form of a listing that includes the vendor name; the number and amount of the check; and the description of the item.

**6510 - PAYROLL AUTHORIZATION**

The most substantial payment of public funds for the operation of the ESC is that which is made to the employees of the Governing Board for services rendered. To verify that each person so compensated is validly employed by this ESC and that the compensation remitted fairly represents the services rendered, this policy is promulgated.

Employment of all ESC personnel whether by the year, term, month, week, day, or hour in contract, temporary, or substitute form shall be approved by the Governing Board except where authority to appoint certain personnel of the ESC has been delegated to the Superintendent.

Each motion of the Governing Board to employ or reemploy a staff member shall include the name of the individual, the position title, and the effective date of employment.

## 6520 - PAYROLL DEDUCTIONS

To the extent permitted by law, the Governing Board authorizes deductions to be made from an employee's paycheck upon proper authorization on the appropriate form for the following purposes:

- A. Federal and State income tax,
- B. Social Security or retirement contribution,
- C. municipal income tax,
- D. ESC income tax,
- E. School Employees Retirement System,
- F. State Teachers Retirement System,
- G. Section 125 deductions (cafeteria plans),
- H. savings in a chartered credit union,
- I. contributions to charitable and not-for-profit corporations and community fund organizations, and
- J. 457 Deferred Compensation Plans.

In any case where the employee designates the agent, broker, or company through whom the Governing Board shall arrange for the placement or purchase of the tax-sheltered annuity, the agent, broker or company shall execute a reasonable service agreement, an information sharing agreement, and/or other similar agreements as determined at the discretion of the Governing Board. The service agreement shall protect the ESC from any liability attendant to procuring the annuity (i.e., a "hold harmless") in accordance with provisions of the Internal Revenue Code and any other applicable laws and regulations.

In cases when an employee is absent from duty and there is no sick leave applicable, or when the absence is unauthorized, the salary deduction for each day of absence shall be based on the employee's daily rate and any Governing Board paid benefits.

## 6550 - TRAVEL PAYMENT & REIMBURSEMENT

Travel expenses incurred for official business travel on behalf of the Governing Board shall be limited to those expenses necessarily incurred by the employee in the performance of a public purpose authorized, in advance, upon prior approval of the Superintendent or his/her designee. Travel expenses of the Superintendent and Treasurer shall be approved, in advance, by the Governing Board President.

Payment and reimbursement rates for per diem meals, lodging, and mileage shall be approved by the Governing Board annually. The Governing Board establishes mileage rates at the Federal IRS prescribed mileage rate.

Employees are expected to exercise the same care incurring travel expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Unauthorized costs and additional expenses incurred for personal preference or convenience shall not be reimbursed and may be subject to corrective action up to and including termination.

Unauthorized expenses include but are not limited to alcohol, movies, fines for traffic violations, and the entertainment/meals/lodging of spouses or guests.

Travel payment and reimbursement provided from Federal funds shall be authorized in advance and shall be reasonable and consistent with the ESC's travel policy and administrative guidelines. For travel paid for with Federal funds, the travel authorization shall include documentation that demonstrates that (1) the participation in the event by the individual traveling is necessary to the Federal award; and (2) the costs are reasonable and consistent with the ESC's travel policy.

All travel shall comply with the travel procedures and rates established in the administrative guidelines.

To the extent that the ESC's policy does not establish the allowability of a particular type of travel cost, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his/her designee), shall apply to travel under Federal awards.

## 6600 - DEPOSIT OF PUBLIC FUNDS: CASH COLLECTION POINTS

Monies received at cash collection points throughout the ESC shall be deposited in accordance with this policy. Cash collection points are any areas within a school where money flows into the ESC. Currently identified cash collection points are admission fees to athletic events, lunchroom sales, classroom fees, student activities/fundraisers, and miscellaneous money coming through the Treasurer/CFO's Office such as grants, interest, donations, sale of fixed assets, and taxes.

Persons who receive monies at cash collection points shall identify any discrepancies in cash receipts or ticket sales. Each seller shall provide a written explanation of each discrepancy to their immediate supervisor, who shall report all findings to the Treasurer/CFO. All discrepancies, even those rectified, shall be reported to the Treasurer/CFO. Such reported information shall be used in performance evaluation and adjudicated in accordance with ESC procedures or as provided by law.

Acceptance of check or credit card overpayment to provide cash back is prohibited.

Persons who receive monies at cash collection points in the ESC are required to deposit all monies received with the Treasurer/CFO on the next day of receipt. Persons who receive money at cash collection points are responsible for its safekeeping until the money is deposited with the Treasurer/CFO. Ordinarily, the money shall be secured in a locked desk, file cabinet, safe, or other secure room on school property, and it shall never be taken home. The Treasurer/CFO is directed to develop, distribute, and implement procedures addressing the provision of receipts (where applicable) to the payee(s), and proper segregation of duties for the receipting, depositing, recording, and reporting of cash. These procedures should be particularized to each cash collection point and should include flowcharts as appropriate. The procedures should further address the need for completion of timely bank reconciliations so that "unreconciled differences" can be identified and resolved.

All moneys collected shall be receipted, accounted for, and deposited with the Treasurer/CFO or properly designated depository every twenty-four (24) hours. In the event that the person in charge of an activity is unable to deposit the money within twenty-four (24) hours, the money shall be accounted for and deposited in the building safe of each ESC building. If a safe is not available, then the money shall be deposited in the Treasurer/CFO Office's safe. If the amount does not exceed \$1,000.00, the money can be held no longer than three (3) business days after receipt before being deposited. If the amount is more than \$1,000.00, or the money cannot be adequately safeguarded, it shall be deposited on the next business day following the date of receipt.

No more than \$50.00 shall be left overnight in an ESC building if that building does not have a safe.

**6670 - TRUST AND AGENCY FUND**

The Governing Board directs the establishment of a Trust and Agency Fund for the financial administration of scholarship and other trusts operated for the benefit of students and duly approved by the Governing Board.

The Treasurer shall be responsible for the administration of the Trust and Agency Fund. The Fund shall be audited annually and shall be administered under appropriate accounting controls. The books of account shall record income and expenses separately for each approved area.

6680 - **RECOGNITION**

The purpose of this policy is to permit the Governing Board to honor its staff, former Governing Board members, and other nonemployee persons with plaques, pins, token retirement gifts and awards, and other amenities.

The Governing Board wishes to also honor staff, students, citizens, and advisory groups for their contributions with appropriate recognitions and authorizes administrators to purchase meals, refreshments, and/or other amenities to further the interests of the ESC and to be reimbursed for such purchases if they are initially made with the administrators' personal funds.

The Governing Board hereby affirms that the expenses incurred as listed above do serve a valid and proper public purpose. However, under no circumstances shall public funds be expended for the purchase of alcoholic beverages. The Governing Board believes that the "public purpose" served is the promotion of education, rapport with the business community, community relations, and the encouragement of nonemployees to serve as volunteers, as well as furthering other legitimate interests.

The funds shall be made available from Governing Board funds.

## 6700 - FAIR LABOR STANDARDS ACT (FLSA)

It is the Governing Board's policy to comply with the provisions of the Fair Labor Standards Act (FLSA) and its implementing regulations. To that end, the Governing Board shall pay at least the minimum wage required by the FLSA to all covered, non-exempt employees. Further, the Governing Board recognizes the safe and efficient operation of the ESC may occasionally require covered, non-exempt employees to work more than forty (40) hours during a given work week. Work week is defined as the seven (7) day period of time beginning on Sunday at 12:00 a.m. and continuing to the following Saturday at 11:59 p.m. Covered, non-exempt employees who work (i.e., perform work on behalf of or for the benefit of the Governing Board) more than forty (40) hours in a given work week shall receive premium pay (i.e., one and one-half (1 1/2) times the employee's regular hourly rate of pay) for all hours worked in excess of forty (40).

The Superintendent or designee shall determine the necessity and availability of overtime work. Overtime may be authorized only by a supervisor and shall be used primarily to address circumstances of an emergency or temporary nature. Non-exempt employees who work overtime without prior approval from the Superintendent or a supervisor may be subject to disciplinary action up to and including termination.

Exempt employees are individuals who are exempt from the FLSA minimum wage and overtime provisions. These employees include persons employed in bona fide executive, administrative, and professional positions, and certain computer employees. To qualify for the exemption, employees generally shall meet certain tests regarding their job duties and be paid on salary basis at not less than \$684 per week. The salary requirement does not apply to teachers. Exempt computer employees may be paid at least \$684 on a salary basis or on an hourly basis at a rate not less than \$27.63 an hour. Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. Additionally, the predetermined amount cannot be reduced because of variation in the quality or quantity of the employee's work. Subject to the exceptions listed below, an exempt employee shall receive the full salary for any work week in which the employee performs any work, regardless of the number of days or hours worked.

Notwithstanding the fact that exempt ESC employees continue to meet the salary basis requirements and are not disqualified from exemption even if the employee's pay is reduced or the employee is placed on a leave without pay for absences for personal reasons or because of illness or injury of less than one (1) work-day because accrued leave is not used for specific reasons, the Governing Board reserves the right to make deductions from the pay of otherwise exempt employees under the following circumstances:

- A. the employee is absent from work for one (1) or more full days for personal reasons other than sickness or disability;

- B. the employee is absent from work for one (1) or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness;
- C. to offset amounts employees receive as jury or witness fees, or for military pay;
- D. for unpaid disciplinary suspensions of one (1) or more full days imposed in good faith for workplace conduct rule infractions; and/or
- E. for penalties imposed in good faith for infractions of safety rules of major significance.

The Governing Board shall also not be required to pay the full salary in the initial or terminal week of employment, or for weeks in which an exempt employee takes unpaid leave under the Family & Medical Leave Act.

The Governing Board recognizes that with limited legally permissible exceptions, no deductions should be taken from the salaries of exempt employees. If an exempt employee believes that an improper deduction has been made to his/her salary, the employee should immediately report this information to the Superintendent, Treasurer/CFO, or his/her immediate supervisor. Reports of improper deductions shall be promptly investigated. If it is determined that an improper deduction has occurred, the employee shall be promptly reimbursed for any improper deduction made, and the Governing Board shall make a good faith commitment to avoid any recurrence of the error.

The Governing Board directs the Superintendent to distribute this policy to all employees upon initial hire and on an annual basis.

## 6830 - AUDIT

The Governing Board requires, after the close of the fiscal year (June 30th), that an audit of all accounts of the ESC be made bi-annually by an independent, certified public accountant or the State Auditor's Office. The audit examination shall be conducted in accordance with generally-accepted auditing standards and shall include all funds over which the Governing Board has direct or supervisory control.

The ESC shall also prepare and publish a statement of the financial condition of the ESC at the close of each fiscal year.

Findings for recovery should be reported to the Superintendent, Treasurer/CFO, and Governing Board. It is the Governing Board's preference that an employee shall not be named in a finding for recovery unless such employee directly performed the action causing the finding and benefited personally from such action.

In the event an audit indicates a finding for recovery involving a shortage of funds, finding for recovery should be made against the employee who directly handled the cash, checks, money orders, or other form of payment.

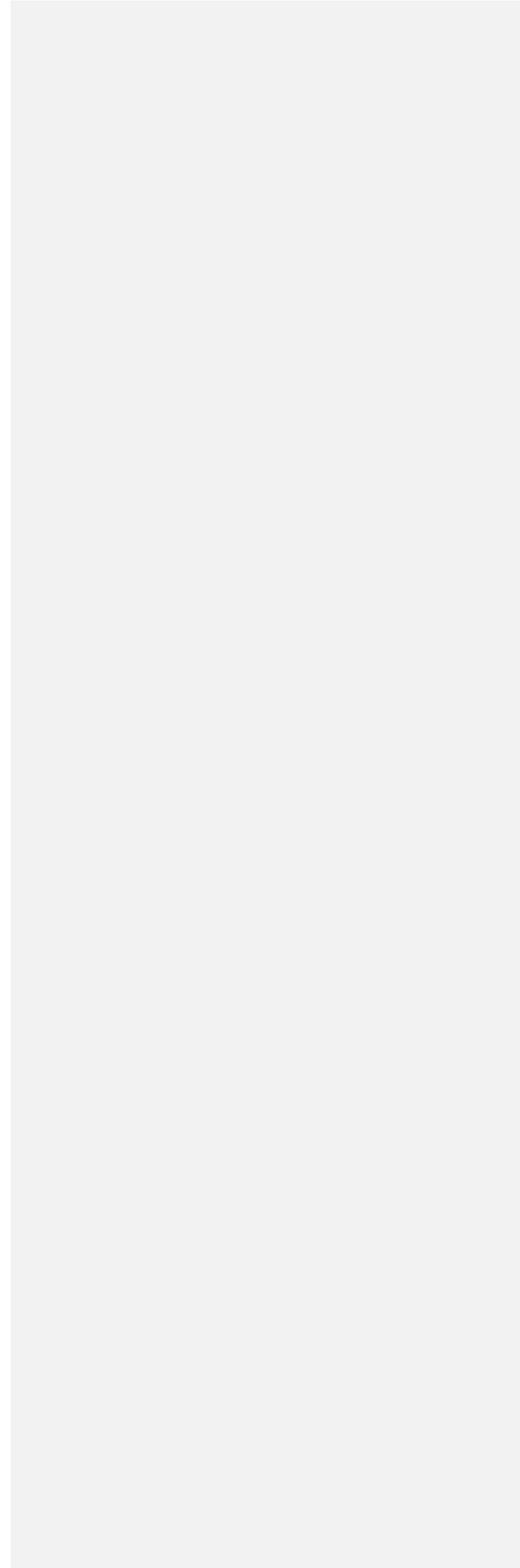
In the event an audit indicates a finding for recovery related to the improper spending of ESC funds or the conversion of ESC funds or assets for personal use, the finding for recovery should be made directly against the employee who improperly spent the ESC funds or converted the ESC funds or assets for personal use. This provision includes, but is not limited to, employees that fail to be properly licensed and accept compensation in violation of applicable laws and regulations, employees that accept compensation from falsified pay documents, and employees that accept compensation known to be in error and do not timely report for correction.

Any finding for recovery should be reported to and jointly made against the ESC's bonding company.

# **PROPERTY**

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## 7217 - WEAPONS

The Governing Board prohibits visitors from possessing, storing, making, or using a weapon, including a concealed weapon, in a school safety zone and any setting that is under the control and supervision of the Governing Board for the purpose of school activities approved and authorized by the Governing Board including, but not limited to, property leased, owned, or contracted for by the Governing Board, a school-sponsored event, or in a Governing Board-owned vehicle, except as permitted by law.

The term “weapon” means any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to, firearms, guns of any type, including air and gas-powered guns, (whether loaded or unloaded), knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

The Superintendent shall refer a visitor who violates this policy to law enforcement officials and may take any necessary steps to exclude the visitor from Governing Board property and Governing Board-sponsored events, regardless of whether such visitor possesses a valid concealed weapon license.

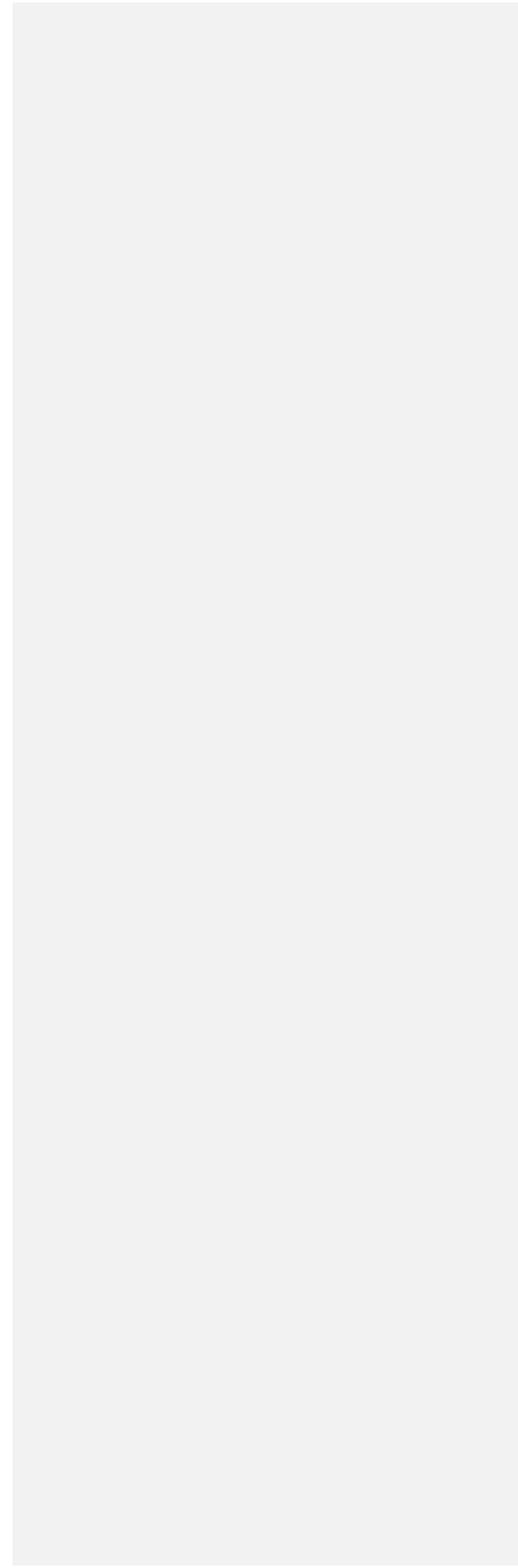
Exceptions to this policy include:

- A. weapons under the control of law enforcement personnel;
- B. handguns in the possession of a person who has a valid concealed handgun license or who is an active duty member of the armed forces with a valid military identification card and documentation of successful completion of firearms training if the handgun remains in a vehicle with the individual or is left in a locked vehicle when the person exits the vehicle;
- C. weapons carried by an on-duty security officer employed by the Governing Board;
- D. objects indistinguishable from a firearm used during school safety trainings;
- E. items approved by a Superintendent or designee as part of a class or individual presentation under adult supervision, if used for the purpose of and in the manner approved (working firearms and ammunition shall never be approved);
- F. theatrical props used in appropriate settings; and
- G. starter pistols used in appropriate sporting events.

The Governing Board directs the Superintendent to post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities. The notices shall contain a statement substantially in the following form:

Unless otherwise authorized by law, pursuant to Ohio Revised Code 2923.122, no person shall knowingly possess, have under the person’s control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone.

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. Further, notices shall be posted in each school bus and other Governing Board-owned vehicle, including a school van.



## 7230 - GIFTS, GRANTS, AND BEQUESTS

The Governing Board is duly appreciative of public interest in and good shall toward the schools manifested through gifts, grants, and bequests. The Governing Board reserves the right, however, to specify the manner in which gifts are made; to define the type of gift, grant, or bequest which it considers appropriate; and to reject those which it deems inappropriate or unsuitable. If accepted, the Governing Board shall attempt to carry out the wishes of the donor.

All gifts, grants, or bequests shall be submitted to the Governing Board, and if accepted, acknowledged by the Governing Board. All accepted gifts, grants, or bequests shall be acknowledged by the Governing Board.

Gifts, grants, and bequests shall become the property of the Governing Board and shall be subject to use by the ESC as determined by the policies applying to all properties, equipment, materials, and funds owned by the Governing Board.

Any equipment proposed to be purchased by a parent organization for use in the school or at an ESC-related event shall be submitted to the Governing Board, prior to purchase, so it can determine if the ESC would incur any liability by its use.

The Governing Board reserves the right to not accept such liability and thus deny the use of the equipment by students or ESC employees.

## 7240 - SITE ACQUISITION

It is the policy of the Governing Board that real property acquisition price be based on a true value with regard for fair remuneration to the seller but not on enhancement of the value of the site to the seller. The presence of a school to service a potential development in itself enhances the profit potential to a developer. It is the Governing Board's sole purpose to provide a service to the residents in a development at the least possible cost to the taxpayers.

The Superintendent shall be responsible for site acquisition negotiations. Negotiations for site acquisition shall take into consideration the following:

- A. Purchase price shall be based on the last transaction price, taxes on the property after platting, and a reasonable interest earning on the investment based on the current cost of money.
- B. Roadways and utility costs to be shared shall be calculated on a front footage basis of the proposed site and shall be included only where actual installation has occurred.
- C. Development costs as engineering, earthmoving, litigation, etc. in determining the fair value of the site to be purchased.

**7250 - NAMING OF AND LOGOS FOR PROGRAMS, SERVICES AND FACILITIES**

In the naming of ESC programs, services, schools, and facilities and the development of logos and other representations of same, it is the desire of the Governing Board that the brand and trademarks of our ESC be primary considerations. These brand names and trademarks include, but are not limited to:

- A. Ohio Valley Educational Service Center
- B. Ohio Valley Educational Service Center Governing Board
- C. Ohio Valley ESC
- D. OVESC
- E. The colors Red and Black
- F. Student Readiness Collaborative
- G. Bright Beginnings Preschool
- H. Southeast Ohio Area Manufacturing Council
- I. Southeast Ohio Business Advisory Council
- J. Ohio Valley Educational Service Center Business Advisory Council
- K. ESC logos

## **7300 - DISPOSITION OF REAL PROPERTY/PERSONAL PROPERTY**

The Governing Board believes that the efficient administration of the ESC may require the disposition of real property and/or personal property that is no longer necessary to meet the educational or operational needs of the ESC.

“Real Property” means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

“Personal Property” means tangible property other than real property. It may be tangible, having physical existence, or intangible and may include automotive vehicles, equipment, and materials.

All property considered with a de minimis value for disposition or sale shall be subjected to a current, outside, professional appraisal prior to the solicitation of offers.

### **Disposition of Personal Property under \$10,000**

Personal property, the value of which does not exceed \$10,000, shall be disposed of by the Superintendent in such a manner as shall be in the public interest and benefit the ESC (see Governing Board Policy 7300 - Disposition of Real Property/Personal Property and Governing Board Policy 7310 – Disposition of Surplus Property). If the Governing Board decides to trade an item of personal property as a part or an entire consideration on the purchase price of an item of similar personal property, the Governing Board may trade the personal property upon such terms as are agreed upon by the parties.

### **Disposition of Personal Property under \$10,000**

Personal property, the value of which does not exceed \$10,000, shall be disposed of by the Governing Board in such a manner as shall be in the public interest and benefit the ESC (see Governing Board Policy 7310 and Donation of Real or Personal Property). If the Governing Board decides to trade an item of personal property as a part or an entire consideration on the purchase price of an item of similar personal property, the Governing Board may trade the personal property upon such terms as are agreed upon by the parties.

### **Disposition of Real Property under \$10,000**

Real property, the value of which does not exceed \$10,000, shall be disposed of by the Governing Board in such manner as shall be in the public interest and benefit to the ESC and may be accomplished by private sale. If the Governing Board identifies a parcel of real property that it determines is needed for school purposes, the Governing Board may, upon majority vote of the members of the Governing Board, acquire such parcel by exchanging its real property for the parcel or using the real property as part of an entire consideration for the purchase price of the identified real property. Any exchange or acquisition shall be made by conveyance executed by the President and the Treasurer of the Governing Board.

### **Disposition of Personal and Real Property over \$10,000**

Property, (personal and real), the value of which exceeds \$10,000, shall be sold at public auction to the highest bidder in accordance with law. The Governing Board may offer real property for sale as an entire tract or in parcels.

**A. Unless the property is being:**

1. sold to an exempt entity, as defined in R.C. 3313.41(C);
2. sold to a community school or the Governing Board of trustees of a college preparatory Governing Boarding school, as set forth in R.C. 3313.41(G); or
3. exchanged for an identified parcel of real property that the Governing Board determines it needs for school purposes or the property is being used as part or an entire consideration for the purchase price of the identified real property, pursuant to R.C. 3313.41(F); or
4. traded as a part or an entire consideration on the purchase price for a similar item of personal property upon such terms as agreed to by the parties to the trade pursuant to R.C. 3313.41(E).

The ESC shall attempt to sell the property by public auction after giving at least thirty (30) day notice of the auction by publication in a newspaper of general circulation.

**B. If, after the property has been offered once by public auction, no acceptable bids have been received, the ESC may sell the property at private sale. The following procedures shall apply:**

1. Regardless of how the property was offered at public auction, at a private sale, the Governing Board shall, as it considers best, sell real property as an entire tract or in parcels. Personal property shall be sold in either a single lot or several lots.
2. All written offers on real property under consideration for disposition shall be presented as an item on the agenda of a public Governing Board meeting. A preliminary review of offers to purchase or lease shall include the following: source of offer, date of offer, expiration date of offer, and intended use of property.
3. All property considered for lease or sale shall be reviewed by the Governing Board prior to solicitation of offers. The solicitation of offers by the Governing Board shall include an expiration date.

4. The authorized agents of the Governing Board are to review all purchase or lease offers pertaining to sale or lease of property shall be selected by legal counsel and the Superintendent. The Governing Board shall give final approval of all contracts.
  5. In consideration of the best interest of the ESC and of the residents and taxpayers, the Governing Board reserves the right to reject any and all offers at its sole discretion, regardless of price and terms.
  6. Potential purchasers or lessees shall demonstrate financial capability to meet the terms and conditions of their purchase or lease offer.
- C. If the Governing Board decides to dispose of real property, prior to disposing of the property in the manner set forth above, the Governing Board shall first offer the property to the governing authorities of high-performing community schools and any newly established community schools that are implementing a community school model that has a track record of high quality academic performance, as determined by the Department of Education. If no governing authority from either type of community school expresses an interest in the property within sixty (60) days after the offer is made, the Governing Board shall offer the property for sale to the governing authorities of the start-up community schools and the Governing Board of trustees of any college preparatory Governing Boarding school located within the territory of the ESC.
1. The Governing Board shall offer the property to any community school governing authority and college preparatory Governing Boarding school Governing Board of trustees at a price that is not higher than the appraised fair market value of the property as determined in an appraisal of the property that is not more than one (1) year old.
  2. In the event that more than one (1) community school governing authority or college preparatory Governing Boarding school Governing Board of trustees accepts the offer made by the Governing Board, the property shall be sold to the community school governing authority or Governing Board of trustees that accepted the offer first in time.
  3. The Governing Board may dispose of the property by public auction only if no start-up community school governing authority or college preparatory Governing Boarding school Governing Board of trustees accepts the Governing Board's offer within sixty (60) days after the subsequent offer.
- D. **Disposition of Unused School Facilities**
1. "Unused School Facilities" means any real property that has been used by the ESC for school operations, including but not limited to academic

instruction or administration, since July 1, 1998, but has not been used in that capacity for one (1) year; or one in which less than sixty percent (60%) of the building was used for direct academic instruction during the preceding school year.

2. The Governing Board shall first offer any Unused School Facilities it owns for lease or sale to the governing authority of any high-performing community school as defined by applicable laws and regulations. If no governing authority accepts the offer of lease or sale within sixty (60) days, then the Governing Board shall next offer Unused School Facilities to the governing authority of any community school or the Governing Board of trustees of any college preparatory Boarding school that is located within the territory of the ESC.

At the same time the Governing Board makes the offer to lease or sale, the Governing Board may, but is not required to, offer the property for lease or sale to the governing authority of any community school with plans, as stated in applicable contracts, either to relocate to or add facilities in the ESC.

3. If more than one (1) qualified Governing Board accepts the Governing Board's offer within sixty (60) days, the Governing Board shall conduct a public auction utilizing the process described above. Only the parties that notify the Governing Board within sixty (60) days may offer a bid at the auction. The Governing Board is not required to accept a bid that is lower than the appraised fair market value of the property as determined by an appraisal that is no more than one (1) year old.
4. Any subsequent lease or sale of the property shall proceed in accordance with law.
5. If no governing authority or Governing Board of trustees accepts the offer to lease or buy the property within sixty (60) days after the subsequent offer is made, the Governing Board may offer the property for sale or lease to any other permissible entity.

- E. Further, the Governing Board may dispose of property upon the majority vote of the members of the Governing Board and a concurring vote of the legislative authority of a municipal corporation, declaring that an exchange of real property held by the ESC for school purposes for real estate held by the municipal corporation for municipal purposes shall be mutually beneficial to both the ESC and the municipal corporation. The exchange may be made by conveyances that are executed by the President and Treasurer of the Governing Board and the Mayor and Clerk of the municipal corporation, respectively.

- F. The Governing Board President and Treasurer shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this policy.

**Donation of Real or Personal Property**

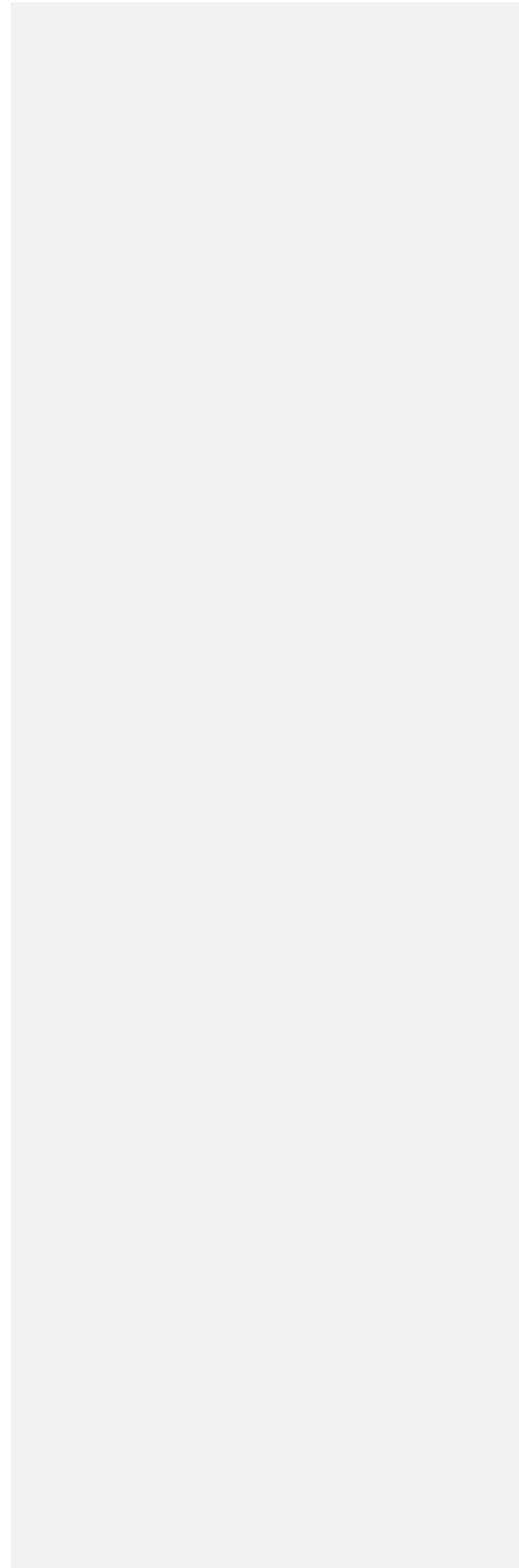
- A. If the ESC has property that the Governing Board, by resolution, determines is not needed for school purposes, is obsolete, or is not fit for the use for which it was acquired, the Governing Board may donate the property if the estimated fair market value of such property is \$2,500 or less in the opinion of the Governing Board. The property may only be donated to an eligible 501(c)(3) nonprofit organization located in the State of Ohio and exempt from Federal income taxation under 26 U.S.C. 501(a) and 501(c)(3).
- B. Prior to donating the property, the Governing Board shall adopt a resolution that contains the following:
  - 1. a statement expressing the Governing Board’s intent to make unneeded, obsolete or unfit-for-use, ESC property available to nonprofit organizations;
  - 2. procedures the Governing Board considers to be necessary to implement the donation program;
  - 3. an indication of whether the ESC shall conduct such program or by a representative under contract with the Governing Board;
  - 4. contact information for such representative if the person is known when the resolution is adopted;
  - 5. a requirement that any nonprofit organization desiring to obtain donated property submit a written notice to the Governing Board or its representative that includes the following:
    - a. evidence that the organization is a nonprofit organization that is located in the State of Ohio and exempt from Federal income taxation;
    - b. a description of its primary purposes;
    - c. a description of the type or types of property the organization needs; and

- d. the name, address, and telephone number of a person designated by the organization to receive donated property as its agent.
- C. Upon the adoption of the resolution, the Governing Board shall publish at least twice in a newspaper of general circulation, notice of its intent to donate unneeded, obsolete, or unfit-for-use property to eligible nonprofit organizations. The notice shall also include a summary of the information provided in the resolution. A similar notice shall also be continually posted in the Governing Board's office and on the ESC's Internet website, if one exists. The second and subsequent notices shall be posted not less than ten (10) and not more than twenty (20) days after the previous notice.
- D. The Governing Board or its representative shall maintain a list of:
  - 1. All eligible 501(c)(3) nonprofit organizations that submit a written notice described above; and
  - 2. A list of all real or personal property that qualifies for the program. The list of qualifying property shall be continually posted at the same locations at which the resolution creating the program shall be posted.
  - 3. An item of property on the list shall be donated to the 501(c)(3) organization that first declares to the Governing Board or its representative its desire to obtain the item unless the Governing Board previously established in a separate and distinct resolution, a list of eligible 501(c)(3) organizations that are to be given priority for an item's donation.
  - 4. The resolution giving priority to certain nonprofit organizations shall specify the reasons for giving the organizations this priority. Such priority may be given based on a direct relationship between the purposes of the organization and specific purposes of the programs provided or administered by the Governing Board.
- E. Members of the Governing Board shall consult with the Ohio Ethics Commission and comply with R.C. Chapters 102 and 2921 when donating property to a 501(c)(3) organization of which a Governing Board member, his/her family member(s) or a business associate(s) of a Governing Board member is a trustee, officer, Governing Board member, or employee.

#### **Proceeds from the Sale of Real Property**

When the Governing Board disposes of real property pursuant to R.C. 3313.41, the proceeds received from the sale shall be used to retire any debt that was incurred by the ESC with respect to that real property. Any proceeds in excess of the funds necessary to retire that debt may be paid into the ESC's capital and maintenance fund and used only to pay for the costs of non-operating

capital expenses related to technology infrastructure and equipment to be used for instruction and assessment.



## 7310 - DISPOSITION OF SURPLUS PROPERTY

The Governing Board requires the Superintendent to review the property of the ESC periodically and to dispose of that material and equipment which is no longer usable in accordance with the terms of this policy (see Governing Board Policy 7300).

### A. **Instructional Material**

The ESC shall review instructional materials (i.e., textbooks, library books, manuals, support materials, etc.) periodically to determine the relevance of such materials to the present world and current instructional programs. The following criteria shall be used to review instructional materials for redistribution and possible disposal:

1. concepts or content that do not support the current goals of the curriculum;
2. information that may not be current; or
3. worn beyond salvage.

### B. **Equipment**

The ESC shall inspect the equipment used in the educational program periodically, to determine the condition and usability of such equipment in the current educational program. Should the equipment be deemed no longer serviceable or usable, the following criteria shall be used to determine possible disposal:

1. repair parts for the equipment no longer readily available;
2. repair records indicate equipment has no usable life remaining;
3. obsolete and/or no longer contributing to the educational program;
4. some potential for sale at a school auction; or
5. creates a safety or environmental hazard.

### C. **Disposition**

The Superintendent is authorized to dispose of obsolete instructional and other property by selling it to the highest bidder, by donation to appropriate parties, or by proper waste removal.

Disposal of surplus property purchased with Federal funds shall be disposed of in accordance with Federal guidelines.

Except as provided in §200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent (10%) of the proceeds, whichever is less, for its selling and handling expenses.

The ESC may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the ESC shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

#### **7434 - USE OF TOBACCO ON SCHOOL PREMISES**

The Governing Board is committed to providing students, staff, and visitors with a tobacco and smoke-free environment. The negative health effects of tobacco use for both users and nonusers, particularly in connection with second hand smoke, are well established. Further, providing a non-smoking and tobacco-free environment is consistent with the responsibilities of teachers and staff to be positive role models for our students.

For purposes of this policy, “use of tobacco” means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco, including cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, any other matter or substances that contain tobacco, in addition to papers used to roll cigarettes and/or the smoking of electronic, “vapor,” or other substitute forms of cigarettes, clove cigarettes and any other lighted smoking devices for burning tobacco or any other substance.

In order to protect students and staff who choose not to use tobacco from an environment noxious to them, and because the Governing Board does not condone smoking and/or the use of tobacco, the Governing Board prohibits the use of tobacco or tobacco substitute products within any enclosed facility owned or leased or contracted for by the Governing Board, and in the areas directly or indirectly under the control of the Governing Board immediately adjacent to locations of ingress or egress to such facilities. This prohibition extends to any Governing Board-owned and/or operated vehicles used to transport students and to all other Governing Board-owned and/or operated vehicles. Such prohibition also applies to school grounds, any school-related event, and in designated areas as defined in statute and by Ohio’s Smoke-Free Workplace Program.

The Superintendent shall require the posting of signs as required by R.C. 3794.06 and as specified by the Ohio Department of Health.

#### 7440 - FACILITY SECURITY

Buildings constitute the greatest financial investment of the ESC. It is in the best interest of the Governing Board to protect the ESC's investment adequately. The buildings and equipment owned by the Governing Board shall be protected from theft and vandalism in order to maintain the optimum conditions for carrying out the educational programs.

The Superintendent shall develop and supervise a program for the security of the school buildings, school grounds, and school equipment pursuant to statute and rules of the State. Such a program may include video and/or audio surveillance equipment in appropriate public areas in and around the schools and other ESC facilities.

Every effort shall be made to apprehend those who knowingly cause serious physical harm to ESC property and to require such persons to rectify the damage or pay a fee to cover repairs. A reward may be offered for apprehending such persons.

Appropriate authorities may be contacted in the case of serious offenses.

The Superintendent is authorized to install metal detectors and other security devices which would assist in the detection of guns and dangerous weapons; in school buildings; and/or on ESC property.

The Superintendent shall report to the Governing Board each major case of vandalism and the extent of the damage.

#### 7440.01 - VIDEO SURVEILLANCE AND ELECTRONIC MONITORING

The Governing Board authorizes the use of video surveillance and electronic monitoring equipment at and around various school sites throughout the ESC and on school buses regardless of whether the Governing Board owns such equipment. The video surveillance/electronic monitoring equipment shall be used to protect Governing Board property and assets from theft and vandalism, through deterrence and video documentation. The system is not designed nor intended to protect individuals from being victims of violent or property crimes, nor to detect other potentially illegal and undesirable activities that may occur, although information may be used as evidence in such cases.

The monitoring of actions and behavior of individuals who come onto school property is a significant factor in maintaining order and discipline and protecting students, staff, visitors, and school and student property. Video surveillance/electronic monitoring systems serve to complement other means being employed in the ESC to promote and foster a safe and secure teaching and learning environment for students and staff. The Governing Board recognizes that the use of a video surveillance/electronic monitoring system does not replace the need for the ongoing vigilance of the school staff assigned by the building principal to monitor and supervise the school building. Rather, the video surveillance/electronic monitoring system serves as an appropriate and useful tool with which to augment or support the in-person supervision provided by staff. The building principal is responsible for verifying that due diligence is observed in maintaining general campus security.

The Superintendent is responsible for determining where to install and operate fixed-location video surveillance/electronic monitoring equipment in the ESC. The determination of where and when to use video surveillance/electronic monitoring equipment shall be made in a nondiscriminatory manner. Video surveillance/electronic monitoring equipment may be placed in common areas in school buildings (e.g., school hallways, entryways, the front office where students, employees and visitors are permitted to freely come and go, gymnasiums, cafeterias, libraries), the school parking lots and other outside areas, and in school buses. Except in extraordinary circumstances and with the written authorization of the Superintendent or Governing Board President, video surveillance/electronic monitoring equipment shall not be used in areas where persons have a reasonable expectation of privacy (e.g., restrooms, locker rooms, changing areas) unless there is express consent given by the office occupant. Staff and administrators are authorized to carry and use portable video cameras when responding to incidents. The Governing Board authorizes security personnel to use body-worn video cameras while on duty but prohibits them from being operated while the individual is routinely patrolling restrooms and locker rooms, unless the staff member is responding to a specific incident.

Any person who takes action to block, move, or alter the location and/or viewing angle of a video camera shall be subject to disciplinary action.

Legible and visible signs shall be placed at the main entrance to buildings and in the areas where video surveillance/electronic monitoring equipment is in use to notify people that their actions/behavior are being monitored/recorded. Additionally, the Superintendent is directed to

annually notify parents and students via school newsletters and the Student Handbook, and staff via the Staff Handbook, of the use of video surveillance/electronic monitoring systems in their schools.

Any information obtained from video surveillance/electronic monitoring systems may only be used to support the orderly operation of the ESC's schools and facilities, and for law enforcement purposes, and not for any other purposes. As such, recordings obtained through the use of video surveillance/electronic monitoring equipment may be used as evidence in any disciplinary proceedings, administrative proceeding, or criminal proceeding, subject to Governing Board policy and regulations. Further, such recordings may become a part of a student's education record or staff member's personnel file.

The Governing Board shall not use video surveillance/electronic monitoring equipment to obtain information for the purpose of routine staff appraisal/evaluation or monitoring. However, prerecorded lessons or observations of on-line or virtual learning sessions may be included as part of an employee's evaluation.

Further, if an employee is assigned to work remotely (i.e., telework), the administration is authorized to conduct observations that consist of the supervisor reviewing video-recordings of the employee working and/or watching the employee perform his/her job responsibilities through means of a live-stream that includes both video and audio, provided the employee is afforded advanced notice of the observation.

Additionally, nothing herein shall prevent the administration from using information gathered through electronic means (i.e., viewing a video-recording or live-stream of an employee working) for employment purposes, including but not limited to completing components of an evaluation, so long as the information is gathered in a manner consistent with law.

Recordings of students shall be treated as confidential. Consequently, because the Governing Board is bound by Ohio's Student Records Statute and the Family Educational Rights and Privacy Act ("FERPA"), copies of video recordings containing personal identifiable information about students shall not be released except to school officials with legitimate educational interests. Parents or guardians of minor students, and students who are eighteen (18) years of age or older, who are charged with disciplinary violations may view relevant portions of any video recording related to the charge, upon written request to the building principal, provided that viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any other students whose images appear on the recording).

Likewise, school personnel may view relevant portions of any video relating to any disciplinary charge against them, upon written request to the building principal/program manager, provided that viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any students whose images appear on the recordings). Otherwise, such confidential recordings shall only be released through subpoena or court order.

The Governing Board shall maintain video surveillance/electronic monitoring recordings for a limited period. Any request to view a recording under this policy shall be made within seven (7) days of the event/incident. Unless a formal complaint is being investigated, recordings shall be destroyed after seven (7) days. If, however, action is taken by the Governing Board/administration, as a result of a formal complaint or incident, recordings shall be kept for a minimum of one (1) year from the date of the action taken. Recordings may also be kept beyond the normal retention period if they are going to be utilized for training purposes.

This policy does not address or cover instances where school officials record a specific event (e.g., a play, music performance, athletic contest, graduation, or Governing Board meeting), or an isolated instance where a classroom is videotaped for educational or research purposes. Authorized videotaping for educational, instructional and/or research purposes is permitted and is not addressed by this policy.

The Superintendent is directed to develop procedures to address the use of video surveillance/electronic monitoring equipment in school buildings, school buses and on property owned and/or operated by the Governing Board.

Video surveillance is to be implemented in accordance with this policy. The Governing Board shall not accept or tolerate the improper use of video surveillance/electronic monitoring equipment and shall take appropriate action in any cases of wrongful use of this policy.

## 7450 - PROPERTY INVENTORY

As steward of this ESC's property, the Governing Board recognizes that efficient management and full replacement upon loss requires accurate inventory and properly maintained property records. The Governing Board shall maintain a continuous inventory of all Governing Board-owned equipment and supplies.

For purposes of this policy, "equipment" shall mean a unit of furniture or furnishings, an instrument, a machine, an apparatus, or a set of articles which retains its shape and appearance with use, is nonexpendable, costs at least \$5,000 as a single unit and does not lose its identity when incorporated into a more complex unit.

It shall be the duty of the Treasurer/CFO or designee to ensure that inventories are recorded systematically and accurately and property records of equipment are updated and adjusted annually by reference to purchase orders and withdrawal reports.

Major items of equipment shall be subject to annual spot check inventory to determine loss, misallocation, or depreciation; any major loss shall be reported to the Governing Board.

The Treasurer/CFO shall maintain a system of property records which shall show, as appropriate to the item recorded, the:

- A. description and identification;
- B. manufacturer;
- C. year of purchase;
- D. initial cost;
- E. location;
- F. condition and depreciation; and
- G. evaluation in conformity with insurance requirements.

Equipment acquired under a Federal award shall vest upon acquisition to the ESC, subject to the following conditions:

- A. The equipment shall be used for the authorized purposes of the award project during the period of performance or until the equipment is no longer needed for the purposes of the project.
- B. The equipment shall not be encumbered without the approval of the Federal awarding agency or the pass-through entity.

- C. The equipment may only be used and disposed of in accordance with the provisions of the Federal awarding agency or the pass-through entity and Governing Board Policy 7300 and Governing Board Policy 7310.
- D. Property records shall be maintained that include a description of the equipment, a serial number or other identification number, the source of funding for the equipment (including the FAIN), title entity, acquisition date, cost of the equipment, percentage of Federal participation in the project costs for the award under which the equipment was acquired, the location, use, and condition of the equipment, and ultimate disposition data, including date of disposal and sale price of the equipment.
- E. A physical inventory of the property shall be taken and results reconciled with property records at least once every two (2) years.
- F. A control system shall be developed to provide adequate safeguards to prevent loss, damage, or theft of the property. Any such loss, damage, or theft shall be investigated.
- G. Adequate maintenance procedures shall be implemented to keep the property in good condition.
- H. Proper sales procedures shall be established to ensure the highest possible return, in the event the Center is authorized or required to sell the equipment/property.
- I. When original or replacement equipment acquired under a Federal award is no longer needed for the original project/program or for activities currently or previously supported by a Federal awarding agency, and except as otherwise provided by Federal statutes, regulations, or Federal awarding agency disposition instructions, the Center shall request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment shall be made in accordance with the provisions of C.F.R. 200.313.

## 7455 - ACCOUNTING SYSTEM FOR CAPITAL ASSETS

The Governing Board shall maintain a capital-asset, accounting system. The capital-asset system shall maintain sufficient information to permit the following:

- A. the preparation of year-end financial statements in accordance with generally-accepted, accounting principles
- B. adequate insurance coverage
- C. control and accountability

Capital assets are defined as those tangible assets of the ESC with a useful life in excess of five (5) years and an initial cost equal to or exceeding \$5,000. Some items may be identified as “controlled” assets that, although they do not meet all capital asset criteria, are to be recorded on the capital-asset system to maintain control.

Capital assets shall be classified as follows:

- A. land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
- B. additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance)

Leased capital assets and assets which are jointly-owned shall be identified and recorded on the capital-asset system.

Capital assets shall be recorded at actual, or if not determinable, estimated purchase price or fair market value at the time of acquisition. The method(s) to be used to estimate such price or market value shall be established by the Treasurer/CFO.

The Superintendent shall ensure the proper purchase, transfer, and disposal of capital assets.

Depreciation shall be recorded for funded capital assets using the method(s) agreed upon by the Superintendent and the Treasurer/CFO.

The following information shall be maintained for all capital assets:

- A. description

- B. asset classification (land, building, equipment, etc.)
- C. location
- D. purchase price
- E. vendor
- F. date purchased
- G. voucher number
- H. estimated useful life
- I. estimated salvage value
- J. replacement cost
- K. accumulated depreciation
- L. method of acquisition (purchase, trade-in, lease, donated etc.)
- M. appropriation
- N. manner of asset disposal

**Useful Lives**

Useful lives of fixed assets relate to the life expectancy as used by the specific governmental unit. The Governing Board has established the following general categories of useful lives for its fixed assets:

Buildings	40 years
Building Improvements	10-40 years
Improvements other than Buildings	10-20 years
Furniture, Fixtures and Equipment:	
Hand Tools	15 years
Transformers and meters	15 years
Misc Equipment (Over \$500)	15 years
Computers	5 years
Telephones and systems	10 years
Office Machines-typewriters, calculators	8 years
Radio and TV Communication equipment	10 years
Furniture & Fixtures	20 years
Books	7 years
Picnic Tables	10 years

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Pump Motors	10 years
Audio Visual	6 years
Mowers & Yard Machinery	15 years
Power Tools	15 years
Autos	8 years
Trucks	8 years
Appliances	15 years
Signs	10 years
Playground Equipment	10 years
Machinery	15 years
Lab Equipment	10 years
Utility Poles	15 years
School Buses	10 years
Fences	30 years

Useful lives are assigned to each asset unit or determined on an average for the group. They are based on actual experience, whenever possible, or engineering evidence or practice if the Governing Board has no actual experience. They are expressed in terms of the probable total years of service.

## 7510 - USE OF ESC FACILITIES

The Governing Board believes that school premises should be made available for community purposes, provided that such use does not infringe on the original and necessary purpose of the property or interfere with the educational program and services of the ESC and is harmonious with the purposes of this ESC.

For purposes of this policy, the terms “school premises” or “premises” refers to all indoor and outdoor structures, facilities, and land owned, rented, or leased by the Governing Board. The term “non-school hours” refers to times prior to and after regular classroom instruction on a day that school is in session, and any day that school is not in session, including weekends, holidays, and vacation breaks.

The Governing Board shall permit the use of school premises when such permission has been requested in writing by a responsible organization or a group of at least seven (7) citizens and has been approved by the Superintendent.

School premises shall be available for the below-listed uses. When there are competing interests, approval shall be given according to the following priorities:

- A. uses directly related to the ESC and the operations of the ESC (including giving instructions in any branch of education, learning, or the arts); then
- B. uses and groups indirectly related to the ESC; then
- C. client school districts; then
- D. other governmental agencies; and then
- E. community organizations or groups of individuals primarily comprised of ESC residents/members of the community, including students (during non-school hours) and employees (when not working in the scope of their employment) formed or gathered for the following purposes, provided such meetings and/or entertainment is nonexclusive and open to the general public:
  1. charitable,
  2. civic,
  3. social,
  4. religious,

5. recreational (e.g., indoor or outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure), and/or
6. educational.

School premises shall also be made available to any certified candidate for public office and any recognized political party or organization for the purpose of conducting public discussions of public questions and issues. School premises shall be free of charge and available only during non-school hours. Users shall abide by all ESC policies, guidelines, and rules regarding the use of school premises and be liable for any damage incurred. Under no circumstances shall school premises be used to raise funds for political purposes.

No liability shall attach to this ESC, or any of its employees and officers, specifically as a consequence of permitting access to school premises.

**7530 - LENDING OF GOVERNING BOARD-OWNED EQUIPMENT**

No item of Governing Board-owned equipment shall be loaned for non-ESC use off ESC property. If equipment is required for the use of those granted permission to use ESC facilities, it may be loaned in accordance with Governing Board policy on the use of school facilities.

ESC equipment may be removed from ESC property by students or staff members and/or Governing Board members only when such equipment is necessary to accomplish tasks arising from their school or job responsibilities. The consent of the Superintendent is required for such removal.

## 7530.01 - GOVERNING BOARD-OWNED PERSONAL COMMUNICATION DEVICES

The Governing Board shall provide personal communication devices (“PCDs”) to employees who by the nature of their job have a routine and continuing business need for the use of such devices for official Governing Board business. For purposes of this policy, “personal communication device” includes computers, tablets (e.g., iPads and similar devices), electronic readers (“e-readers”; e.g., Kindles and similar devices), cell phones (e.g., mobile/cellular telephones, smartphones [e.g., BlackBerry, iPhone, Android devices, Windows Mobile devices, etc.], and/or other web-enabled devices of any type. PCDs are provided as tools to conduct Governing Board business and to enhance business efficiencies. Governing Board-owned cell phones are not a personal benefit and shall not be a primary mode of communication, unless they are the most cost-effective means to conduct Governing Board business (i.e., because some cellular telephone services plans are billed on a time- used basis, Governing Board-owned cell phones should not be used if a less costly alternative method of communication is safe, convenient, and readily available).

The Superintendent shall designate those staff members/programs who shall be issued a Governing Board-owned cell phone and provided with a cellular telephone and/or wireless Internet/data service plan.

The Superintendent or designee is responsible for verifying:

- A. the need for each Governing Board-owned cell phone and related service plan is clearly justified for Governing Board business purposes;
- B. alternative solutions for work production and communication are considered;
- C. employees provided with cellular and/or wireless Internet/data service plans are notified of the purpose and limitations of usage;
- D. cellular telephone and wireless Internet/data service plan invoices outlining the details of usage are received and reviewed for conformance with this policy;
- E. employees reimburse the Governing Board for non-business use; and
- F. a Governing Board-owned cell phone is returned and the corresponding cellular telephone and/or wireless Internet/data service plan is terminated when it is no longer justified by business requirements, the employee leaves the Governing Board’s employment, and/or when the employee has demonstrated a disregard for the limitation of this policy.

Governing Board-owned cell phones and/or their related service plans are to be used only to place calls, access the Internet, or receive/send e- mails, instant messages, or text messages for Governing Board business purposes.

Furthermore, Governing Board-owned cell phones are not to be used to place calls or send/receive e-mails, instant messages, or text messages of a personal nature, or access the Internet for personal business.

Cellular and wireless Internet/data service plans are expected to be set at the minimum level that fulfills the business need for the position in question. The service plan that is selected for an employee should be the one that provides a combination of services including number of minutes, coverage, and local call zone most nearly matching the employee's recurring business needs as well as whether or not the service plan includes text messaging, instant message and/or e-mail capability, and ability to access the Internet. If the service plan is based on minutes used for calls made or includes a charge regarding e-mail or instant messages, the smallest plan available to accommodate the particular business need shall be utilized.

The Governing Board shall approve the Superintendent's recommendation regarding the type and level of cellular telephone and wireless Internet/data service appropriate for each staff member listed above. In all cases, the Superintendent shall take the steps necessary to secure the most economical and responsible service available.

Thereafter, an annual review of the service plans available shall be made to determine if the ESC's plans are the most economical and responsible available. Additionally, at least once annually, the Superintendent shall review the employee's actual usage (i.e., type and level of service) with the employee and, if warranted, authorize the acquisition of a different cell phone and/or selection of a different service plan that more nearly matches the employee's recurring business needs. Any such change in provider and/or necessary adjustments to individual staff member's device and/or service plan shall be presented to the Governing Board for consideration and approval.

Possessing a Governing Board-owned cell phone and/or other PCD is a privilege and all employees are expected to use them appropriately and responsibly. Employees are responsible for managing the cost effectiveness of their cell phone and/or PCD use by utilizing assigned landline and/or designated computers as available and appropriate. Employees should know that using a cell phone to place calls outside the immediate area might result in roaming charges, in addition to long distance and regular charges, and that the Governing Board is charged for both outgoing and incoming calls.

In order to continue to be eligible to receive a Governing Board-owned cell phone, staff members are required to answer all calls on his/her Governing Board-owned cell phone and promptly respond to any messages.

#### **Safe and Appropriate Use of Governing Board-Owned PCDs, Including Cell Phones**

Employee safety is a priority of the Governing Board, and responsible use of Governing Board-owned PCDs, including cell phones, requires safe use. See Governing Board Policy 7530.02 - Staff Use of Personal Communication Devices.

Employees may not use a PCD in a way that might reasonably create in the mind of another person an impression of being threatened, humiliated, harassed, embarrassed or intimidated.

**Duty to Maintain Confidentiality of Student Personally Identifiable Information; Public and Student Record Requirements**

Employees are subject to all applicable policies pertaining to protection of the security, integrity and availability of the data stored on their Governing Board-owned PCDs. See Governing Board Policy 7530.02 - Staff Use of Personal Communication Devices.

When the Governing Board intends to dispose of, or otherwise stop using, a Governing Board-owned PCD on which an employee has maintained public records, student records and/or ESI that is subject to a Litigation Hold, the ESC's IT department/staff shall verify such records are properly transferred to an alternative storage device, before disposing of, or otherwise ceasing to use, the PCD. The IT department/staff is responsible for securely deleting such records/ESI before disposing of, or ceasing to use, the Governing Board-owned PCD. The IT department/staff is responsible for maintaining documentation concerning the actions it takes to comply with this requirement.

**Employee's Responsibilities**

Employees are responsible for the safekeeping, care and custody of the Governing Board-owned PCDs assigned to them. Further, employees are responsible for the cost of misuse, intentional damage, or reckless loss of the Governing Board-owned PCDs provided to them.

Reasonable precautions should be taken to prevent theft, loss or damage to, or misuse or unauthorized use/access to, Governing Board-owned PCDs. Upon resignation or termination of employment, or at any time upon request, an employee may be asked to produce the Governing Board-owned PCD issued to him/her for return or inspection. Employees unable to present the device in good working condition within the time period requested (e.g., twenty-four (24) hours) might be expected to bear the cost of a replacement. Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges shall be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

If the employee's service plan is all-inclusive and charges are not assessed for individual calls, text messages, instant messages, or e-mails, then the employee shall be charged a pro-rated share of the monthly charge. Any amount owed shall be deducted from the employee's paycheck in the following pay cycle.

Any employee who regularly places or receives personal calls, or uses his/her Governing Board-owned cell phone to send/receive personal e-mails, text messages, or instant messages, shall be subject to disciplinary action. Use of a Governing Board-owned PCD by an employee to access a personal e-mail account or connect to the Internet for personal business is strictly prohibited.

PCDs may not be transferred to any other employee without prior notification and approval of the Superintendent. Employees provided with a PCD understand that the PCD is owned by the Governing Board. Any alteration or switching of PCDs shall be approved in advance by the Superintendent.

Cell phone numbers provided by the Governing Board, via contract with a cellular telephone service provider/vendor, are considered business numbers of the ESC which shall remain and belong to the Governing Board for its use, unless otherwise changed by the service provider/vendor or as mandated by the Federal Communications Commission. Employees are not allowed to transfer/port a previous personal cell phone number to a Governing Board-owned cell phone.

The Governing Board reserves the right to audit all Governing Board-owned cell phones, which shall include, but not be limited to, a review of the detailed monthly statement. The detailed monthly service statements for all Governing Board- owned cell phones, as well as invoices and payment documents related to these accounts, are public records and, as such, may be subject to disclosure and review.

#### **Use of Governing Board-owned Cell Phones for Personal Calls**

The Governing Board recognizes that in rare circumstances it may be necessary for an employee to use a Governing Board-owned cell phone for personal business. The Governing Board generally prohibits such conduct as emphasized by this policy, but realizes there may be limited situations when such use is justified. Employees are advised not to take advantage of this provision and that repeated use of a Governing Board-owned cell phone for personal business shall result in disciplinary action.

#### **Potential Disciplinary Action/Cancellation of Governing Board-Owned PCD**

Violation of this policy may constitute just cause for disciplinary action up to and including termination. Use of the Governing Board-owned PCD in any manner contrary to local, State or Federal laws shall constitute misuse, and shall result in the Governing Board canceling the employee's privilege to use the PCD and requiring the employee to immediately return the device.

## 7540 - COMPUTER TECHNOLOGY AND NETWORKS

The Governing Board is committed to the effective use of technology to both enhance the quality of student learning and the efficiency of operations within the school system.

However, the use of the ESC's network and technology resources by students is a privilege, not a right. As a prerequisite, students and their parents shall sign and submit a *Student Network and Internet Acceptable Use and Safety* form. (See also, Governing Board Policy 7540.03)

The Superintendent shall develop and implement a written ESC Technology Plan (DTP). Procedures for the proper acquisition of technology shall be set forth in the DTP. The DTP shall also provide guidance to staff and students about making safe, appropriate, and ethical use of the ESC's network(s), as well as inform both staff and students about disciplinary actions that shall be taken if Governing Board technology and/or networks are abused in any way or used in an inappropriate, illegal, or unethical manner.

Further safeguards shall be established so that the Governing Board's investment in both hardware and software achieves the benefits of technology and inhibits negative side effects. Accordingly, students shall be educated about appropriate online behavior including, but not limited to, using social media, which is defined in Bylaw 0100, to interact with others online; interacting with other individuals in chat rooms or on blogs; and, recognizing what constitutes cyberbullying, understanding cyberbullying is a violation of ESC policy, and learning appropriate responses if they are victims of cyberbullying.

Staff use of ESC-approved social media platforms/sites shall be consistent with Policy 7544.

Students must comply with all Governing Board policies when using ESC Technology Resources to access and/or use ESC-approved social media.

## 7540.01 - TECHNOLOGY RESOURCES ACCEPTABLE USE – STAFF

ESC Technology Resources include, but are not limited to, computers, file servers, laptops, software, e-mail, video equipment, AV equipment, public address systems, presentation equipment, telephones, voice mail systems, digital cameras, scanners, the local area network, the wide area network, and all equipment related thereto (collectively, “Technology Resources” or individually, “Technology Resource”). These resources are school property purchased with public funds or grant monies and are intended solely for use in furtherance of the mission of the ESC, to enhance the delivery of education, and to conduct necessary school business. Technology Resources may only be used for appropriate curricular and co-curricular purposes.

This policy sets forth the proper and acceptable uses of Technology Resources, electronic mail and communications and the Internet for ESC employees. The use of any Technology Resource shall constitute acknowledgment and acceptance by the user of this policy and all other applicable Governing Board policies and regulations.

Technology Resources and assigned network access, Internet access and e-mail access passwords are tools provided to ESC employees to assist in the performance of their job responsibilities and should be treated accordingly. Any ESC employee who violates this policy, or allows others to do so, may have his/her user access privileges revoked and shall be subject to disciplinary action, up to and including termination of employment. Any employee who is licensed by the State Governing Board may be subject to disciplinary action by the State Governing Board for any use of technology that constitutes unprofessional conduct under the Licensure Code of Professional Conduct for Ohio Educators (adopted March 11, 2008). Each employee shall sign a form to acknowledge he/she has read, understands, and shall comply with this Technology Resources Acceptable Use Policy. These forms shall be kept on file by the ESC as binding legal documents.

The Governing Board reserves the right to modify this policy at any time. The Governing Board may pursue criminal prosecution or civil action for any unauthorized use of Technology Resources or any violation of this policy when appropriate.

### A. Technology Resources and Acceptable Use Policy Outline

1. General Standards of Conduct for Use of Technology Resources,
2. General Standards of Conduct for Electronic Mail and Communications,
3. General Standards of Conduct for Internet Use,
4. ESC Web Sites, and
5. Disclaimers.

Form: Employee Receipt and Acknowledgment

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**B. General Standards of Conduct for Use of Technology Resources:**

1. Only software licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on Technology Resources. Installation of such software shall be performed only by authorized personnel to ensure that the software is (a) compatible with existing computer systems; (b) properly installed, maintained, used and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other software, including but not limited to, shareware, freeware, public domain, or demonstration copies of software, is prohibited. Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved software shall be removed without notice.
2. Only hardware licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on Technology Resources. Installation of such hardware shall be performed only by authorized personnel to ensure that the hardware is (a) compatible with existing computer systems; (b) properly installed, maintained, used, and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other hardware, including but not limited to, CPUs, motherboards, hard- drives, zip drives, video cards, memory, CD-ROMs, DVD-ROMs, SCSI cards, modems/routers, is prohibited. Memory based recording devices/media used for the transportation of information or enhancement devices (e.g., speakers, cameras) are permitted. The Governing Board reserves the right to inspect or restrict such use should these devices/media contain material that may damage Technology Resources (e.g., viruses, malware, spam ware, spyware). Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved hardware shall be removed without notice.
3. Technology Resource users shall not delete any software on the ESC's computers, copy any software owned by the ESC, or remove any hardware from the ESC's property without prior written permission from the Coordinator of Information and Technology.
4. Technology Resource users may not deploy or install wireless access points without prior written permission from the Coordinator of Information and Technology.
5. Network and system passwords ensure the security of critical and sensitive electronic data and are the first defense against unauthorized access. Only passwords issued by the Coordinator of Information and Technology, or designee, shall be used. Technology Resource users are prohibited from

divulging their passwords to other individuals. Habitual loss or unauthorized disclosure of any password shall be subject to disciplinary action.

6. Disruption of electronic services and interference with Technology Resources or electronic information (including but not limited to, uploading, or downloading damaging data or illegal software; tampering with hardware or software; vandalizing or destroying data; introducing or using computer viruses, worms or Trojan horses; or attempting to gain access to restricted information or networks) are prohibited.

Disruption of electronic services and interference with Technology Resources or electronic information (including but not limited to, uploading, or downloading damaging data or illegal software; tampering with hardware or software; vandalizing or destroying data; introducing or using computer viruses, worms, or Trojan horses; or attempting to gain access to restricted information or networks) are prohibited.

7. Authorized users are prohibited from allowing any unauthorized person to use or operate any Technology Resource. Volunteers, aides, or other persons in the school for a specific school purpose may be authorized by the Coordinator of Information and Technology, or designee, to use Technology Resources only under the direction and direct supervision of an ESC employee. Technology Resource users shall shut down and secure in an appropriate fashion Technology Resources which are not in use.
8. Any use of Technology Resources to facilitate illegal activity is prohibited. Technology Resources shall not be used to encourage or promote any activity prohibited by law or Governing Board policy, rules, procedures, or regulations. Any misconduct or criminal activity discovered shall be referred to appropriate authorities.
9. Use of the ESC's Technology Resources to access or transmit obscene, pornographic, or violent materials or to transmit materials likely to be threatening, offensive or objectionable is prohibited. Such prohibited materials include, but are not limited to, "hacking" materials; racist material or hate literature; terrorism instructions/directions or other dangerous information; profane or vulgar materials; threatening or inflammatory language; false or defamatory materials; disparagement of others based on race, color, religion, national origin, veteran status, ancestry, disability, age, sex, or sexual orientation; and any materials that advocate violating other's rights. In the context of educational purposes, the ESC may allow research or investigation of some objectionable materials to allow students to be better prepared to recognize social harms and improve their ability to deal effectively therewith.

10. Use of Technology Resources for political, commercial, or for-profit purposes, including fund-raising unless specifically authorized by the ESC administration, is prohibited.
11. Unauthorized access, use, modification, alteration, vandalism or destruction of Technology Resources or electronic information is prohibited. Any inappropriate use of Technology Resources that may hinder future use is prohibited. Technology Resource users are expected to respect the ESC's property and to follow any instructions from the Coordinator of Information and Technology, or designee, regarding maintenance and care of equipment. Technology Resource users shall promptly notify the Coordinator of Information and Technology of any need for service to Technology Resources.
12. Technology Resources may not be used in violation of Copyright laws. Any copyrighted material placed on any system connected to the ESC network without the author's permission shall be removed.
13. Technology Resources may not be used in violation of privacy laws and the unauthorized disclosure, use or dissemination of personally identifiable information concerning students is prohibited. All Technology Resource users are required to protect themselves and others by not issuing or releasing any personal or confidential information via Technology Resources.
14. The Coordinator of Information and Technology may establish and enforce quotas for usage of available space on the ESC network. Technology Resource users are expected to remain within allocated disk space and delete e-mail or other materials which take up excessive storage space.
15. Technology Resource users shall immediately notify the Coordinator of Information and Technology if they identify any security problem.
16. The ESC administration reserves the right to limit the times of access and to establish priorities among competing acceptable uses of Technology Resources.
17. All remote access and use of Technology Resources shall also be subject to all applicable requirements of this policy.

C. **General Standards of Conduct for Electronic Mail and Communications:**

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1. The General Standards of Conduct for Use of Technology Resources set forth above shall be equally applicable to electronic mail and messenger system use by ESC employees.
2. In order to prevent the introduction of viruses or other harmful data or software into the ESC's computers and network, extreme caution should be exercised before opening any attachments to any incoming e-mail. If an e-mail attachment is not expected, is from an unknown source, or is an executable file (ending with .EXE or .COM), the attachment should not be opened and should be deleted immediately.
3. Sending or forwarding unsolicited e-mail, chain letters or "spam" is prohibited. Global transmissions to large contact groups are also discouraged due to the strain placed on network resources.
4. E-mail and electronic communications are written records which can be duplicated and altered at will. E-mail and messenger systems are not confidential or private, and all ESC employees should exercise common sense and restraint in their use of not only e-mail and other forms of electronic communication. All users shall be aware that use of Technology Resources for both business and personal reasons may constitute public records under applicable laws and regulations.
5. The use of e-mail or electronic communications to convey student information is prohibited, whether during or after school hours and whether on or off the ESC's premises, unless secured and approved by the Information and Technology Department. Instructional staff and the ESC administration may authorize the release of directory information about students, as defined by Ohio law, for internal administrative purposes or approved educational projects and activities.
6. School employees shall not use free Internet e-mail providers (e.g., Hotmail, Juno) to obtain an e-mail address or to send or receive e-mail from Technology Resources.

**D. General Standards of Conduct for Internet Use:**

1. The General Standards of Conduct for Use of Technology Resources set forth above shall be equally applicable to all Internet use.
2. Internet access over the ESC network may be provided only to ESC employees, students, individuals enrolled in Adult Education classes, and volunteers, aides, or other persons in the school for a specific school purpose when authorized by the Coordinator of Information and

Technology, or designee. Student Internet access may be limited to specified times, as provided by the instructors and the ESC administration.

3. Internet access over the ESC network is available only to support learning, to enhance instruction and to assist in the administration of the ESC. Internet access is to be used in a responsible, ethical and legal manner. All ESC employees are responsible for their actions and communications on the Internet.
4. The ESC has implemented technology protection measures to block or filter materials which are obscene or harmful to minors. The ESC shall restrict, to the extent practicable and technically possible, access to offensive information and materials. Because Internet access provides connections to computer systems located all over the world, the ESC cannot, however, control the content of all information and materials available on the ESC network.
5. The ESC administration shall determine whether any use of the network is inappropriate or unauthorized, or whether any Internet information and materials are objectionable.
6. Instructional Staff should preview recommended sites and materials selected for inclusion in coursework. Sites should be appropriate in light of the age of the students and relevant to course objectives. Student Internet use shall be carefully monitored by ESC staff or authorized individuals. ESC staff and authorized individuals are expected to enforce all rules pertaining to student computer and Internet use and, if any instructional staff member becomes aware of student violations, he/she is expected to stop the activity and inform appropriate ESC administrators.
7. All Technology Resource users shall promptly report to the Coordinator of Information and Technology or another appropriate ESC administrator any inappropriate information or material they encounter when using the Internet or which they believe may be available based on Internet usage by other individuals.
8. Files downloaded from the Internet shall be scanned with virus detection software before being viewed or opened. Internet users are prohibited from accessing or retrieving any relay chat or other real-time or "live" communications unless there has been prior clearance by the Superintendent or designee. However, live communication for ESC business reasons **within** the ESC network is permissible.

9. Internet peer-to-peer file sharing and torrent use are prohibited unless there has been prior clearance by the Superintendent or designee. However, file sharing for ESC business reasons **within** the ESC network is permissible.
10. The downloading and installation of programs from the Internet is prohibited without the prior written approval of the Coordinator of Information and Technology or designee. Unauthorized programs shall be removed without notice.
11. Information obtained via the Internet is not always reliable and should be verified for accuracy, quality, and completeness.
12. Distribution of student information, using any personal Internet service provider, whether during or after school hours and whether on or off the ESC's premises, is a violation of student privacy and is subject to disciplinary action.
13. For curricular reasons only, authorized users may access personal sites/pages if they reflect the professional image of the ESC and are consistent with the mission of the ESC.

E. **ESC Websites**

The ESC has established a Website, [www.ovesc.org](http://www.ovesc.org), and shall develop Web pages that present information about the ESC. The Superintendent, or designee, is responsible for maintaining the ESC Website and may establish Website Publishing procedures to manage the posting of information to the ESC Website, the posting of any school, class or student Web pages, and the creation of links to or from outside sources. All Websites and pages (including links) hosted on the ESC network shall reflect the professional image of the ESC and be consistent with the mission of the ESC. Unauthorized Web sites or pages may **not** be placed on the ESC network.

F. **Disclaimers**

The ESC does not guarantee the privacy of any information, including but not limited to e-mail messages or electronic communications or files sent or received via Technology Resources. Any person utilizing any Technology Resource understands and agrees that he/she is specifically waiving any expectations of privacy in communications, data and other information stored, displayed, accessed, communicated, or transmitted thereon. The ESC reserves and shall exercise the right to access, monitor, review, audit, log and intercept computer activity, Internet use, e-mail, electronic communications, and other Technology Resource use by ESC employees at all times and without notice. The ESC may edit or remove any materials from Technology Resources which are determined to be objectionable. If

any misconduct or criminal activity is discovered, the information or communications may be used to document such conduct and may be referred to the ESC administration and appropriate authorities. The use of an ESC provided password or code does not restrict the ESC's right to access, monitor, review, audit, log, and intercept electronic information or communications.

The ESC denies any responsibility for the accuracy, quality, or completeness of any information available over the Internet. Furthermore, the ESC assumes no responsibility for any costs, liabilities or damages incurred through use of Technology Resources.

Technology Resource users are responsible for archiving and backing-up all electronic information and communications which need to be retained. The ESC makes no guarantee that the functions or services provided by or through the ESC network shall be error free or without defect. The ESC is not responsible for any damages incurred due to loss of data or delays in or interruption of services.

The Coordinator of Information and Technology may investigate any unusual activity involving Technology Resources and may periodically report to the Superintendent or designee on the manner in which Technology Resources are being used.

## 7540.02 - ESC WEB ACCESSIBILITY, CONTENT, APPS, AND SERVICES

### A. **Creating Content for Web Pages/Sites/Apps and Services**

The Governing Board authorizes staff members and students to create web pages/sites, apps, and services that shall be hosted on the Governing Board's servers and/or published on the Internet. The web pages/sites, apps, and services shall reflect the professional image of the ESC, its employees, and students. The content of all pages shall be consistent with the Governing Board's Mission Statement and staff-created web pages/sites, apps, and services are subject to prior review and approval of the Superintendent or designee. The creation of web pages/sites, apps, and services by students shall be done under the supervision of a professional staff member.

### B. **Purpose of Content of ESC Web Pages/Sites, Apps, and Services**

The purpose of web pages/sites, apps, and services hosted on the Governing Board's servers is to educate, inform, and communicate. The following criteria shall be used to guide the development of such web pages/sites, apps, and services:

#### 1. **Educate**

Content should be suitable for and usable by students and teachers to support the curriculum and the Governing Board's Objectives as listed in the Governing Board's Strategic Plan.

#### 2. **Inform**

Content may inform the community about the school, teachers, students, or departments, including information about curriculum, events, class projects, student activities, and departmental policies.

#### 3. **Communicate**

Content may communicate information about the plans, policies, and operations of the ESC to members of the public and other persons who may be affected by ESC matters.

The information contained on the Governing Board's web site should reflect and support the Governing Board's Mission Statement, Educational Philosophy, and the School Improvement Process.

When the content includes a photograph or personally identifiable information relating to a student, the Governing Board shall abide by the provisions of Governing Board Policy 8330 - Student Records.

Under no circumstances is a web site, app, and/or service to be used for commercial purposes, advertising, political lobbying or to provide financial gains for any individual. Included in this prohibition is the fact no web pages contained on the ESC's web site may: (1) include statements or other items that support or oppose a candidate for public office, the investigation, prosecution or recall of a public official, or passage of a tax levy or bond issue; (2) link to a web site of another organization if the other web site includes such a message; or (3) communicate information that supports or opposes any labor organization or any action by, on behalf of, or against any labor organization.

Under no circumstances is a staff member-created web page/site, app, and/or service, including personal web pages/sites, apps, and services, to be used to post student progress reports, grades, or any other similar class-related material. The Governing Board maintains its own web site (e.g., Progressbook) that employees are required to use for the purpose of conveying information to students and/or parents.

Staff members are prohibited from requiring students to go to the staff member's personal web pages/sites (including, but not limited to, their Facebook or MySpace pages) to check grades, obtain class assignments and/or class-related materials, and/or to turn in assignments.

If a staff member creates a web page/site, app, and/or service related to his/her class, it shall be hosted on the Governing Board's approved servers.

Unless the web page/site, app, and/or service contains student personally identifiable information, Governing Board web sites, apps, and services that are created by students and/or staff members that are posted on the Internet should not be password protected or otherwise contain restricted access features, whereby only employees, student(s), or other limited groups of people can access the site. Community members, parents, employees, staff, students, and other web site users shall generally be given full access to the web sites, apps, and services created pursuant to this policy.

Web pages, apps, and services should reflect an understanding that both internal and external audiences shall be viewing the information.

School web pages/sites, apps, and services shall be located on Governing Board-affiliated servers.

The Governing Board retains all proprietary rights related to the design of web pages/sites, apps, and services that are hosted on the Governing Board's servers, absent written agreement to the contrary.

Students who want their class work to be displayed on the Governing Board's web site shall have written parent permission and expressly license its display without cost to the Governing Board.

Prior written parental permission is necessary for a student to be identified by name on the Governing Board's web site.

**C. Website Accessibility**

The ESC is committed to providing persons with disabilities an opportunity equal to that of persons without disabilities to participate in the ESC's programs, benefits, and services, including those delivered through electronic and information technology, except when doing so would impose an undue burden or create a fundamental alteration. The ESC is further committed to ensuring persons with disabilities are able to acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as persons without a disability, with substantially equivalent ease of use; that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any ESC programs, services, and activities delivered online, as required by Section 504 and Title II of the ADA and their implementing regulations; and that they receive effective communication of the ESC's programs, services, and activities delivered online.

The ESC adopts this policy to fulfill this commitment and affirm its intention to comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, 34 C.F.R. Part 104, Title II of the Americans With Disabilities Act of 1990, 42 U.S.C. 12131, and 28 C.F.R. Part 35 in all respects.

1. Technical Standards

The ESC will adhere to the technical standards of compliance identified at [ESC's website]. The ESC measures the accessibility of online content and functionality according to the World Wide Web Consortium's Web Content Accessibility Initiative – Accessible Rich Internet Applications Suite (WAI-ARIA 1.1) for web content.

2. Web Accessibility Coordinator

The Governing Board designates its Technology Director or designee as the ESC's web accessibility coordinator. The Technology Director or designee is responsible for coordinating and implementing this policy.

The Governing Board commits to providing the Web Accessibility Coordinator with sufficient resources and authority to coordinate and

implement this policy and any corresponding policies subject to oversight by the Superintendent and the Governing Board.

See Governing Board Policy 2260.01 for the Section 504/ADA Compliance Coordinator's contact information.

### 3. Third Party Contract

Links included on the Governing Board's websites, apps, and services that pertain to programs, benefits, and/or services must also meet the above criteria and comply with State and Federal law (e.g., copyright laws, CIPA, Section 504, ADA, and COPPA). While the ESC strives to provide access through its website to online content provided or developed by third parties (including vendors, video-sharing website, and other sources of online content) that is in an accessible format, that is not always feasible. The ESC's administrators and staff, however, are aware of this requirement with respect to the selection of online content provided to students. The ESC's web accessibility coordinator or designees will vet online content available on its website that is related to the ESC's programs, benefits, and/or services for compliance with this criteria for all new content placed on the ESC's website after adoption of this policy.

Nothing in the preceding paragraph, however, shall prevent the ESC from including links on the Governing Board's website(s) to:

- a. Recognized news/media outlets (e.g., local newspapers' websites, local television stations' websites); or
- b. Websites, apps, and/or services that are developed and hosted by outside vendors or organizations that are not part of the ESC's program, benefits, or services.

The Governing Board recognizes that such third party websites may not contain age-appropriate advertisements that are consistent with the requirements of Policy 9700.01 and State and Federal law.

### 4. Regular Audits

The ESC, under the direction of the web accessibility coordinator or designees, will, at regular intervals, audit the ESC's online content and measure this content against the technical standards adopted above.

This audit will occur no less than once every two (2) years.

If problems are identified through the audit, such problems will be documented, evaluated, and, if necessary, remediated within a reasonable period of time.

5. **Reporting Concerns or Possible Violations**

If any student, prospective student, employee, guest, or visitor believes that the ESC has violated the technical standards in its online content, s/he may contact the web accessibility coordinator with any accessibility concerns. S/He may also file a formal complaint utilizing the procedures set out in Governing Board Policy 2260 and Policy 2260.01 relating to Section 504 and Title II.

D. **Training**

The ESC will provide periodic training for its employees who are responsible for creating or distributing information with online content so that these employees are aware of this Policy and understand their roles and responsibilities with respect to web design, documents, and multimedia content.

Such training shall be facilitated by an individual with sufficient knowledge, skill, and experience to understand and employ the technical standards set forth in Governing Board policies.

E. **One-Way Communication Using ESC Content, Apps, and Services**

The ESC is authorized to use web pages/sites, apps, and services to promote school activities and inform stakeholders and the general public about ESC news and operations.

Such communications constitute public records that will be archived.

When the Governing Board or Superintendent designates communications distributed via ESC web pages/sites, apps, and services to be one-way communication, public comments are not solicited or desired, and the website, app, or service is to be considered a nonpublic forum.

If the ESC uses an app and web service that does not allow the ESC to block or deactivate public comments (e.g., Facebook, which does not allow comments to be turned-off, or Twitter, which does not permit users to disable private messages or mentions/replies), the ESC's use of those apps and web service will be subject to Policy 7544 – Use of Social Media, unless the ESC is able to automatically withhold all public comments.

If unsolicited public comments can be automatically withheld, the ESC will retain the comments in accordance with its adopted record retention schedule, but it will not review or consider those comments.

**7540.03 - TECHNOLOGY RESOURCES ACCEPTABLE USE – OTHER AUTHORIZED USERS**

ESC Technology Resources include, but are not limited to, computers, file servers, laptops, software, e-mail, video equipment, AV equipment, public address systems, presentation equipment, telephones, voice mail systems, digital cameras, scanners, the local area network, the wide area network, and all equipment related thereto (collectively, “Technology Resources” or individually, “Technology Resource”). These resources are school property purchased with public funds or grant monies and are intended solely for use in furtherance of the mission of the ESC, to enhance the delivery of education, and to conduct necessary school business. Technology Resources may only be used for appropriate curricular and co-curricular purposes.

This policy sets forth the proper and acceptable uses of Technology Resources, electronic mail and communications and the Internet for all authorized users other than students and ESC employees. The use of any Technology Resource shall constitute acknowledgment and acceptance by the user of this policy and all other applicable Governing Board policies and regulations.

Any authorized user who violates this policy, or allows others to do so, shall be immediately disconnected from all Technology Resources, may have his/her Technology Resource use privileges permanently revoked, and may be removed from the ESC’s facilities. Each authorized user shall sign a form to acknowledge he/she has read, understands, and shall comply with this Technology Resources Acceptable Use Policy. These forms shall be kept on file by the ESC as binding legal documents.

The Governing Board reserves the right to modify this policy at any time. The Governing Board may pursue criminal prosecution or civil action for any unauthorized use of Technology Resources or any violation of this policy when appropriate.

**Technology Resources and Acceptable Use Policy Outline**

- A. General Standards of Conduct for Use of Technology Resources,
- B. General Standards of Conduct for Electronic Mail and Communications,
- C. General Standards of Conduct for Internet Use,
- D. ESC Web Sites, and
- E. Disclaimers.

Form: Authorized User Receipt and Acknowledgment

**General Standards of Conduct for Use of Technology Resources**

- A. Only software licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on

Technology Resources. Installation of such software shall be performed only by authorized personnel to ensure that the software is (a) compatible with existing computer systems; (b) properly installed, maintained, used, and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other software, including but not limited to, shareware, freeware, public domain, or demonstration copies of software, is prohibited. Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved software shall be removed without notice.

- B. Only hardware licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on Technology Resources. Installation of such hardware shall be performed only by authorized personnel to ensure that the hardware is (a) compatible with existing computer systems; (b) properly installed, maintained, used, and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other hardware, including but not limited to, CPUs, mother Governing Boards, hard-drives, zip drives, video cards, memory, CD-ROMs, DVD-ROMs, SCSI cards, modems/routers, is prohibited. Memory based recording devices/media used for the transportation of information or enhancement devices (e.g., speakers, cameras) are permitted. The Governing Board reserves the right to inspect or restrict such use should these devices/media contain material that may damage Technology Resources (e.g., viruses, malware, spam ware, spyware). Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved hardware shall be removed without notice.
- C. Technology Resource users shall not delete any software on the ESC's computers, copy any software owned by the ESC, or remove any hardware from the ESC's property without prior written permission from the Coordinator of Information and Technology.
- D. Technology Resource users may not deploy or install wireless access points without prior written permission from the Coordinator of Information and Technology.
- E. Network and system passwords ensure the security of critical and sensitive electronic data and are the first defense against unauthorized access. Only passwords issued by the Coordinator of Information and Technology, or designee, shall be used. Technology Resource users are prohibited from divulging their passwords to other individuals. Habitual loss or unauthorized disclosure of any password shall be subject to disciplinary action.
- F. Disruption of electronic services and interference with Technology Resources or electronic information (including but not limited to, uploading, or downloading damaging data or illegal software; tampering with hardware or software; vandalizing or destroying data; introducing or using computer viruses, worms, or

Trojan horses; or attempting to gain access to restricted information or networks) are prohibited.

- G. Authorized users are prohibited from allowing any unauthorized person to use or operate any Technology Resource. Volunteers, aides, or other persons in the school for a specific school purpose may be authorized by the Coordinator of Information and Technology, or designee, to use Technology Resources only under the direction and direct supervision of an ESC employee. Technology Resource users shall shut down and secure in an appropriate fashion Technology Resources which are not in use.
- H. Any use of Technology Resources to facilitate illegal activity is prohibited. Technology Resources shall not be used to encourage or promote any activity prohibited by law or Governing Board policy, rules, procedures, or regulations. Any misconduct or criminal activity discovered shall be referred to appropriate authorities.
- I. Use of the ESC's Technology Resources to access or transmit obscene, pornographic, or violent materials or to transmit materials likely to be threatening, offensive or objectionable is prohibited. Such prohibited materials include, but are not limited to, "hacking" materials; racist material or hate literature; terrorism instructions/directions or other dangerous information; profane or vulgar materials; threatening or inflammatory language; false or defamatory materials; disparagement of others based on race, color, religion, national origin, veteran status, ancestry, disability, age, sex, or sexual orientation; and any materials that advocate violating other's rights. In the context of educational purposes, the ESC may allow research or investigation of some objectionable materials to allow students to be better prepared to recognize social harms and improve their ability to deal effectively therewith.
- J. Use of Technology Resources for political, commercial, or for-profit purposes, including fund-raising unless specifically authorized by the ESC administration, is prohibited.
- K. Unauthorized access, use, modification, alteration, vandalism or destruction of Technology Resources or electronic information is prohibited. Any inappropriate use of Technology Resources that may hinder future use is prohibited. Technology Resource users are expected to respect the ESC's property and to follow any instructions from the Coordinator of Information and Technology, or designee, regarding maintenance and care of equipment. Technology Resource users shall promptly notify the Coordinator of Information and Technology of any need for service to Technology Resources.
- L. Technology Resources may not be used in violation of Copyright laws. Any copyrighted material placed on any system connected to the ESC network without

the author's permission shall be removed.

- M. Technology Resources may not be used in violation of privacy laws and the unauthorized disclosure, use or dissemination of personally identifiable information concerning students is prohibited. All Technology Resource users are required to protect themselves and others by not issuing or releasing any personal or confidential information via Technology Resources.
- N. The Coordinator of Information and Technology may establish and enforce quotas for usage of available space on the ESC network. Technology Resource users are expected to remain within allocated disk space and delete e-mail or other materials which take up excessive storage space.
- O. Technology Resource users shall immediately notify the Coordinator of Information and Technology if they identify any security problem.
- P. The ESC administration reserves the right to limit the times of access and to establish priorities among competing acceptable uses of Technology Resources.
- Q. All remote access and use of Technology Resources shall also be subject to all applicable requirements of this policy.

**General Standards of Conduct for Electronic Mail and Communications:**

There shall be no use of e-mail, chat room, bulletin Governing Boards (such as myspace.com), instant messaging or other forms or systems of direct electronic communication by volunteers, aides or other persons in the school for a specific school purpose, either internal or external to the ESC network, without the prior written consent of the Coordinator of Information and Technology. If such consent is granted, the authorized user(s) shall be subject to the electronic mail and communications requirements that are applicable to ESC employees as set forth in this policy.

**General Standards of Conduct for Internet Use:**

- A. The General Standards of Conduct for Use of Technology Resources set forth above shall be equally applicable to all Internet use.
- B. Internet access over the ESC network may be provided only to ESC employees, students, individuals enrolled in Adult Education classes, and volunteers, aides, or other persons in the school for a specific school purpose when authorized by the Coordinator of Information and Technology, or designee. Student Internet access may be limited to specified times, as provided by the instructors and the ESC administration.
- C. Internet access over the ESC network is available only to support learning, to enhance instruction and to assist in the administration of the ESC. Internet access

is to be used in a responsible, ethical, and legal manner. All authorized users are responsible for their actions and communications on the Internet.

- D. The ESC has implemented technology protection measures to block or filter materials which are obscene or harmful to minors. The ESC shall restrict, to the extent practicable and technically possible, access to offensive information and materials. Because Internet access provides connections to computer systems located all over the world, the ESC cannot, however, control the content of all information and materials available on the ESC network.
- E. The ESC administration shall determine whether any use of the network is inappropriate or unauthorized, or whether any Internet information and materials are objectionable.
- F. Instructional Staff should preview recommended sites and materials selected for inclusion in coursework. Sites should be appropriate in light of the age of the students and relevant to course objectives. Student Internet use shall be carefully monitored by ESC staff or authorized individuals. ESC staff and authorized individuals are expected to enforce all rules pertaining to student computer and Internet use and, if any instructional staff member becomes aware of student violations, he/she is expected to stop the activity and inform appropriate ESC administrators.
- G. All Technology Resource users shall promptly report to the Coordinator of Information and Technology or another appropriate ESC administrator any inappropriate information or material they encounter when using the Internet or which they believe may be available based on Internet usage by other individuals.
- H. Files downloaded from the Internet shall be scanned with virus detection software before being viewed or opened. Internet users are prohibited from accessing or retrieving any relay chat or other real-time or “live” communications unless there has been prior clearance by the Superintendent or designee. However, live communication for ESC business reasons **within** the ESC network is permissible.
- I. Internet peer-to-peer file sharing and torrent use are prohibited unless there has been prior clearance by the Superintendent or designee. However, file sharing for ESC business reasons **within** the ESC network is permissible.
- J. The downloading and installation of programs from the Internet is prohibited without the prior written approval of the Coordinator of Information and Technology or designee. Unauthorized programs shall be removed without notice.
- K. Information obtained via the Internet is not always reliable and should be verified for accuracy, quality, and completeness.

- L. Distribution of student information, using any personal Internet service provider, whether during or after school hours and whether on or off the ESC's premises, is a violation of student privacy and is subject to disciplinary action.
- M. For curricular reasons only, authorized users may access personal sites/pages if they reflect the professional image of the ESC and are consistent with the mission of the ESC.

### **ESC Websites**

The ESC has established a Website, [www.ovesc.org](http://www.ovesc.org), and shall develop Web pages that present information about the ESC. The Superintendent, or designee, is responsible for maintaining the ESC Website and may establish Website Publishing rules to manage the posting of information to the ESC Website, the posting of any school, class or student Web pages, and the creation of links to or from outside sources. All Websites and pages (including links) hosted on the ESC network shall reflect the professional image of the ESC and be consistent with the mission of the ESC. Unauthorized Websites or pages may **not** be placed on the ESC network.

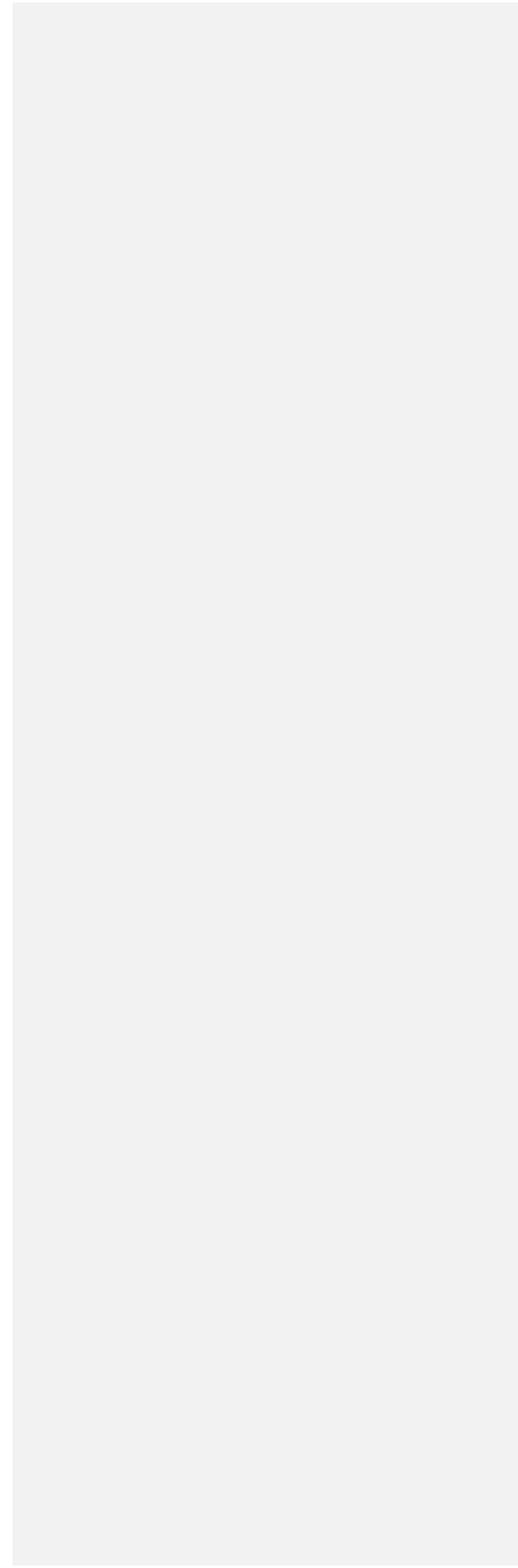
### **Disclaimers**

The ESC does not guarantee the privacy of any information, including but not limited to e-mail messages or electronic communications or files sent or received via Technology Resources. Any person utilizing any Technology Resource understands and agrees that he/she is specifically waiving any expectations of privacy in communications, data and other information stored, displayed, accessed, communicated, or transmitted thereon. The ESC reserves and shall exercise the right to access, monitor, review, audit, log and intercept computer activity, Internet use, e-mail, electronic communications, and other Technology Resource use by any users, at all times and without notice. The ESC may edit or remove any materials from Technology Resources which are determined to be objectionable. If any misconduct or criminal activity is discovered, the information or communications may be used to document such conduct and may be referred to the ESC administration and appropriate authorities. The use of an ESC provided password or code does not restrict the ESC's right to access, monitor, review, audit, log, and intercept electronic information or communications.

The ESC denies any responsibility for the accuracy, quality, or completeness of any information available over the Internet. Furthermore, the ESC assumes no responsibility for any costs, liabilities or damages incurred through use of Technology Resources.

Technology Resource users are responsible for archiving and backing-up all electronic information and communications which need to be retained. The ESC makes no guarantee that the functions or services provided by or through the ESC network shall be error free or without defect. The ESC is not responsible for any damages incurred due to loss of data or delays in or interruption of services.

The Coordinator of Information and Technology may investigate any unusual activity involving Technology Resources and may periodically report to the Superintendent or designee on the manner in which Technology Resources are being used.



#### 7540.04 - NETWORK RESOURCES AND INTERNET SAFETY

Advances in telecommunications and other related technologies have fundamentally altered the ways in which information is accessed, communicated, and transferred in society. Such changes are driving the need for educators to adapt their means and methods of instruction, and the way they approach student learning, to harness and utilize the vast, diverse, and unique resources available on the Internet. The Governing Board is pleased to provide Internet service to its staff. The ESC's Internet system has a limited educational purpose. The ESC's Internet system has not been established as a public access service or a public forum. The Governing Board has the right to place restrictions on its use to assure that use of the ESC's Internet system is in accord with its limited educational purpose. Staff use of the ESC's computers, network, and Internet services ("Network") shall be governed by this policy, Policy 7544, and any applicable employment contracts. The due process rights of all users shall be respected in the event there is a suspicion of inappropriate use of the Network. Users have no right or expectation to privacy when using the Network (including, but not limited to, privacy in the content of their personal files, e-mails, and records of their online activity while on the Network).

The Governing Board encourages staff to utilize the Internet in order to promote educational excellence in our schools by providing them with the opportunity to develop the resource sharing, innovation, and communication skills and tools that are essential to both life and work. The Governing Board encourages the faculty to develop the appropriate skills necessary to effectively access, analyze, evaluate, and utilize these resources in enriching educational activities. The instructional use of the Internet shall be guided by the Governing Board's policy on Instructional Materials.

The Internet is a global information and communication network that provides an incredible opportunity to bring previously unimaginable education and information resources to our students. The Internet connects computers and users in the ESC with computers and users worldwide. Through the Internet, students and staff can access up-to-date, highly relevant information that shall enhance their learning and the education process. Further, the Internet provides students and staff with the opportunity to communicate with other people from throughout the world. Access to such an incredible quantity of information and resources brings with it, however, certain unique challenges and responsibilities.

The Governing Board may not be able to technologically limit access, through the Governing Board's Internet connection, to only those services and resources that have been authorized for the purpose of instruction, study and research related to the curriculum. Unlike in the past when educators and community members had the opportunity to review and screen materials to assess their appropriateness for supporting and enriching the curriculum according to the reasonable selection criteria (taking into account the varied instructional needs, learning styles, abilities, and developmental levels of the students who would be exposed to them), access to the Internet, because it serves as a gateway to any publicly available file server in the world, shall open classrooms and students to electronic information resources that have not been screened by educators for use by students of various ages.

Pursuant to Federal law, the Governing Board has implemented technology protection measures, which protect against (e.g., filter or block) access to visual displays/depictions/materials that are obscene, constitute child pornography, and/or are harmful to minors, as defined by the Children’s Internet Protection Act. At the discretion of the Governing Board or Superintendent, the technology protection measures may also be configured to protect against access to other material considered inappropriate for students to access. The Governing Board also utilizes software and/or hardware to monitor online activity of staff members to restrict access to child pornography and other material that is obscene, objectionable, inappropriate and/or harmful to minors. The technology protection measures, may not be disabled at any time that students may be using the Network, if such disabling shall cease to protect against access to materials that are prohibited under the Children’s Internet Protection Act. Any staff member who attempts to disable the technology protection measures without express written consent of an appropriate administrator shall be subject to disciplinary action, up to and including termination.

The Superintendent or designee may temporarily or permanently unblock access to sites containing appropriate material, if access to such sites has been inappropriately blocked by the technology protection measures. The determination of whether material is appropriate or inappropriate shall be based on the content of the material and the intended use of the material, not on the protection actions of the technology protection measures. The Superintendent or designee may also disable the technology protection measures to enable access for bona fide research or other lawful purposes.

Staff members shall participate in professional development programs in accordance with the provisions of law and this policy. Training shall include:

- A. the safety and security of students while using e-mail, chat rooms, social media and other forms of direct electronic communications;
- B. the inherent danger of students disclosing personally identifiable information online;
- C. the consequences of unauthorized access (e.g., “hacking”), cyberbullying and other unlawful or inappropriate activities by students or staff online; and
- D. unauthorized disclosure, use, and dissemination of personal information regarding minors.

Furthermore, staff members shall provide instruction for their students regarding the appropriate use of technology and online safety and security as specified above, and staff members shall monitor students’ online activities while at school.

Monitoring may include, but is not necessarily limited to, visual observations of online activities during class sessions; or use of specific monitoring tools to review browser history and network, server, and computer logs.

The disclosure of personally identifiable information about students online is prohibited.

Building principals/program managers are responsible for providing training so that Internet users under their supervision are knowledgeable about this policy. The Governing Board expects that staff members shall provide guidance and instruction to students in the appropriate use of the Internet. Such training shall include, but not be limited to, education concerning appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response. All Internet users are required to sign a written agreement to abide by the terms and conditions of this policy.

Staff will be assigned a school e-mail address that they are required to utilize for all school-related electronic communications, including those to students, parents, and other constituents, fellow staff members, and vendors or individuals seeking to do business with the ESC.

Staff members are responsible for good behavior on Governing Board's computer/network and the Internet just as they are in classrooms, school hallways, and other school premises and school sponsored events. Communications on the Internet are often public in nature.

Staff members shall not access social media for personal use on the ESC's network, and shall access social media for educational use only after submitting a plan for that educational use and securing the principal/program manager's approval of that plan in advance.

General school rules for behavior and communication apply. The Governing Board does not sanction any use of the Internet that is not authorized by or conducted strictly in compliance with this policy and Policy 7544.

Staff members use of ESC technology resources to access or use social media is to be consistent with Policy 7544.

An employee's personal or private use of social media may have unintended consequences. While the Governing Board respects its employees' First Amendment rights, those rights do not include permission to post inflammatory comments that could compromise the ESC's mission, undermine staff relationships, or cause a substantial disruption to the school environment. This warning includes staff members' online conduct that occurs off school property including from the employee's personal communication device. Postings to social media should be done in a manner sensitive to the staff member's professional responsibilities.

Users who disregard this policy may have their use privileges suspended or revoked, and disciplinary action taken against them. Users granted access to the Internet through the Governing Board's computers assume personal responsibility and liability, both civil and criminal, for uses of the Internet not authorized by this policy.

The Governing Board designates the Superintendent and Coordinator of Information and Technology Services as the administrators responsible for initiating, implementing, and enforcing this policy as they apply to staff members' use of the Network.

## 7540.05 - ELECTRONIC MAIL

The Governing Board is committed to the effective use of electronic mail (“e-mail”) by all ESC staff and Governing Board members in the conduct of their official duties. This policy is not meant to limit or discourage the use of e-mail for conducting the official business of the ESC, but rather, this policy is intended to establish a framework for the proper use of e-mail as an official business tool.

When available, the ESC’s e-mail system shall be used by employees for any official ESC e-mail communications. Personal e-mail accounts on providers other than the ESC’s e-mail system may be blocked at any time due to concerns for network security, SPAM, or virus protection. Furthermore, ESC staff are expected to exercise reasonable judgment and prudence and take appropriate precautions to prevent viruses from entering the ESC’s network when opening or forwarding any e-mails or attachments to e-mails that originate from unknown sources.

ESC staff shall not send or forward mass e-mails, even if the e-mails concern ESC business, without prior approval of the Technology Director and Superintendent.

ESC staff may join list serves or other e-mail services (e.g., RSS feeds) that pertain to their responsibilities in the ESC, provided these list serves or other e-mail services do not exceed the staff member’s e-mail storage allotment. Staff members are required to keep their inbox and folders organized by regularly reviewing e-mail messages, appropriately saving e-mails that constitute a public record or student record and e-mails that are subject to a Litigation Hold, and purging all other e-mails that have been read. If the staff member is concerned that his/her e-mail storage allotment is not sufficient, s/he should contact the ESC’s technology coordinator (IT staff). Similarly, if a staff member is unsure whether s/he has adequate storage or should subscribe to a list serv or RSS feed, s/he should discuss the issue with his/her building principal/program manager or the ESC’s Technology Director. The Technology Director is authorized to block e-mail from list serves or e-mail services if the e-mails received by the staff member(s) regularly exceed ten (10) megabytes.

### **Public Records**

The ESC complies with all applicable laws and regulations pertaining to electronic mail. Accordingly, e-mails written by or sent to ESC staff and Governing Board members may be public records if their content concerns ESC business, or education records if their content includes personally identifiable information about a student. E-mails that are public records are subject to retention and disclosure, upon request, in accordance with Governing Board Policy 8310 – Public Records. E-mails that are student records should be maintained pursuant to Governing Board Policy 8330 – Student Records. Finally, e-mails may constitute electronically stored information (“ESI”) that may be subject to a Litigation Hold pursuant to Governing Board Policy 8315 – Information Management.

Applicable laws and regulations exempt certain documents and information within documents from disclosure, no matter what their form. Therefore, certain e-mails may be exempt from

disclosure or it may be necessary to redact certain content in the e-mails before the e-mails are released pursuant to a public records request, the request of a parent or eligible student to review education records, or a duly served discovery request involving ESI.

E-mails written by or sent to ESC staff and Governing Board members by means of their private e-mail account may be public records if the content of the e-mails concerns ESC business, or education records if their content includes personally identifiable information about a student. Consequently, staff shall comply with an ESC request to produce copies of e-mail in their possession that are either public records or education records, or that constitute ESI that is subject to a Litigation Hold, even if such records reside on a computer owned by an individual staff member, or are accessed through an e-mail account not controlled by the ESC.

### **Retention**

Pursuant to applicable laws and regulations, e-mails that are public records or education records, and e-mails that are subject to a Litigation Hold shall be retained.

The ESC maintains archives of all e-mails sent and/or received by users of the ESC's e-mail service. Staff members are required to forward copies of any e-mails received in their personal e-mail account(s) not affiliated with the ESC server to their ESC e-mail account so that these records are also archived for future retrieval, if necessary.

### **Unauthorized E-mail**

The Governing Board does not authorize the use of its proprietary computers and computer network ("network") to accept, transmit, or distribute unsolicited bulk e-mail sent through the Internet to network e-mail accounts. In addition, Internet e-mail sent, or caused to be sent, to or through the network that makes use of or contains invalid or forged headers, invalid or non-existent domain names, or other means of deceptive addressing shall be deemed to be counterfeit. Any attempt to send or cause such counterfeit e-mail to be sent to or through the network is unauthorized. Similarly, e-mail that is relayed from any third party's e-mail servers without the permission of that third party, or which employs similar techniques to hide or obscure the source of the e-mail, is also an unauthorized use of the network. The Governing Board does not authorize the harvesting or collection of network e-mail addresses for the purposes of sending unsolicited e-mail. The Governing Board reserves the right to take all legal and technical steps available to prevent unsolicited bulk e-mail or other unauthorized e-mail from entering, utilizing, or remaining within the network. Nothing in this policy is intended to grant any right to transmit or send e-mail to, or through, the network. The Governing Board's failure to enforce this policy in every instance in which it might have application does not amount to a waiver of its rights.

Unauthorized use of the network in connection with the transmission of unsolicited bulk e-mail, including the transmission of counterfeit e-mail, may result in civil and criminal penalties against the sender and/or possible disciplinary action.

### **Authorized Use and Training**

Pursuant to Governing Board Policy 7540.04, staff and Governing Board members using the ESC's e-mail system shall acknowledge their review of, and intent to comply with, the ESC's policy on acceptable use and safety by signing and submitting the appropriate form.

## 7540.07 - TECHNOLOGY RESOURCES ACCEPTABLE USE – STUDENTS

ESC Technology Resources include, but are not limited to, computers, file servers, laptops, software, e-mail, video equipment, AV equipment, public address systems, presentation equipment, telephones, voice mail systems, digital cameras, scanners, the local area network, the wide area network, and all equipment related thereto (collectively, “Technology Resources” or individually, “Technology Resource”). These resources are school property purchased with public funds or grant monies and are intended solely for use in furtherance of the mission of the ESC, to enhance the delivery of education, and to conduct necessary school business. Technology Resources may only be used for appropriate curricular and co-curricular purposes.

This policy sets forth the proper and acceptable uses of Technology Resources, electronic mail and communications and the Internet for students. The use of any Technology Resource shall constitute acknowledgment and acceptance by the user of this policy and all other applicable Governing Board policies and regulations.

Technology Resources and assigned network access, Internet access and e-mail access passwords are tools provided to students to enhance their education and should be treated accordingly. Any student who violates this policy, or allows others to do so, may have his/her user access privileges revoked and shall be subject to disciplinary action, up to and including expulsion. Each student shall sign a form to acknowledge he/she has read, understands, and shall comply with this Technology Resources Acceptable Use Policy. Parents of students under the age of eighteen (18) shall also acknowledge their understanding of the risks associated with Internet use and authorize the ESC to allow Internet access for their child(ren). These forms shall be kept on file by the ESC as binding legal documents.

The Governing Board reserves the right to modify this policy at any time. The Governing Board may pursue criminal prosecution or civil action for any unauthorized use of Technology Resources or any violation of this policy when appropriate.

### **Technology Resources and Acceptable Use Policy Outline**

- A. General Standards of Conduct for Use of Technology Resources,
- B. General Standards of Conduct for Electronic Mail and Communications,
- C. General Standards of Conduct for Internet Use,
- D. ESC Web Sites, and
- E. Disclaimers.

Form: Student/Parent Receipt, Acknowledgment and Authorization

### **General Standards of Conduct for Use of Technology Resources:**

December 16, 2021 Proposed Amendments

- A. Only software licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on Technology Resources. Installation of such software shall be performed only by authorized personnel to ensure that the software is (a) compatible with existing computer systems; (b) properly installed, maintained, used, and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other software, including but not limited to, shareware, freeware, public domain, or demonstration copies of software, is prohibited. Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved software shall be removed without notice.
- B. Only hardware licensed to the Governing Board and/or authorized in writing by the Coordinator of Information and Technology, or designee, shall be installed on Technology Resources. Installation of such hardware shall be performed only by authorized personnel to ensure that the hardware is (a) compatible with existing computer systems; (b) properly installed, maintained, used, and upgraded; (c) free from any computer virus; and (d) properly licensed. Installation of any other hardware, including but not limited to, CPUs, motherboards, hard-drives, zip drives, video cards, memory, CD-ROMs, DVD-ROMs, SCSI cards, modems/routers, is prohibited. Memory based recording devices/media used for the transportation of information or enhancement devices (e.g., speakers, cameras) are permitted. The Governing Board reserves the right to inspect or restrict such use should these devices/media contain material that may damage Technology Resources (e.g., viruses, malware, spam ware, spyware). Unscheduled audits of Technology Resources shall be periodically performed and any unlicensed or unapproved hardware shall be removed without notice.
- C. Students shall not delete any software on the ESC's computers, copy any software owned by the ESC, or remove any hardware from the ESC's property without prior written permission from the Coordinator of Information and Technology.
- D. Students may not deploy or install wireless access points without prior written permission from the Coordinator of Information and Technology.
- E. Network and system passwords ensure the security of critical and sensitive electronic data and are the first defense against unauthorized access. Only passwords issued by the Coordinator of Information and Technology, or designee, shall be used. Students are prohibited from divulging their passwords to other individuals. Habitual loss or unauthorized disclosure of any password shall be subject to disciplinary action.
- F. Disruption of electronic services and interference with Technology Resources or electronic information (including but not limited to, uploading, or downloading damaging data or illegal software; tampering with hardware or software;

vandalizing or destroying data; introducing or using computer viruses, worms, or Trojan horses; or attempting to gain access to restricted information or networks) are prohibited.

- G. Students are prohibited from allowing any unauthorized person to use or operate any Technology Resource. Students shall shut down and secure in an appropriate fashion Technology Resources which are not in use.
- H. Any use of Technology Resources to facilitate illegal activity is prohibited. Technology Resources shall not be used to encourage or promote any activity prohibited by law or Governing Board policy, rules, procedures, or regulations. Any misconduct or criminal activity discovered shall be referred to appropriate authorities.
- I. Use of the ESC's Technology Resources to access or transmit obscene, pornographic, or violent materials or to transmit materials likely to be threatening, offensive or objectionable is prohibited. Such prohibited materials include, but are not limited to, "hacking" materials; racist material or hate literature; terrorism instructions/directions or other dangerous information; profane or vulgar materials; threatening or inflammatory language; false or defamatory materials; disparagement of others based on race, color, religion, national origin, veteran status, ancestry, disability, age, sex, or sexual orientation; and any materials that advocate violating other's rights. In the context of educational purposes, the ESC may allow research or investigation of some objectionable materials to allow students to be better prepared to recognize social harms and improve their ability to deal effectively therewith.
- J. Use of Technology Resources for political, commercial, or for-profit purposes, including fund-raising unless specifically authorized by the ESC administration, is prohibited.
- K. Unauthorized access, use, modification, alteration, vandalism or destruction of Technology Resources or electronic information is prohibited. Any inappropriate use of Technology Resources that may hinder future use is prohibited. Students are expected to respect the ESC's property and to follow any instructions from the Coordinator of Information and Technology, or designee, regarding maintenance and care of equipment. Students shall promptly notify the Coordinator of Information and Technology of any need for service to Technology Resources.
- L. Technology Resources may not be used in violation of Copyright laws. Any copyrighted material placed on any system connected to the ESC network without the author's permission shall be removed.

- M. Technology Resources may not be used in violation of privacy laws. Students are required to protect themselves and others by not issuing or releasing any personal or confidential information via Technology Resources.
- N. The Coordinator of Information and Technology may establish and enforce quotas for usage of available space on the ESC network. Students are expected to remain within allocated disk space and delete e-mail or other materials which take up excessive storage space.
- O. Students shall immediately notify the Coordinator of Information and Technology if they identify any security problem.
- P. The ESC administration reserves the right to limit the times of access and to establish priorities among competing acceptable uses of Technology Resources.
- Q. All remote access and use of Technology Resources shall also be subject to all applicable requirements of this policy.

**General Standards of Conduct for Electronic Mail and Communications:**

The use of direct electronic communications (i.e., e-mail, chat room, bulletin Governing Board, Instant Messaging, and other forms) by students is available only with the prior written consent of the Coordinator of Information and Technology and under the guidance of a teacher.

**General Standards of Conduct for Internet Use:**

- A. The General Standards of Conduct for Use of Technology Resources set forth above shall be equally applicable to all Internet use.
- B. Internet access over the ESC network may be provided only to ESC employees, students, individuals enrolled in Adult Education classes, and volunteers, aides, or other persons in the school for a specific school purpose when authorized by the Coordinator of Information and Technology or designee. Student Internet access may be limited to specified times, as provided by the instructors and the ESC administration.
- C. Internet access over the ESC network is available only to support learning, to enhance instruction and to assist in the administration of the ESC. Internet access is to be used in a responsible, ethical, and legal manner. All students are responsible for their actions and communications on the Internet.
- D. The ESC has implemented technology protection measures to block or filter materials which are obscene or harmful to minors. The ESC shall restrict, to the extent practicable and technically possible, access to offensive information and materials. Because Internet access provides connections to computer systems

located all over the world, the ESC cannot, however, control the content all information and materials available on the ESC network.

- E. The ESC administration shall determine whether any use of the network is inappropriate or unauthorized, or whether any Internet information and materials are objectionable.
- F. Instructional Staff should preview recommended sites and materials selected for inclusion in coursework. Sites should be appropriate in light of the age of the students and relevant to course objectives. Student Internet use shall be carefully monitored by ESC staff or authorized individuals. ESC staff and authorized individuals are expected to enforce all rules pertaining to student computer and Internet use and, if any instructional staff member becomes aware of student violations, he/she is expected to stop the activity and inform appropriate ESC administrators.
- G. All students shall promptly report to a teacher any inappropriate information or material they encounter when using the Internet or which they believe may be available based on Internet usage by other individuals.
- H. Files downloaded from the Internet shall be scanned with virus detection software before being viewed or opened. Students are prohibited from accessing or retrieving any relay chat or other real-time or “live” communications unless there has been prior clearance by the Superintendent or designee.
- I. Internet peer-to-peer file sharing and torrent use are prohibited unless there has been prior clearance by the Superintendent or designee.
- J. The downloading and installation of programs from the Internet is prohibited without the prior written approval of the Coordinator of Information and Technology or designee. Unauthorized programs shall be removed without notice.
- K. Information obtained via the Internet is not always reliable and should be verified for accuracy, quality, and completeness.

### **ESC Websites**

The ESC has established a Website, [www.ovesc.org](http://www.ovesc.org) and shall develop Web pages that present information about the ESC. The Superintendent, or designee, is responsible for maintaining the ESC Website and may establish Website Publishing rules to manage the posting of information to the ESC Website, the posting of any school, class or student Web pages, and the creation of links to or from outside sources. All Websites and pages (including links) hosted on the ESC network shall reflect the professional image of the ESC and be consistent with the mission of the ESC. Unauthorized Websites or pages may **not** be placed on the ESC network.

## **Disclaimers**

The ESC does not guarantee the privacy of any information, including but not limited to e-mail messages or electronic communications or files sent or received via Technology Resources. Any student utilizing any Technology Resource understands and agrees that he/she is specifically waiving any expectations of privacy in communications, data and other information stored, displayed, accessed, communicated, or transmitted thereon. The ESC reserves and shall exercise the right to access, monitor, review, audit, log and intercept computer activity, Internet use, e-mail, electronic communications, and other Technology Resource use by students, at all times and without notice. The ESC may edit or remove any materials from Technology Resources which are determined to be objectionable. If any misconduct or criminal activity is discovered, the information or communications may be used to document such conduct and may be referred to the ESC administration and appropriate authorities. The use of an ESC provided password or code does not restrict the ESC's right to access, monitor, review, audit, log, and intercept electronic information or communications.

The ESC denies any responsibility for the accuracy, quality, or completeness of any information available over the Internet. Furthermore, the ESC assumes no responsibility for any costs, liabilities or damages incurred through use of Technology Resources.

Students are responsible for archiving and backing-up all electronic information and communications which need to be retained. The ESC makes no guarantee that the functions or services provided by or through the ESC network shall be error free or without defect. The ESC is not responsible for any damages incurred due to loss of data or delays in or interruption of services.

The Coordinator of Information and Technology may investigate any unusual activity involving Technology Resources and may periodically report to the Superintendent or designee on the manner in which Technology Resources are being used.

#### 7541 - ELECTRONIC DATA PROCESSING DISASTER RECOVERY PLAN

The Governing Board is committed to maintaining and protecting the ESC's Information System. The Governing Board believes that a complete and accurate Information System which includes educational, student, fiscal and personnel information is vital to the Governing Board's ability to deliver uninterrupted educational service to the community it represents. To that end, the Superintendent, in conjunction with the Treasurer/CFO, is directed to develop, test and maintain an *Electronic Data Processing Disaster Recovery Plan* for use in the event a disaster should disable the ESC's electronic data processing equipment.

The Plan may include:

- A. a reciprocal agreement with a neighboring ESC or data acquisition site, which outlines the scope of reciprocal services such as access to the computer facility of the alternative, computer time and personnel assistance, and costs;
- B. adequate equipment insurance;
- C. a list of the applications that are used by the ESC;
- D. procedures used to backup all programs and data on a daily, monthly, quarterly, and year-end basis;
- E. backup storage off-site;
- F. maintenance agreements for hardware and software (including, but not limited to the operating system); and
- G. as a last resort, the procedure to create payroll checks and budgetary checks, and perform other necessary accounting functions, manually.

## **7542 - ACCESS TO ESC TECHNOLOGY RESOURCES AND/OR INFORMATION RESOURCES FROM PERSONAL COMMUNICATION DEVICES**

For purposes of this policy, “personal communication device” (PCD) includes computers, tablets (e.g., iPad-like devices), electronic readers (“e-readers”; e.g., Kindle-like devices), cell phones, smartphones (e.g., iPhones, Android devices, Windows Mobile devices, etc.), telephone paging devices (e.g., beepers or pagers), and/or other web-enabled devices of any type.

The Governing Board provides both a guest network and business network. The business network is a secure network for the conduct of official ESC business. Access to the business network requires prior approval and authorization by the ESC. The guest network is a CIPA compliant non-secured network provided for use by students, parents, and other visitors while on ESC property. Only Governing Board approved communication devices and authorized users may access the business network. Any non-Governing Board-approved communication devices or non-authorized users shall be pre-approved by the Superintendent.

The Governing Board permits employees, students, Governing Board members, and guests, as well as contractors, vendors, and agents to use their PCDs to wirelessly access the ESC’s Technology and/or Information Resources while they are on-site at any ESC facility.

Access to the business/guest network shall require authentication.

If the user wants to access the ESC’s Technology and/or Information Resources through a hard-wired connection, the user’s PCD shall first be checked by the Superintendent to verify it meets the established standards for equipment used to access the network.

The standards shall be designed and enforced to minimize the Governing Board’s exposure to damages, including, but not limited to, the loss of Confidential Data/Information, illegal access to Confidential Data/Information, damage to the ESC’s intellectual property, damage to the ESC’s public image/reputation, and damage to the ESC’s critical internal systems, from unauthorized use.

The use of PCDs shall be consistent with the established standards for appropriate use as defined in Policies 7540.03, 7540.04, 5136, and 7530.02. When an individual connects to and uses the ESC’s Technology and/or Information Resources, s/he shall agree to abide by all applicable policies, administrative guidelines and laws (e.g., the user shall be presented with a “splash screen” that shall set forth the terms and conditions under which s/he shall be able to access the ESC’s Technology and/or Information Resource(s) the user shall need to accept the stated terms and conditions before being provided with access to the specified technology resource(s)).

In order to comply with the Children’s Internet Protection Act (“CIPA”), the Governing Board has implemented technology protection measures that protect against (e.g., filter or block) access to visual displays/depictions/materials that are obscene, constitute child pornography, and/or are harmful to minors. The Governing Board also utilizes software and/or hardware to monitor online

activity to restrict access to child pornography and other material that is obscene, objectionable, inappropriate, and/or harmful to minors.

Any user who violates the established standards and/or the Governing Board's Acceptable Use policy, or who accesses the ESC's Technology and/or Information Resources without authorization may be prospectively denied access to the ESC's Technology and/or Information Resources. If the violation is committed by a contractor, vendor or agent of the ESC, the contract may be subject to cancellation. Further disciplinary action may be taken if the violation is committed by a student or employee.

The owner of a PCD bears all responsibility and assumes all risk of theft, loss, or damage to, or misuse or unauthorized use of the device while it is on Governing Board property. This provision applies to everyone, regardless of their affiliation or connection to the ESC.

**7543 - UTILIZATION OF THE ESC'S WEBSITE AND REMOTE ACCESS TO THE ESC'S NETWORK**

Access to the ESC's Website is encouraged.

Employees, parents, students, staff/employees, and community members should check the ESC's website regularly for changes to these resources and for the addition of other resources. Some resources may require a user name and password, or a login procedure due to the personally identifiable nature of the information provided through that resource (e.g., the gradebook program and e-mail system). If a user name and password, or login procedure, is necessary to access a resource, the user should contact the applicable department for access.

**Access to the ESC Network through a Server**

Governing Board members, ESC employees, and students, as well as contractors, vendors, and agents of the ESC, are not permitted to use their personally-owned or ESC-owned computers or workstations and/or web-enabled devices of any type to remotely (i.e., away from ESC property or facilities) access the ESC's server and connect to the ESC's Network.

Any exceptions to this policy shall be approved in advance, in writing, by the Superintendent.

Any user who violates this policy may be denied remote access and connection privileges.

Any employee who violates this policy may be disciplined, up to and including termination; any contractor, vendor, or agent who violates this policy may have his/her contract with the ESC terminated; and any student who violates this policy may be disciplined up to and including suspension or expulsion.

## 7544 – USE OF SOCIAL MEDIA

Technology is a powerful tool to enhance education, communication, and learning.

The Governing Board authorizes the use of social media to promote community involvement and facilitate effective communication with students, parents/guardians, staff (including Governing Board -approved volunteers), and the general public. Social media is defined in Bylaw 0100.

The Superintendent is charged with designating the Governing Board-approved social media platforms/sites, which shall be listed on the Governing Board's website.

In designating Governing Board-approved social media platforms/sites, the Superintendent shall specify which platforms/sites are appropriate for use at the Governing Board-level, the building or department level, for extra-curricular activities, and at the individual level by employees for professional purposes.

It is critical that students be taught how to use social media platforms safely and responsibly. Social media (as defined in Bylaw 0100) are a powerful and pervasive technology that affords students and employees the opportunity to communicate for school and work purposes, and to collaborate in the delivery of a comprehensive education. Federal law mandates that the Governing Board provide for the education of students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, and regarding cyberbullying awareness and response. See Governing Board Policy 7540.03 – Student Technology Acceptable Use and Safety.

The Governing Board recognizes that employees may use social media for personal, as well as professional reasons. The Governing Board neither encourages nor discourages employees' use of social media for personal purposes. The Governing Board regulates employees' use of social media for purposes related to their Governing Board assignment to the same extent as it regulates any other form of employee communication in that regard.

The ESC uses approved social media platforms/sites as interactive forms of communication.

Each Governing Board-approved social media account/site must contain a statement that specifies its purpose(s) and limits those who access the social media account/site to use of the account/site only for that/those purpose(s), and in accordance with any specified procedures, and applicable terms of service. Users are personally responsible for the content of their posts.

### **Social Media for Instructional and School-Sponsored Activities**

Staff (including Governing Board-approved volunteers) may, with prior approval/authorization from the Superintendent or designee to use social media platforms/sites for classroom instruction or school-sponsored activities. When a staff member uses a Governing Board-approved social media platform/site for an educational purpose, it will be considered an educational activity and will not be considered a limited public forum. Students' use of Governing Board-approved social

media platforms/sites must be consistent with the Student Code of Conduct, Policy 7540.03, the instructor's directions/procedures, and the platform/site's applicable terms of service. Students are prohibited from posting or releasing personal information about students, employees, and volunteers through Governing Board-approved social media without appropriate consent.

Staff members (including Governing Board-approved volunteers) must obtain parental consent for students to participate in the use of social media platforms/sites related to a school-sponsored activity. If a parent refuses to provide such consent, the staff member must arrange for an alternative method of communicating with the participating student concerning the school-sponsored activity.

### **Expected Standards of Conduct on Governing Board-Approved Social Media**

Employees and Governing Board-approved volunteers who access Governing Board-approved social media platforms are expected to conduct themselves in a respectful, courteous, and professional manner. Students, parents, and members of the general public who access Governing Board-approved social media platforms are similarly expected to conduct themselves in a respectful, courteous, and civil manner.

Governing Board-approved social media sites shall not contain content that is obscene; is vulgar and lewd such that it undermines the school's basic educational mission; is libelous or defamatory; constitutes hate speech; promotes illegal drug use; is aimed at inciting an individual to engage in unlawful acts or to cause a substantial disruption or material interference with Governing Board operations; or interferes with the rights of others. The Governing Board may exercise editorial control over the style and content of student speech on Governing Board-approved social media, if reasonably related to legitimate pedagogical concerns. Staff or students who post prohibited content shall be subject to appropriate disciplinary action.

The Governing Board is committed to protecting the privacy rights of students, parents/guardians, staff, volunteers, Governing Board members, and other individuals on Governing Board-approved social media sites. Governing Board employees and volunteers are prohibited from posting or releasing confidential information about students, employees, volunteers, or Governing Board operations through social media, without appropriate consent (i.e., express written consent from the parent of a student, the affected employee or volunteer, or the Superintendent concerning Governing Board operations).

### **Retention of Public/Student Records**

Governing Board communications that occur through the use of Governing Board-approved social media platforms/sites – including staff members'/volunteers' use of social media with school-sponsored activities, and comments, replies, and messages received from the general public – may constitute public records or student records, and all such communications will be maintained (i.e., electronically archived) in accordance with the Governing Board's adopted record retention schedule and all applicable State statutes.

Records that do not document the organization, functions, policies, decisions, procedures, operations, or other activities of the Governing Board do not become public records just because they are kept or maintained by the Governing Board under this policy.

Staff members and Governing Board-approved volunteers cannot rely on social networking platforms (e.g., Facebook, Twitter, etc.) to sufficiently fulfill potential records retention requirements because these platforms, in general, do not guarantee retention and are unlikely to assist in the production of third-party comments and communications that have been edited, deleted, or are otherwise no longer available. Consequently, Governing Board employees and volunteers who use such social media accounts for professional communications must operate them in accordance with the general archiving practices and technology instituted by the Governing Board so records remain within the Governing Board's control and are appropriately retained.

If a staff member uses Governing Board-approved social media platforms/sites in the classroom for educational purposes (i.e., classroom instruction), the staff member must consult with the Principal concerning whether such use may result in the creation of public and/or education records that must be maintained (i.e., electronically archived) for a specific period of time.

**Employees' Use of Governing Board Technology Resources to Access Social Media for Personal Use**

Employees and Governing Board-approved volunteers are prohibited from using Governing Board technology resources (as defined in Bylaw 0100) to access social media for personal use.

**Employees' Use of Personal Communication Devices at Work to Access Social Media for Personal Use**

Employees are prohibited from using personal communication devices to access social media for personal use during work hours.

Employees and Governing Board-approved volunteers are prohibited from posting or engaging in communication that violates State or Federal law, Governing Board policies, or administrative procedures. If an employee/volunteer's communication interferes with his/her ability to effectively perform his/her job, or violates State or Federal law, Governing Board policies, or administrative procedures, the Governing Board may impose disciplinary action and/or refer the matter to appropriate law enforcement authorities.

## **7560 - USE OF SCHOOL FACILITIES AND TECHNOLOGY RESOURCES FOR DISTANCE LEARNING**

ESC facilities and Technology Resources (as defined in Governing Board Policy 7550 attached hereto and made a part hereof) may be periodically leased for use by other educational bodies or private organizations for distance learning activities. Access to the ESC's facilities and Technology Resources is provided to enhance educational opportunities in the community and shall be subject to the requirements set forth in this policy and all other policies and regulations of the Governing Board and to applicable Federal, State, and local laws. Use of the ESC's facilities and Technology Resources for distance learning activities shall also be subject to contractual agreement with the Governing Board.

The Superintendent, or designee, shall have the authority to authorize, prioritize, regulate, modify, and restrict any and all distance learning activities utilizing the ESC's facilities or Technology Resources. Use of the ESC's facilities or Technology Resources for distance learning activities shall not interfere with the educational programs of the ESC. Access to the ESC's facilities and Technology Resources may be limited when necessary to assure protection of school property or the safety of students or other persons on the premises.

Information or materials to be presented in distance learning activities may be subject to review by the Superintendent of Schools, or his/her designee, prior to presentation or broadcast to determine whether the information and materials are appropriate for the educational environment.

Individuals authorized to use the ESC's facilities or Technology Resources for distance learning activities are prohibited from allowing any unauthorized persons to use such facilities or Technology Resources.

No item of school property shall be removed from the ESC's facilities without the prior written approval of the Superintendent, or his/her designee.

Vandalism, damage or destruction of the ESC's facilities or any school property located in or around such facilities is prohibited.

No weapons or dangerous instrumentalities are permitted on school property.

The use or possession of tobacco, alcohol or illegal drugs in any form is prohibited on school property.

Proper training in the use of the ESC's Technology Resources may be required by the Coordinator of Information and Technology.

The ESC does not guarantee the privacy of any information sent or received via the ESC's Technology Resources and reserves the right to monitor and record all use of Technology Resources for distance learning activities at all times and without notice.

Users of the ESC's Technology Resources for distance learning activities shall comply with all requirements of the ESC's Technology Resources Acceptable Use Policy.

Any individual involved in distance learning activities who violates this policy, or allows others to do so, shall be subject to discipline, up to and including disconnection from the ESC's Technology Resources, removal from the ESC's facilities, revocation of the privilege of using the ESC's facilities and Technology Resources, and termination of participation in all distance learning activities.

The Governing Board reserves the right to modify this policy at any time and from time to time without notice. The Governing Board also may pursue criminal prosecution or civil action when appropriate.

7999 – **NO DRONE ZONE**

- A. For the purposes of this Policy, the term “drone” collectively refers to an unmanned aircraft system (“UAS”), an unmanned aerial vehicle (“UAV”), and any related system and/or vehicle.
1. A drone is any unmanned aircraft/aerial vehicle with the equipment necessary for the safe and efficient operation of that aircraft/aerial vehicle.
  2. A drone is operated without the possibility of direct human intervention from within or on the aircraft/aerial vehicle.
  3. A “model aircraft” is a drone for the purposes of this Policy. To the extent local, state, and/or federal laws are prohibited from defining a model aircraft as a drone, a “model aircraft” is nonetheless still defined as a “drone” for the purpose of this Policy.
- B. **NO DRONE ZONE**
1. For the purpose of this Policy, the term “school ground” collectively refers to any and all real property owned and/or operated by the Governing Board.
  2. The Governing Board is concerned for the safety of all students, employees, parents, visitors, and community members on and around any school ground at all times.
  3. The Governing Board recognizes that the operation of a drone on any school ground and/or operating a drone on and/or over any school ground presents a public safety issue as school grounds are populated during many hours of any given day of the week (including weekends, vacations, and holidays) by students, employees, parents, visitors, and/or community members.
  4. The Governing Board declares each and every school ground as a “NO DRONE ZONE” and strictly prohibits anyone from (a) operating any drone on any school ground, (b) launching and/or landing any drone on any school ground, and/or (c) operating any drone over any school ground at all times.
    - a. This NO DRONE ZONE shall extend from any school ground:
      - i. Up to a three hundred (300) foot radius around the parameter of any school ground or, if greater than 300 feet, the maximum “school zone” distances authorized by any and all applicable local, state, and/or federal laws, rules, and regulations, as well as the policies and guidelines of the Governing Board.

- ii. Up to four hundred (400) feet above ground level over any school ground or, if greater than 400 feet, the maximum drone altitude limits authorized by any and all applicable local, state, and/or federal laws, rules, and regulations including, but not limited to, Federal Aviation Administration (“FAA”) regulations.
  - b. This NO DRONE ZONE shall apply to any and all types and purposes of drone flight operations (e.g., governmental, commercial, non-recreational, recreational, etc.).
  - c. This NO DRONE ZONE shall remain in effect 24 hours a day, 7 days a week.
  - d. This NO DRONE ZONE shall apply to any and all contests (including scrimmages and/or previews), practices, and/or activities under the auspices of the Ohio High School Athletic Association (“OHSAA”).
5. The Governing Board understands that many buildings are in densely populated communities and that individuals may reside within either a three hundred (300) foot radius around the parameter of any school ground or maximum school zone distances. As a result, nothing in this Policy is intended as a restraint on the rights of those individuals – who are residing within either a three hundred (300) foot radius around the parameter of any school ground or maximum school zone distances – to operate any drone within the legal restraints set forth in any and all applicable local, state, and/or federal laws, rules, and regulations including, but not limited to, FAA regulations, provided that – **regardless of where any individual resides:**
- i. **School Ground Prohibition:** No drone, as defined by this Policy, shall ever be operated on any school ground at any time.
  - ii. **Launching and Landing Prohibitions:** No drone, as defined by this Policy, shall ever be launched from and/or landed on any school ground at any time.
  - iii. **Aerial Prohibition:** No drone, as defined by this Policy, shall ever be operated over any school ground at any time up to four hundred (400) feet above ground level over any school ground or, if greater than 400 feet, the maximum drone altitude limits authorized by any and all applicable local, state, and/or federal laws, rules, and regulations including, but not limited to, FAA regulations.
  - iv. **Covert Surveillance Prohibition:** No drone, as defined by this Policy, shall ever be operated as a form of covert surveillance of any kind (e.g., any

surveillance conducted by means of hidden devices, without notice to the individuals being monitored).

- v. **Video Surveillance/Electronic Monitoring System Prohibition:** No drone, as defined by this Policy, shall ever be operated as a form of video surveillance/electronic monitoring system of any kind (e.g., any video, physical, and/or other mechanical, electronic, and/or digital surveillance/electronic monitoring system and/or device that enables continuous and/or periodic video recording, observing and/or monitoring of individuals on any school ground). This includes any audio device, thermal imaging technology, and/or any other component associated with recording the image of any individual.
- vi. **Recording Operation Prohibition:** No drone, as defined by this Policy, shall ever be operated as a form of portable and/or non-portable video recording device of any kind (e.g. videotape, CD, DVD, disk, hard drive, or other device used to store information - whether in printed format, on film, by digital/electronic means or otherwise).
- vii. **Recording Distribution Prohibition:** No drone, as defined by this Policy, shall ever obtain, capture, broadcast, and/or distribute in any manner any video recordings of any kind (e.g. videotape, CD, DVD, disk, hard drive, or other device used to store information - whether in printed format, on film, by digital/electronic means or otherwise) of any event of any kind and/or any individual on any school ground.
- viii. **Breach of Confidentiality Prohibition:** No drone, as defined by this Policy, shall ever obtain, capture, broadcast, and/or distribute in any manner any confidential information of any kind.
- ix. **Breach of Privacy Prohibition:** No drone, as defined by this Policy, shall ever obtain, capture, broadcast, and/or distribute in any manner any private information of any kind.
- x. **Breach of Personally Identifiable Information Prohibition:** No drone, as defined by this Policy, shall ever obtain, capture, broadcast, and/or distribute in any manner any personally identifiable information of any kind.
- xi. **Breach of Directory Information Prohibition:** No drone, as defined by this Policy, shall ever obtain, capture, broadcast, and/or distribute in any manner any directory information of any kind.

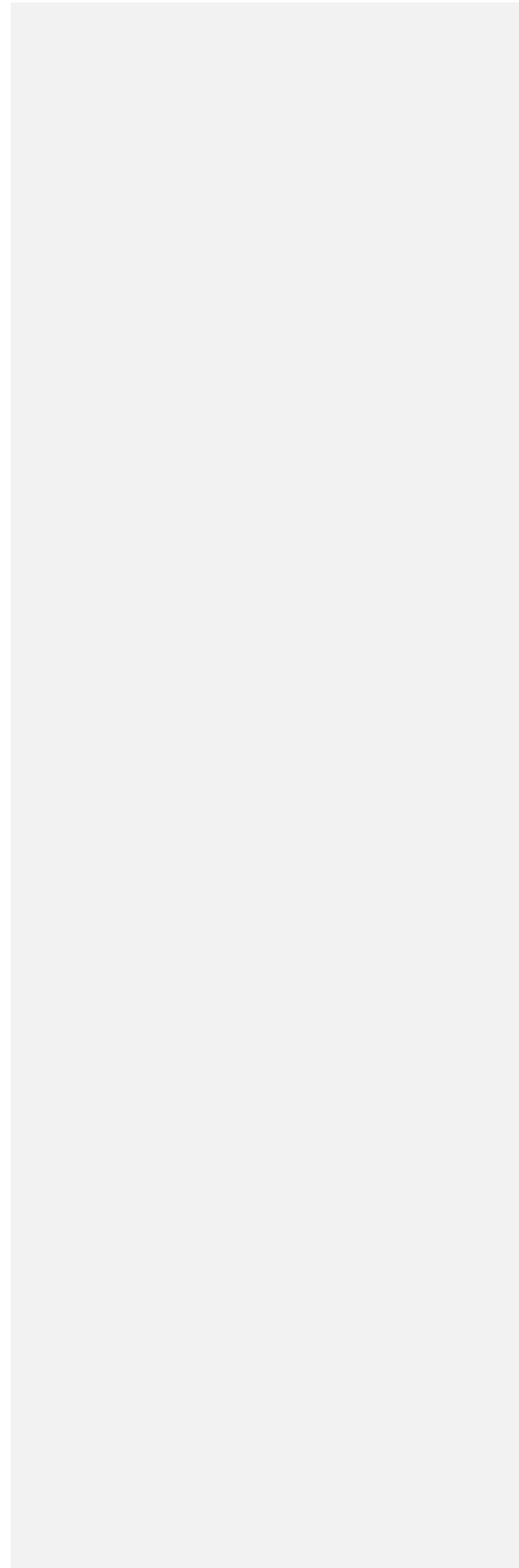
- xii. **Breach of Law Prohibition:** No drone, as defined by this Policy, shall ever be used in violation of any local, state, and/or federal law, rule, and regulation.
  - xiii. **Breach of Policy and Guidelines Prohibitions:** No drone, as defined by this Policy, shall ever be used in violation of any policy and/or guideline of the Governing Board.
- C. Exceptions to this Policy shall only be made for the following two reasons:
- 1. **Legitimate Law Enforcement Exception:** For legitimate law enforcement reasons and as mandated by any and all applicable local, state, and/or federal laws, rules, and regulations. Any legitimate law enforcement reason must be supported with the appropriate legal documentation (e.g., court order, warrant, etc.).
  - 2. **Legitimate Educational, Administrative, and ESC Exception:** For legitimate educational, administrative, and ESC reasons as determined solely by the Superintendent. The decision of the Superintendent shall be final.
- D. **Strict Compliance:** The Governing Board shall strictly enforce all aspects of this Policy by taking any and all appropriate action in accordance with any and all applicable local, state, and/or federal laws, rules, and regulations including, but not limited to, FAA regulations, as well as the policies and guidelines of the Governing Board.

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# **OPERATIONS**

December 16, 2021 Proposed Amendments

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## 8141 - MANDATORY REPORTING OF MISCONDUCT BY LICENSED EMPLOYEES

The Governing Board recognizes its responsibility to effectively address employee misconduct and, where determined appropriate, to provide a measured disciplinary response consistent with due process. In addition, with respect to licensed professional staff members, matters of misconduct, including guilty pleas and/or conviction of certain crimes (including intervention in lieu of conviction and/or pre-trial diversion programs) enumerated by law and/or conduct which is unbecoming to the teaching profession under certain specific circumstances, shall be reported by the Superintendent (or Governing Board President if the Superintendent or Treasurer are determined to have engaged in such misconduct) to the Ohio Department of Education.

### Definitions

“Licensed professional staff member” refers to Governing Board employees who hold an educator’s license or certification with the Ohio Department of Education (ODE) (including the Treasurer and Business Manager), educational assistants (aides with a permit and paraprofessionals with a license from ODE), individuals holding a one (1) year conditional teaching permit in the area of intervention specialist or seeking an alternative educator license, and those individuals who do not hold a valid educator’s license but who are employed by the Governing Board under a Pupil Activity Program Permit.

The definition of “conduct unbecoming the teaching profession” is set forth in the *Licensure Code of Professional Conduct for Ohio Educators* enacted by the Ohio State Governing Board and includes:

- A. crimes or misconduct involving minors;
- B. crimes or misconduct involving school children;
- C. crimes or misconduct involving academic fraud;
- D. crimes or misconduct involving the school community;
- E. making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining the issuance or renewal of any educator licensing documents;
- F. the violation of the terms and conditions of a consent agreement with the State Governing Board;
- G. a plea of guilty to or a finding of guilt or conviction upon any offense enumerated under R.C. 3319.39, or a judicial finding for intervention in lieu of conviction and/or participation in a pre-trial diversion program relating to any of the offenses listed therein;

- H. a failure to adhere to the Licensure Code of Professional Conduct for Ohio Educators enacted by the Ohio State Governing Board.

### **Reporting Professional Misconduct**

The Superintendent shall file a report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members, under any of the following circumstances:

- A. When the Governing Board obtains knowledge that a licensed professional staff member has pled guilty, has been found guilty, or has been convicted, and/or subject to a judicial finding for intervention in lieu of conviction and/or participated in a pre-trial diversion program for a crime specified in R.C. 3319.31(B)(2) or R.C. 3319.39(B)(1), including but not limited to any felony, any misdemeanor sex offense, any offense of violence, any theft offense and any drug abuse offense that is not a minor misdemeanor.
- B. When the Governing Board has initiated termination or non-renewal proceedings against a professional staff member who is reasonably believed to have committed an act that is unbecoming to the teaching profession.
- C. When the professional staff member has resigned under threat of termination or non-renewal for any of the reasons set forth in paragraphs A and B above.
- D. When the professional staff member has resigned during the course of an investigation of alleged misconduct which is reasonably believed to be unbecoming to the teaching profession.

### **Misconduct by Superintendent or Treasurer**

If the employee to whom any of the above conditions apply is either the Superintendent or Treasurer, the Governing Board President shall make the report required under this policy and in accordance with R.C. 3319.313.

### **Failure to File Report/Filing of False Report**

The Governing Board acknowledges that if the Superintendent (or Governing Board President, where applicable) knowingly fails to file a required report of misconduct by a licensed educator or cause a false report of misconduct by a licensed employee of the Governing Board to be filed, they shall be subject to criminal penalties under law. In addition, failure to file a required report shall subject the designated reporter to a potential denial, limitation, suspension, or revocation of the educator license of such designated reporter

### **Investigation Reports Regarding Professional Misconduct**

Reports of any investigation regarding whether or not a professional staff member has committed an act or offense for which the Superintendent or Governing Board President is required to make a report to the Ohio Department of Education, as set forth above, shall be kept in the personnel file of the professional staff member. Should the Ohio Department of Education determine that the results of that investigation do not warrant initiating an action suspending, revoking, or otherwise limiting that professional staff member's license or permit, the report(s) of any investigation shall be moved to a separate public file.

### **Suspension from Duties Involving Care, Custody or Control of a Child**

In accordance with Governing Board Policy 3138 and Governing Board Policy 4138, the Superintendent, Treasurer, or Governing Board (depending upon the position of the employee being charged) shall immediately suspend a licensed employee from all duties that require the care, custody, or control of a child during any pending criminal action for which that person has been arrested, summoned and/or indicted for any crimes listed under R.C. 3319.31(C).

**8142 - CRIMINAL HISTORY RECORD CHECK FOR CONTRACTED SCHOOL SERVICES**

In accordance with applicable laws and regulations, the Governing Board requires a criminal background check including information from the Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI) of each person employed by a private company under contract with the Governing Board to provide essential school services and who shall work within the ESC in a position which does not require a license issued by the State Governing Board, is not for the operation of a vehicle for student transportation, but does involve routine interaction with a child or regular responsibility for the care, custody or control of a child.

“Essential school services” is defined to mean services provided by a private company that the Governing Board or Superintendent has determined are necessary for the operation of the ESC and that would need to be provided by employees of the ESC if the services were not provided by the private company. No such individual, employed by a private company to provide essential school services under a contract with the Governing Board, shall be permitted to work within the ESC unless one of the following applies to the individual:

- A. The private company provides proof of either of the following to the Superintendent:
  - 1. that the individual has been the subject of a criminal records check in accordance with R.C. 3319.39 within the last five (5) years immediately prior to the date on which the person shall begin working in the ESC; and
  - 2. that the criminal records check indicates that the individuals has not been convicted of or pleaded guilty to any offense described in R.C. 3319.39(B)(1); or
- B. During any period of time in which the individual shall have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the Superintendent has arranged for an ESC employee to be present in the same room with a child or, if outdoors, within a thirty (30) yard radius of the child or to have visual contact with the child.

**8310 - PUBLIC RECORDS**

The Governing Board is responsible for maintaining the public records of this ESC and to make such records available for inspection and reproduction in compliance with the Ohio Public Records Act. Public records requests should be directed to the Treasurer as the Public Records Officer for the ESC. The Public Records Officer or designee shall respond to all public records requests on behalf of the ESC.

The ESC Records Commission is responsible for developing the ESC’s Records Retention Schedule (Form RC-2), which shall be approved by the Ohio Historical Society and the State Auditor. Subsequent revisions to the Form RC-2 shall also be approved using this same process. Only in conformance with the approved Records Retention Schedule (Form RC-2) or a properly approved one-time Records Disposal Request (Form RC-1) may the ESC’s Records Commission review applications for the disposal of obsolete records utilizing the Certificate of Records Disposal (Form RC-3).

Schedule Number	Record Title and Description	Retention Period	
<u>1000</u>	<u>GOVERNING BOARD AND ADMINISTRATIVE RECORDS</u>		
1101	Minutes Treasurer	Permanent	
1101.1	Audio Tapes Treasurer	2 Years*	
1102	Blueprints, Plans, Maps Business Office and Secretary	Permanent	
1103	Deeds, Easements, Lease, Abstracts Treasurer	Permanent	
1104	Governing Board Policy Books and Other Adopted Policies Superintendent and Secretary	3 Years Superseded	After
1105	Administrative Regulations Superintendent and Secretary	3 Years After Superseded	
1106	Court Decisions Treasurer	Permanent	
1107	Claims and Litigation Treasurer	Permanent	
1201	Elections Treasurer	10 years	
1202	Record Disposal Forms Treasurer	10 years	
1203	Bargaining Agreements Treasurer	10 Years Expiration	After
1204	Budget Policy Files Treasurer	5 years	

Schedule Number	Record Title and Description	Retention Period
1301	Workers' Compensation Claims Treasurer	10 Years After Financial Payment Made
1302	Rank Depository Agreements Treasurer	4 Years After Completion
1303	Organization Reports Treasurer	2 Years**
1304	Governing Board Meeting Notices Treasurer	10 Years
1305	Agendas Treasurer	1 Calendar Year**
1401	Adopted Courses of Study Superintendent and Secretary	Until Superseded
1402	Adopted Special Education Programs Superintendent and Secretary	Until Superseded
1403	Adopted Special Programs Superintendent and Secretary	Until Superseded
<u>2000</u>	<u>EMPLOYEE RECORDS:</u> (Includes employment applications, resumes, contracts/salary notices, evaluations, personnel actions, absence certification, transcripts and any other documents which became part of the file.)	
2101	Certificated Active Employees Treasurer and Secretary	Permanent
2102	Classified Active Employees Treasurer and Secretary	Permanent
2103	Certificated Inactive Employees Treasurer and Secretary	Permanent***
2104	Classified Inactive Employees Treasurer and Secretary	Permanent***
2105	Civil Rights, Civil Service, and Disciplinary Reports Treasurer and Secretary	Permanent***
2107	Retirement Letters Treasurer and Secretary	Permanent***

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Schedule Number	Record Title and Description		Retention Period	
2108	Substitute Records	Treasurer and Secretary	25 Years	
2301	Employee Contracts and Salary Notices	Treasurer	15 Years Termination Employment	After from
2302	Professional Conferences Application	Treasurer and Secretary	2 Years**	
2303	Irregular Employee Contracts (Substitutes, etc.)	Treasurer	15 Years Contract Expires	After
2304	Unemployment Claims	Treasurer	5 Years After Claim Paid*	Final
2305	Unemployment Records	Treasurer	5 Years**	
2306	Applications (not hired)	Superintendent and Secretary	4 Years**	
2307	Schedules of Employees	Treasurer and Secretary	Fiscal Year Plus 2 Years	
2308	Student Helper Applications	Superintendent and Secretary	2 Years	
2309	Teacher Personnel Reports (internal)	Superintendent and Secretary	Fiscal Year Plus 1 Year	
2310	I-9 Immigration Verification Forms	Treasurer and Secretary	Termination of Employment Plus 1 Year	
2401	Job Descriptions	Superintendent and Secretary	5 Years Superseded	After
<u>3000</u>	<u>STUDENT RECORDS</u>			

Schedule Number	Record Title and Description		Retention Period	
3101	Student Record Folders Enrollment/Withdrawal Information Grades/Transcripts Activities Record Attendance Records Individual Test Results Standardized Competency/Proficiency Aptitude Intervention Records Foreign Exchange Records Suspensions/Expulsions Home Schooled Student Records	Building Secretary	Permanent***	
3102	Office Record Card (K-9) (each student enrollment)	Building Secretary	Permanent***	
3103	Cosmetology Records	Voc. Secretary	Permanent***	
3201	Health/Medical Records Visual Screening Hearing Screening Immunization Records	Nurse/Building Secretary	7 Years Graduation	After
3202	Discipline Records Letters to Parents Office Discipline	Building Secretary	Permanent	
3203	Psychological Records (Restricted)	Sp. Ed. Secretary/Nurse	Permanent	
3203.5	Most Recent Multi-Factored Evaluation (MFE)	Building Secretary	Permanent***	
3204	Child Abuse/Neglect Referral Letters	Building Secretary	Through Graduation	
3301	Teacher Grade Book/Records	Building Secretary	3 Years**	
3302	Pre-School Screening Profiles	Building Secretary	3 Years	
3303	Age and Schooling Records (Work Permits)	Building Secretary	3 Years	
3304	Accident Reports	Nurse/Building Secretary	10 Years, Provided No Action Pending	

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Schedule Number	Record Title and Description	Retention Period
3305	Individual Educational Plan (IEP) Building Secretary Sp. Ed. Secretary	7 Years
3305.6	Most Recent IEP Building Secretary	Permanent***
3306	Free/Reduced Price Lunch Applications Building Secretary	4 Years
3401	Emergency Information Building Secretary	Until Superseded
<u>4000</u>	<u>BUILDINGS RECORDS</u>	
4202	Tornado and Fire Drill Records Building Secretary	1 Year*
4203	Building Health Inspections Building Secretary	2 Years*
4301	Student Activity Records Building Secretary Pay-In Forms Pay-Out Forms Account Forms/Dist. Budget Forms Req./Purchase Orders Purpose Clauses Sales Potential Projects Ticket Sales Reports	2 Years**
4302	Receipts/Deposit Slips Building Secretary	4 Years**
4303	Budget/Appropriation Records Building Secretary	4 Years**
4304	Req./Purchase Orders Building Secretary	10 Years**
4401	Textbook Inventories Building Secretary	Until Superseded
4402	Supplies Inventories Building Secretary	Until Superseded
4403	Student Handbooks Building Secretary	4 Years Superseded After
<u>5000</u>	<u>CENTRAL DEPARTMENTAL RECORDS</u>	
	<u>Administrative Offices</u>	
5201	School Calendars Superintendent Secretary	5 Years
5301	Repair, Installation and Maintenance Records Treasurer and Secretary	10 Years**

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Schedule Number	Record Title and Description	Retention Period
5302	Prevailing Wage Records Treasurer and Secretary	10 Years**
5303	Rental Information (Use of Facilities) Treasurer and Secretary	4 Years**
5304	Work Orders Maintenance Supervisor/Secretary	4 Years**
5305	Environmental Reports and Data (Asbestos, etc.) Superintendent and Secretary	4 Years**
5306	Vandalism Reports Superintendent and Secretary	4 Years**
5307	Student Activity Purpose Clauses Treasurer and Secretary	4 Years**
5308	Sales Potential Forms (Student Activities) Treasurer and Secretary	4 Years**
5309	Bids and Specifications (Unsuccessful) Treasurer and Secretary	5 Years**
5310	Bids and Specifications (Successful) Treasurer and Secretary	10 Years/Completion of Project**
5311	Contractor Files (Resolutions, Additions, Drawings, etc.) Treasurer and Secretary	10 Years, If No Action Pending**
5401	Preventative Maintenance Reports Treasurer and Secretary	Fiscal Year Plus 5 Years
5402	Warranty/Guarantee Treasurer and Secretary	Life/Warranty of Equipment
5403	Plant and Equipment Inventory Treasurer and Secretary	Until Superseded**
5404	Textbook/Workbook Inventory Curriculum Secretary Director and	Until Superseded**
5405	Supplies Inventory Treasurer and Secretary	Until Superseded**

Special Education Department

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Schedule Number	Record Title and Description		Retention Period	
5221	Special Education Tutoring Reports	Sp. Ed. Secretary	10 Years	
5340	<u>Transportation Department</u> Driver Physical	Trans. Secretary	2 Years	After Termination
5341	Fuel Consumption Data	Trans. Secretary	4 Years**	
5342	Transportation Records	Trans. Secretary	4 Years**	
5343	Field Trip Forms and Volunteer Driver Forms	Trans. Secretary	Fiscal Year	Plus 2 Years
5441	Accident Reports	Trans. Secretary	5 Years, Provided No Action Pending	
5442	Vehicle Registration	Treasurer and Secretary	Life of Vehicle	
5443	Vehicle License	Treasurer and Secretary	1 Year	After Termination
5445	Driver Certification	Trans. Secretary	1 Year	After Termination
5446	Supplies Inventory	Trans. Secretary	Until Superseded**	
5447	Vehicle Defect Report	Trans. Secretary	Life of Vehicle	
5561	<u>Food Service Department</u> Food Service Records Menus Food Production Milk Sold Students Served	Cafe Supervisor	4 Years**	
5562	Lunchroom Records Cash Register Tapes Cashier's Daily Reports	Cafe Supervisor	4 Years**	
5563	Lunchroom Reports (Free and Reduced)	Cafe Supervisor	4 Years**	
5564	Inventories	Cafe Supervisor	Until Superseded**	

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Schedule Number	Record Title and Description		Retention Period
5565	License, Lunchroom	Building Supervisor Cafe Supervisor	Until Terminated Plus 1 Year
<u>6000</u>	<u>FINANCIAL RECORDS</u>		
6101	Annual Financial Reports Appropriation Ledgers Budget Ledgers Revenue Journals Vendor Listing Check Register Purchase Order Listing Invoice List Account Reports Financial Summary Detail Reports	Treasurer	5 Years**
6102	Activity Fund Cash Journal and Ledger	Treasurer	5 Years**
6103	Bond Register	Treasurer	20 Years After Issue Expires
6104	Securities	Treasurer	Permanent***
6201	Investment Ledger	Treasurer	5 Years**
6202	Foundation Distribution	Treasurer	5 Years**
6203	Tax Settlements (Semi-Annual) and Advances	Treasurer	5 Years**
6204	Budgets (Annual)	Treasurer	5 Years**
6205	Insurance Policies	Treasurer	15 Years After Expiration Provided All Claims Settled
6206	Contracts	Treasurer	15 Years After Expiration
6207	Bonds and Coupons	Treasurer	Until Bond Redeemed** Issues
6208	Accounts Payable Ledgers	Treasurer	5 Years**
6209	Accounts Receivable Ledgers	Treasurer	5 Years**

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Schedule Number	Record Title and Description		Retention Period	
6210	Budget Work Papers	Treasurer	5 Years**	
6211	Vouchers, Invoices and Purchase Order	Treasurer	10 Years**	
6212	State Program Files Aux. Services, DPPF, Adult Vocational, Excess Lottery, Data Processing, Public/Private Grants, etc.	Treasurer	10 Years**	
6213	Federal Program Files Title I, II, III, IV-B, IV-C, & VI-B; Chapter 1, 2; Drug Free, etc.	Treasurer	10 Years**	
6214	Travel Expense Vouchers	Treasurer	10 Years**	
6215	Tax Anticipation Notes (Records borrowing against future tax collections)	Treasurer	10 Years**	
6216	State Reimbursement Settlement Sheets	Treasurer	5 Years**	
6217	Unemployment Claims	Treasurer	5 Years	
6218	Employee Bonds, Governing Board Member Bonds	Treasurer	5 Years	
6219	Certificate of Estimated Resources	Treasurer	15 Years expiration	after
6220	Appropriation Resolutions	Treasurer	5 Years	
6222	Tax Apportionments, Semi-Annual	Treasurer	5 Years	
6301	Cancelled Checks and Bank Statements	Treasurer	4 Years**	
6302	Publication Notice	Treasurer	4 Years**	
6303	Tuition Fees and Payments	Treasurer	4 Years**	
6304	School Finance (S.F.) Monthly Statement	Treasurer	4 Years**	

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Schedule Number	Record Title and Description		Retention Period	
6305	Investment Records (May include individual record of investments, bank confirmation, wire transfers, copy of CD, etc.)	Treasurer	4 Years**	
6306	Travel Expense Reports Governing Board and Employees	Treasurer	10 Years**	
6307	State Sales Tax Reports	Treasurer	4 Years**	
6308	Student Activity Fund (Pay-ins, Pay-outs, Receipts/Deposits, Cancelled Checks, Reports)	Treasurer	4 Years**	
6309	Check Registers	Treasurer	4 Years**	
6310	Deposit Slips/Cash Proofs	Treasurer	4 Years**	
6311	Bids and Specifications (Accepted and Rejected)	Treasurer	4 Years Completion Project**	After of
6312	Bids and Specifications (Accepted)	Treasurer	4 Years Completion Project**	After of
6313	Receipt Books	Treasurer	4 Years**	
6314	Extra Trip Records	Treasurer	4 Years**	
6315	Monthly Financial Reports	Treasurer	4 Years**	
6316	Accounting Data	Treasurer	4 Years**	
6317	Contracts: Service	Treasurer	15 Years**	
6318	State Subsidy Requests Applications for drivers education, pupil transportation, special education, etc.	Treasurer	3 Years**	
6319	Delivery/Packing Slips	Treasurer	1 Year**	
6401	Requisitions	Treasurer	1 Year*	
<u>7000</u>	<u>PAYROLL RELATED</u>			

Schedule Number	Record Title and Description		Retention Period
7001	Payroll Ledgers Bi-Weekly Payroll Reports Quarterly Payroll Reports	Treasurer	Permanent***
7102	Earnings Registers By Staff Member By Calendar Year	Treasurer	Permanent***
7103	Monthly Payroll Reports (Leave usage and accumulation, retirement service, etc.)	Treasurer	Permanent***
7201	Bureau of Employment Services Quarterly Reports	Treasurer	7 Years
7301	W-2 (Employer Copy)	Treasurer	6 Years and Current**
7302	Federal Income Tax (Quarterly/Annual)	Treasurer	6 Years and Current**
7303	Ohio Income Tax (Monthly/Annual)	Treasurer	6 Years and Current**
7304	City Income Tax (Monthly/Annual)	Treasurer	6 Years and Current**
7305	School Income Tax (Monthly/Annual)	Treasurer	6 Years and Current**
7306	Payroll Reports (All Reports Used for Each Payroll — Computer Generated — except those listed under 7001, and 7102-3 above)	Treasurer	4 Years**
7307	Payroll Update Listings	Treasurer	4 Years**
7308	Payroll Calculations	Treasurer	4 Years**
7309	State Teachers Retirement System and School Employees Retirement System Waivers	Treasurer	Permanent
7310	School Employees Retirement System (SERS) Reports	Treasurer	4 Years**
7311	State Teachers Retirement System (STRS) Reports	Treasurer	4 Years**

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Schedule Number	Record Title and Description		Retention Period
7312	Annuity Reports	Treasurer	4 Years**
7313	Benefit Folder/Report	Treasurer	4 Years**
7314	Employee Request and/or Authorization (Sick, Vacation, Personal, or Other Leave)	Treasurer	4 Years**
7315	Deduction Reports Voluntary Employment Payroll Deductions	Treasurer	4 Years**
7316	Employee Vacation/Sick Leave Records	Treasurer	15 Years**
7317	Time Sheets	Treasurer	15 Years
7318	Overtime Authorization	Treasurer	15 Years
7319	Employee Insurance Bills, Medical, Dental, Life	Treasurer	4 Years**
7323	Paycheck Register (Not Ledgers)	Treasurer	4 Years*
7324	Payroll Bank Statement	Treasurer	4 Years**
7401	Deduction Authorization	Treasurer	Until Superseded or Employee Terminated
<u>8000</u>	<u>REPORTS</u>		
8201	State Audit Reports	Treasurer	5 Years
8202	#59 and #659 or #4502 Reports	Treasurer	5 Years
8203	#25 and #625 Reports	Treasurer	5 Years
8204	School Finance (S.F.) Reports	Treasurer	5 Years
8205	Special Education (S.E.) Reports	Sp. Ed. Secretary Superintendent Secretary	7 Years
8206	Vocation Education (V.E.) Reports	Superintendent Secretary Voc. Secretary	5 Years

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Schedule Number	Record Title and Description	Retention Period		
8207	Ohio Common Core Data Superintendent Secretary (OCCD) Reports	5 Years		
8208	Drivers Education Reports	Treasurer	5 Years	
8209	Ohio Department of Education (O.D.E.) Reports	Building Secretary Superintendent Secretary	5 Years	
8210	North Central Reports	Building Secretary	10 Years	
8211	OS/Civil Rights Reports	Superintendent Secretary	Permanent	
8212	Title IX Reports	Superintendent Secretary	10 Years	
8213	SM-1 & SM-2 (Annual and Quarterly)	Treasurer	10 Years	
8214	State Minimum Standards	Superintendent Secretary	10 Years	
8301	Personnel State Reports — Currently SF-1, CS-2	Secretary, Personnel	4 Years**	
8302	County Auditor: Annual Wages (for W.C.)	Treasurer	5 Years	
8303	County Auditor: Bank Balance Certification	Treasurer	5 Years	
8304	Transportation	Trans. Secretary	4 Years**	
<u>9000</u>	<u>OTHER</u>			
9101	Personnel Directory	Superintendent Secretary	10 Years	
9102	Enrollment Record (By Grade and Building)	Superintendent Secretary	Permanent***	
9202	School Calendars	Superintendent Secretary	5 Years	
9203	Building, Boiler, Maintenance Reports	Building Secretary	2 Years*	
9402	Handbooks, Employee	Superintendent Secretary	5 Years Superseded	After
9403	Directives, Standards, Laws from Local, State and Federal Governmental Agencies	All Secretaries	Until Superseded	

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<b>Schedule Number</b>	<b>Record Title and Description</b>	<b>Retention Period</b>
9404	Attendance Area Records Superintendent Secretary	Until Superseded
9405	Health Reports Pupil Personnel and Secretary	2 Years*

## 8315 - INFORMATION MANAGEMENT

The Governing Board recognizes its responsibility, in certain circumstances, to maintain information created, maintained, or otherwise stored by the ESC outside the “Records Retention Schedule.” In such situations, a “Litigation Hold” procedure shall be utilized to identify and preserve information relevant to a specific matter. “Information” includes both paper documents and electronically stored information (“ESI”). When implementing the “Litigation Hold,” the ESC shall identify individuals in possession or custody of paper documents, ESI and electronic media containing ESI, and inform them of their obligation to preserve the documents and ESI outside the “Records Retention Schedule.” The ESC shall also identify third parties with custody or control over paper documents, ESI, or electronic media storing ESI, and request them to preserve that information. All information falling within a “Litigation Hold,” which is under the control of the ESC, shall be preserved in a readily accessible form and cannot be disposed of under the “Records Retention and Disposal” requirements. Failure to comply with a Litigation Hold notice may result in disciplinary action, up to and including possible termination.

Instances where the Governing Board shall maintain information outside the “Records Retention Schedule” include:

- A. when the Governing Board has specific information and/or written notice from an individual, parent or student of an intent to file an appeal of student discipline to State court;
- B. when the Governing Board has specific information and/or written notice that litigation is imminent even though the litigation has not yet been filed in Federal or State court;
- C. when the Governing Board is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or notice of a student disciplinary appeal to State court;
- D. when the Governing Board receives specific information and/or written notification from an employee, labor union, or other person of an intent to file a claim against the Governing Board, its members, employees or agents at an administrative agency such as the Equal Employment Opportunity Commission, Ohio Civil Rights Commission, State Employment Relations Governing Board, U.S. Department of Education Office for Civil Rights, State Personnel Governing Board of Review, or a Civil Service Commission regarding a claim against the Governing Board, its members, employees or agents;
- E. when the Governing Board receives specific information and/or written notification from an administrative agency such as the Equal Employment Opportunity Commission, Ohio Civil Rights Commission, State Employment Relations Governing Board, U.S. Department of Education Office for Civil Rights, State

Personnel Governing Board of Review, or a Civil Service Commission regarding a claim against the Governing Board, its members, employees, or agents;

- F. when the Governing Board receives written notification from a third party requesting that the Governing Board maintain information that may be at issue in litigation or potential litigation against that third party;
- G. when the Superintendent recommends the termination of an employee to the Governing Board pursuant to R.C. 3319.16, and R.C. 3319.081, R.C. Chapter 124, or a labor contract;
- H. when the Governing Board explores, contemplates, or initiates litigation.

### **Definitions**

“Documents” includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained or translated if necessary.

“ESI” includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any electronic media from which information can be obtained or translated if necessary. It includes, but is not limited to, e-mails, e-mail attachments, instant messages, word processing files, spreadsheets, pictures, application program and data files, databases, data files, metadata, system files, electronic calendar appointments, scheduling program files, TIFF files, PDF files, MPG files, JPG files, GIF files, network share files, internal websites, external websites, newsgroups, directories, security and access information, legacy data, audio recordings, voice mails, phone logs, faxes, internet histories, caches, cookies or logs of activity on computer systems that may have been used to process or store electronic data.

“Electronic media” includes, but is not limited to, hard drives (including portable hard disk drives “HDD’s”), floppy drives, disaster recovery media, and storage media (including DVD’s, CD’s, floppy discs, Zip discs/drives, Jazz discs/drives, USB memory drives, jump disc/drives, flash discs/drives, keychain discs/drives, thumb discs/drives, smart cards, micro-film, backup tapes, cassette tapes, cartridges, etc.), accessed, used and/or stored on/in/through the following locations: networks and servers; laptop and desktop work computers; home and personal computers; other computer systems; backup computers or servers; archives; personal digital assistants (“PDAs” – including Palm, Blackberry, cellular phone, tablet PC, etc.); pagers; firewalls; audit trails and logs, printers; copiers; scanners; digital cameras; photographic devices; and video cameras and devices. Electronic media shall also include any item containing or maintaining ESI that is obtained by the ESC for Governing Board member or employee usage or that an employee uses for such purpose (even if privately owned by the Governing Board member or employee) from the date this policy is adopted into the future.

### **Initiation and Removal of a “Litigation Hold”**

The Governing Board or the Superintendent may initiate a “Litigation Hold” under this policy. If the Superintendent initiates a “Litigation Hold,” s/he or the Governing Board’s legal counsel shall notify the Governing Board of the reason the Litigation Hold was instituted and its scope. When implementing a Litigation Hold, the Governing Board or Superintendent may utilize an Electronically Stored Information Team (“ESI Team”). The Governing Board’s legal counsel shall be involved in implementation of the “Litigation Hold Procedure.”

A “Litigation Hold” shall remain in place until removed by the Governing Board. A “Litigation Hold” may be removed when the litigation or administrative agency matter has been resolved or can no longer be initiated. Any information maintained under this policy shall fall back under the “Records Retention Schedule” in Governing Board Policy 8310 once the “Litigation Hold” is removed.

## 8320.01 - PERSONAL INFORMATION SYSTEMS

The Governing Board maintains a personal information (“PI”) system and shall do so in accordance with the provisions of R.C. Chapter 1347. The Governing Board is committed to only collecting, maintaining, and using the personal information that is necessary and relevant to it carrying out the effective operation of the ESC. All personal information maintained in the PI system shall be used in a lawful manner for legitimate purposes consistent with the functions of the ESC.

Personal information is defined as “any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.”

The Superintendent is directly responsible for the operation of the PI system, including preparing and implementing rules that provide for the operation of the information system. All employees responsible for collecting, maintaining, and/or utilizing personal information maintained in the PI system shall be provided a copy of any rules that are promulgated and trained in how to comply with them and the provisions of the law.

The Governing Board shall discipline any employee or student who engages in the unauthorized use or release of the personal information contained in the PI system. In addition, the Governing Board shall discipline any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unauthorized use of information contained in the PI system. Disciplinary action shall be taken consistent with applicable laws and regulations and may include action up to and including termination.

Whenever a person is requested to supply personal information that shall be maintained in the PI system, the person shall be informed whether s/he is legally required to provide the personal information. If the person is not legally required to provide the personal information, s/he may refuse to supply the information and no adverse consequences shall be imposed as a result of the refusal.

The Governing Board shall take reasonable precautions to protect personal information maintained in the information system from unauthorized modification, destruction, use, or disclosure. The Governing Board shall eliminate personal information from the PI system when it is no longer necessary and relevant to the ESC carrying out its functions.

## 8330 - STUDENT RECORDS

In order to provide appropriate educational services and programming, the Governing Board shall collect, retain, and use information about individual students. Simultaneously, the Governing Board recognizes the need to safeguard students' privacy and restrict access to students' personally identifiable information.

Student "personally identifiable information" ("PII") includes, but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the ESC reasonably believes knows the identity of the student to whom the education record relates.

The Governing Board is responsible for the records of all students who attend or have attended schools in this ESC. Only records mandated by the State or Federal government and/or necessary and relevant to the function of the ESC or specifically permitted by this Governing Board shall be compiled by Governing Board employees.

In all cases, permitted, narrative information in student records shall be objectively-based on the personal observation or knowledge of the originator.

Student records shall be available only to students and their parents, eligible students, designated school officials who have a legitimate educational interest in the information, or to other individuals or organizations as permitted by law.

The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child). The term "eligible student" refers to a student who is eighteen (18) years of age or older, or a student of any age who is enrolled in a postsecondary institution.

Both parents shall have equal access to student records unless stipulated otherwise by court order or law. In the case of eligible students, parents may be allowed access to the records without the student's consent, provided the student is considered a dependent under section 152 of the Internal Revenue Code.

A school official is a person employed by the Governing Board as an administrator, supervisor, teacher/instructor (including substitutes), or support staff member (including health or medical staff and law enforcement unit personnel); and a person serving on the Governing Board. The Governing Board further designates the following individuals and entities as "school officials" for the purpose of FERPA:

- A. persons companies with whom the Governing Board has contracted to perform a specific task (such as an attorney, auditor, insurance representative, or medical consultant), and
- B. contractors, consultants, volunteers, or other parties to whom the Governing Board has outsourced a service or function otherwise performed by the Governing Board employees (e.g., a therapist, authorized information technology (IT) staff, and approved online educational service providers)

The above-identified outside parties shall (a) perform institutional services or functions for which the Governing Board would otherwise use its employees, (b) be under the direct control of the Governing Board with respect to the use and maintenance of education records, and (c) be subject to the requirements of 34 C.F.R. 99.33(a) governing the use and re-disclosure of PII from education records.

Finally, a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks (including volunteers) is also considered a “school official” for purposes of FERPA provided s/he meets the above-referenced criteria applicable to other outside parties.

“Legitimate educational interest” is defined as a “direct or delegated responsibility for helping the student achieve one (1) or more of the educational goals of the ESC” or if the record is necessary in order for the school official to perform an administrative, supervisory, or instructional task or to perform a service or benefit for the student or the student’s family. The Governing Board directs that reasonable and appropriate methods (including but not limited to physical and/or technological access controls) are utilized to control access to student records and to make certain that school officials obtain access to only those education records in which they have legitimate educational interest.

The Governing Board authorizes the administration to:

- A. forward student records, including disciplinary records with respect to suspensions and expulsions, upon request to a private or public school or ESC in which a student of this ESC is enrolled, seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that:
  - 1. a reasonable attempt is made to notify the student’s parent or eligible student of the transfer (unless the disclosure is initiated by the parent or eligible student; or the Governing Board’s annual notification includes a notice that the Governing Board shall forward education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer);

2. the parent or eligible student, upon request, receives a copy of the record; and
  3. the parent or eligible student, upon request, has an opportunity for a hearing to challenge the content of the record;
- B. provide “personally-identifiable” information to appropriate parties, including parents of an eligible student, whose knowledge of the information is necessary to protect the health or safety of the student or other individuals, if there is an articulable and significant threat to the health or safety of a student or other individuals, considering the totality of the circumstances;
- C. report a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, to transmit copies of the student’s special education and disciplinary records to the authorities for their consideration;
- D. release de-identified records and information in accordance with Federal regulations;
- E. disclose personally identifiable information from education records, without consent, to organizations conducting studies “for, or on behalf of” the ESC for purposes of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction;

Information disclosed under this exception shall be protected so that students and parents cannot be personally identified by anyone other than representative of the organization conducting the study and shall be destroyed when no longer needed for the study. In order to release information under this provision, the ESC shall enter into a written agreement with the recipient organization that specifies the purpose of the study. Further, the following personally identifiable information shall not be disclosed to any entity: a student or his/her family member’s social security number(s); religion; political party affiliation; voting history; or biometric information. Information regarding a student’s race or ethnicity shall be disclosed only if required by state or federal law.

This written agreement shall include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information shall be destroyed.

While the disclosure of personally identifiable information (other than social security numbers, religion, political party affiliation, voting record, or biometric information; or race or ethnicity unless required by state or federal law) is allowed under this exception, it is recommended that de-identified information be used whenever possible. This reduces the risk of unauthorized disclosure.

- F. disclose personally identifiable information from education records without consent, to authorized representatives of the Comptroller General, the Attorney General, and the Secretary of Education, as well as state and local educational authorities;

The disclosed records shall be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception.

This written agreement shall include: (1) designation of the receiving entity as an authorized representative; (2) specification of the information to be disclosed; (3) specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements; (4) a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity; (5) a statement requiring the organization to destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information shall be destroyed; and (6) a statement of policies and procedures that shall protect personally identifiable information from further disclosure or unauthorized use.

Under the audit exception, the ESC shall use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the ESC shall verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation, or enforcement of a government-supported educational program. The ESC shall also ascertain the legitimacy of the audit or evaluation and shall only disclose the specific records that the authorized representative needs. Further, the ESC shall require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the ESC shall verify that the information is destroyed when no longer needed for the audit, evaluation, or compliance activity.

- G. request each person or party requesting access to a student's record to abide by Federal regulations and applicable laws and regulations concerning the disclosure of information.

The Governing Board shall comply with a legitimate request for access to a student's records within a reasonable period of time but not more than forty-five (45) days after receiving the request or within such shorter period as may be applicable to students with disabilities. Upon the request of the viewer, a record shall be reproduced, unless said record is copyrighted, or otherwise restricted, and the viewer may be charged a fee equivalent to the cost of handling and reproduction. Based upon reasonable requests, viewers of education records shall receive explanation and interpretation of the records.

The Governing Board shall maintain a record of each request for access and each disclosure of personally identifiable information. Such disclosure records shall indicate the student, person viewing the record, their legitimate interest in the information, information disclosed, date of disclosure, and date parental/eligible student consent was obtained (if required).

Only "directory information" regarding a student shall be released to any person or party, other than the student or his/her parent, without the written consent of the parent, or, if the student is an eligible student, without the written consent of the student, except to those persons or parties stipulated by the Governing Board's policy and/or those specified in the law.

#### **INSPECTION OF INFORMATION COLLECTION INSTRUMENT**

The parent of a student or an eligible student has the right to inspect upon request any instrument used in the collection of personal information before the instrument is administered or distributed to a student. Personal information for this section is defined as individually identifiable information including a student or parent's first and last name, a home or other physical address (including street name and the name of the city or town), a telephone number, or a Social Security identification number. In order to review the instrument, the parent or eligible student shall submit a written request to the building principal/principal at least ten (10) business days before the scheduled date of the activity. The instrument shall be provided to the parent or eligible student within five (5) business days of the principal/program manager receiving the request.

The Superintendent shall directly notify the parent(s) of a student and eligible students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when such activities are scheduled or expected to be scheduled.

This section does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

- A. college or other postsecondary education recruitment, or military recruitment;
- B. book clubs, magazine, and programs providing access to low-cost literary products;
- C. curriculum and instructional materials used by elementary and secondary schools;

- D. tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments;
- E. the sale by students of products or services to raise funds for school- related or education-related activities; and/or
- F. student recognition programs.

The Superintendent is directed to take steps so that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's education records;
- B. request amendments if the parent believes the record is inaccurate, misleading, or violates the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's education records, except to those disclosures allowed by the law;
- D. challenge Governing Board noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint with the United States Department of Education; and/or
- F. obtain a copy of the Governing Board's policy on student records.

The Superintendent shall also develop procedural guidance for:

- A. the proper storage and retention of records including a list of the type and location of records; and
- B. informing Governing Board employees of the applicable laws and regulations concerning student records.

The Governing Board authorizes the use of the microfilm process or electromagnetic processes of reproduction for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this Governing Board as a consequence of permitting access or furnishing student records in accordance with this policy and regulations.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation, or enforcement/compliance activity shall comply with all FERPA regulations. Further, such an entity shall enter into a written contract with the Governing Board delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity shall demonstrate the existence of a sound data security plan or data stewardship program and shall also provide assurances that the personally identifiable information shall not be redisclosed without prior authorization from the Governing Board. Further, the entity conducting the study, audit, evaluation, or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Governing Board.

## 8351 - SECURITY BREACH OF CONFIDENTIAL DATABASES

It is the policy of the Governing Board that when unauthorized access or acquisition of data occurs, which would compromise the confidentiality or security of personal information maintained by the ESC on a database, the ESC shall take appropriate action to assess the risk and notify the affected individuals in accordance with law.

### Scope

This policy applies to any security breach involving employees, consultants, vendors, contractors, outside agencies and employees of such agencies, and any other parties having a business relationship with the ESC and handling personal information on the ESC's behalf. It is expected that those offices, individuals or entities operating, maintaining, and using databases containing personal information shall effectively control access to the databases to protect against unauthorized access, acquisition, modification, use or disclosure of personal information.

### Security Breach and Personal Information – Definitions

A "security breach" means the unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of personal information owned or licensed by the ESC and that:

- A. causes a material risk of identity theft or other fraud to the person or property of a resident of the State;
- B. reasonably is believed to have caused a material risk of identity theft or other fraud to the person or property of a resident of the State; or
- C. reasonably is believed shall cause a material risk of identity theft or other fraud to the person or property of a resident of the State.

Unauthorized access of information shall not be considered a security breach if:

- A. the employee or agent acted in good faith in accessing the data;
- B. the access was related to the activities of the ESC or the employee's or agent's job-related duties; and
- C. the employee or agent did not use the personal information for an unlawful purpose or subject the information to further unauthorized disclosure.

Also, the acquisition of personal information pursuant to a search warrant, subpoena, or other court order, or pursuant subpoena, order or duty of a regulatory State agency, shall not be considered a security breach.

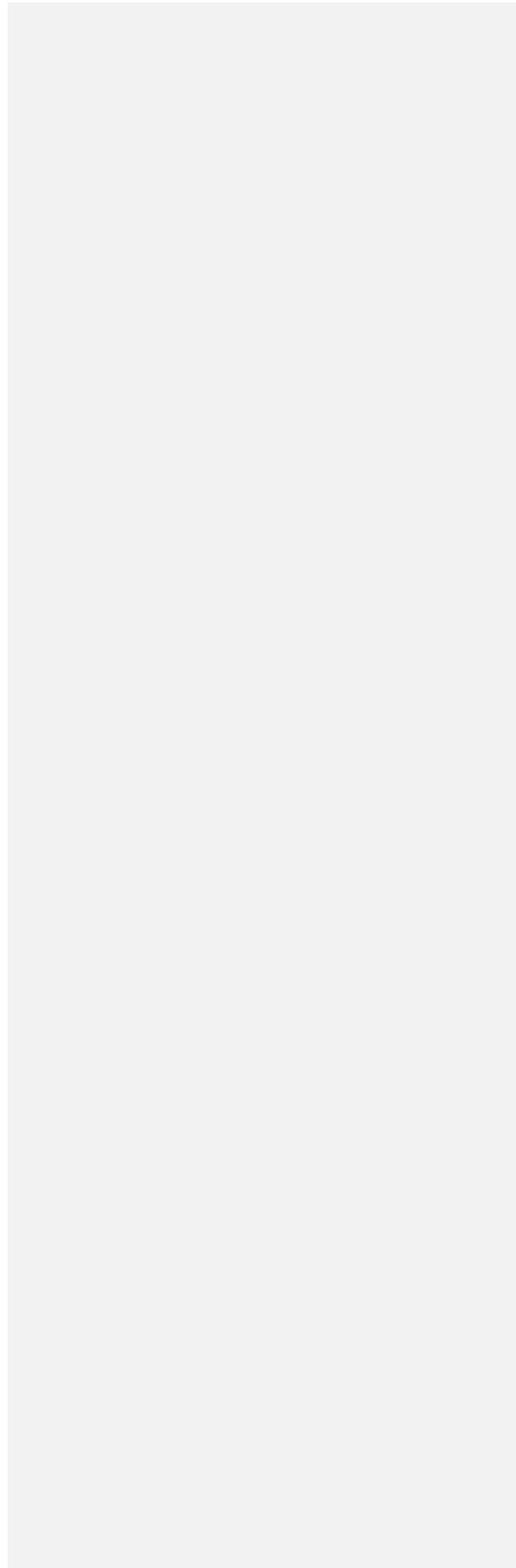
For purposes of this policy, personal information means an individual's name, consisting of the individual's first name or first initial and last name, in combination with and linked to any of or more of the following (when the information is not encrypted, redacted, or altered by a method or technology in such a manner that the information is effectively obscured or unreadable):

- A. Social Security number;
- B. driver's license number or State identification card number; and/or
- C. account number or credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to an individual's financial account.

**Discovery of Security Breach and Notification**

If an employee suspects, discovers and/or determines that a security breach has occurred, the employee shall promptly notify his/her immediate supervisor and the Superintendent, in writing.

The Superintendent shall determine and implement the steps necessary to correct the unauthorized access and requirements for notifying those individuals whose personal information may have been compromised.



**8420.01 - PANDEMICS AND OTHER MEDICAL EMERGENCIES**

A pandemic is an outbreak of an infectious disease. The Governing Board permits the Superintendent to set up a Pandemic Response Team to develop a Pandemic Plan in coordination with local government and law enforcement officials pursuant to applicable laws.

## 8442 - REPORTING ACCIDENTS

The Governing Board directs that all reasonable efforts be made to provide a safe learning and working environment for the students and employees of this ESC.

To that end, and so that an employee's legitimate claims for worker's compensation may be expedited, the Governing Board requires that accidents be reported and evaluated. Any accident that results in an injury, however slight, to a student, employee of the Governing Board, or a visitor to the schools shall be reported promptly and in writing to the ESC business office. Injured persons shall be referred immediately to the school nurse or appropriate personnel for such medical attention as may be appropriate.

The injured employee, visitor, or the staff member responsible for an injured student shall complete a form that includes the date, time, and place of the incident; the names of persons involved; the nature of the injury to the extent that it is known; and a description of all relevant circumstances.

Any employee of the Governing Board who suffers a job-related injury shall report the injury and its circumstances to the principal or job supervisor, as appropriate, within 24 hours if possible following the occurrence of the injury. The failure of an employee to comply with this mandate may result in disciplinary action. Any employee of the Governing Board who suffers a job-related injury may file a claim with the Bureau of Workers Compensation as provided in Governing Board Policy 8442.01.

If a staff member sustains a workplace injury while s/he is under the influence of alcohol or a controlled substance not prescribed by his/her physician, s/he may be disqualified for compensation and benefits under the Workers Compensation Act. If the staff member tests positive or refuses to submit to a test for alcohol and/or other drugs after sustaining a workplace injury, the employee may dispute or prove untrue the presumption or belief that alcohol and/or other drugs are the proximate cause of the injury (i.e., rebuttable presumption).

## 8442.01 - WORKERS' COMPENSATION

The Ohio Bureau of Workers' Compensation ("BWC") provides insurance coverage to employees for work-related injuries sustained in the course of and arising out of employment and diseases contracted in the course of employment. It also provides benefits to employees' dependents in those cases of death suffered in the course of and arising out of employment. To that end, if an employee sustains a workplace injury or contracts an occupational disease, s/he may be eligible to receive compensation and benefits under the Workers' Compensation Act for loss sustained on account of an injury or illness.

### A. Reporting a Work-Related Injury

1. A Governing Board employee who sustains a work-related injury shall report the injury and its circumstances via the electronic reporting process and to the ESC principal or job supervisor, as appropriate, as soon as possible following the occurrence of the injury. A *First Report of Injury, Occupational Disease or Death* application ("*First Report of Injury*" or "FROI-1") shall be automatically completed when using the electronic process and an accident investigation shall be conducted within 24 hours if possible. The failure of an employee to comply with this requirement may result in disciplinary action (see Governing Board Policy 8442).
2. In addition to reporting the injury and completing an incident/accident report, the employee may file an application for benefits with the BWC. The Superintendent's designee shall provide assistance to an employee in filing a workers' compensation claim.
3. Payment for related medical benefits is the responsibility of the Governing Board's Managed Care Organization (MCO) and the BWC. If the employee is written a prescription for the injury, the employee must contact the Human Resources Department prior to filling the prescription to ensure the cost is covered. If an employee pays out of pocket for a prescription, the full cost of that prescription may not be reimbursed by BWC.

### B. Leave Status

1. If an employee sustains a work-related injury and is unable to perform the functions of his/her position, s/he may file a workers' compensation claim in order to receive compensation and benefits through the BWC. Competent medical proof of disability shall be completed by the attending physician using the proper form and affixing his/her original signature. The injury or illness shall be determined to be compensable by the BWC, or in the case of dispute, the Ohio Industrial Commission. In no event shall compensation

commence before all initial paperwork is completed and filed with the appropriate agency(ies).

2. An employee may apply for an unpaid leave of absence pending approval of his/her workers' compensation claim and file for Temporary Total with BWC
  3. An employee may claim sick time during a work related injury or illness. Please note the use of sick time disqualifies the employee from claiming Temporary Total pay from BWC. s/he may apply for the use of sick leave.
  4. An employee may use any available paid vacation if applicable, to receive compensation while out on a work-related injury or illness.
  5. An employee may be simultaneously placed on leave under the Family and Medical Leave Act during his/her leave of absence as a result of a work-related injury or illness in accordance with Governing Board policy.
- C. The Governing Board reserves the right to have the employee examined by a physician of its choice at the Governing Board's cost to confirm the medical diagnosis and/or the period of disability. Failure to submit to examination shall result in termination of wage continuation benefits.

An employee who obtains compensation from the BWC by knowingly misrepresenting or concealing facts, making false statements, or accepting compensation to which s/he is not entitled, is subject to felony criminal prosecution for fraud (see R.C. 2913.48).

#### **8450 - CONTROL OF CASUAL-CONTACT COMMUNICABLE DISEASES**

The Governing Board recognizes that control of the spread of communicable disease spread through casual contact is essential to the well-being of the school community and to the efficient ESC operation.

For purposes of this policy, “casual-contact communicable disease” shall include diphtheria, scarlet fever and other strep infections, whooping cough, mumps, measles, rubella, and others designated by the Ohio Department of Public Health.

In order to protect the health and safety of the students, ESC personnel, and the community at large, the Governing Board shall follow all State statutes and Health Department regulations which pertain to immunization and other means for controlling communicable disease spread through normal interaction in the school setting.

On the recommendation of a Governing Board-appointed physician or the school nurse, the teacher may remove from the classroom and the principal may exclude from the building or isolate in the school any student who appears to be ill or has been exposed to a communicable disease, except that the teacher or principal may act independently if neither the physician or school nurse is not present in the building when the decision needs to be made.

**8450.01 – PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC**

It is the policy of the Board to mandate that all school staff, students, volunteers, and guests must wear face coverings as required by law. This face covering policy is established because of the importance of face masks in slowing the spread of COVID-19 and after considering all the available science. Recognizing that available scientific information, local needs, and laws may change at any moment, the Board authorizes the Superintendent to unilaterally review and adjust the instant face covering policy in consultation with the appropriate officials. At no time, shall this policy require a standard that is less than required by law.

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## 8462 - STUDENT ABUSE AND NEGLECT

The Governing Board is concerned with the physical and mental well-being of the students of this ESC and shall cooperate in the identification and reporting of cases of child abuse or neglect in accordance with law.

Every Governing Board official and employee who, in connection with his/her position, knows or suspects child abuse or neglect shall immediately report that knowledge or suspicion to a public children's services or local law enforcement agency. Such reporting is required in every case that reasonably indicates that a child under the age of eighteen (18) or a physically or mentally disabled child under the age of twenty-one (21) has been abused (physically or mentally) or neglected or faces the threat of being abused or neglected.

Each principal should be mindful of the possibility of physical or mental abuse being inflicted on a student by an employee. Any such instances, whether real or alleged, should be dealt with. Governing Board officials and employees shall report suspected abuse to a public children's services or local law enforcement agency even when the suspected abuser is another official or employee.

The identity of the reporting person shall be confidential, subject only to disclosure by consent or court order. Information concerning alleged child abuse/neglect of a student is confidential information and is not to be shared with any unauthorized person. A staff member who violates this policy may be subject to disciplinary action and/or civil and/or criminal penalties.

In accordance with law, the Governing Board shall provide appropriate instruction on personal safety and assault prevention to all students in grades K-6. ~~In order to develop programs that are appropriate and effective, the Superintendent is authorized to consult with public and/or private agencies or individuals involved in child abuse/neglect prevention and intervention. In addition, the Governing Board shall provide a program of in-service education for all nurses, teachers, counselors, school psychologists, mental health providers, and administrators who work in the ESC's elementary, middle, and high schools and any other personnel that the Governing Board determines appropriate. The in-service education program will include school safety, violence prevention including human trafficking content, youth suicide awareness and prevention, prevention of child abuse, substance abuse, promotion of positive youth development, and a review of Governing Board Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior.~~

In addition, the Superintendent shall provide a program of in-service education for all nurses, teachers, counselors, school psychologists, mental health providers, and administrators who work in the Center's elementary, middle, and high schools and any other personnel that the Governing Board determines appropriate. The in-service education program will include school safety, violence prevention including human trafficking content, youth suicide awareness, and prevention, prevention of child abuse, substance abuse, promotion of positive youth development, and a review of Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior.

The Governing Board shall adopt or adapt an evidence-based awareness and prevention curriculum approved by the Ohio Department of Education (ODE), or alternatively will utilize a suicide awareness and prevention curriculum that has been developed in consultation with public or private agencies/persons involved in youth suicide awareness and prevention and that has been approved by the ODE.

~~The Governing Board shall develop the suicide awareness and prevention curriculum in consultation with public or private agencies or persons involved in youth suicide awareness and prevention programs.~~

The in-service education provided to middle and high ESC employees shall include training in the prevention of dating violence.

All newly-employed mental health providers, nurses, teachers, counselors, school psychologists and administrators who work in the ESC's elementary, middle, and high schools shall complete at least four (4) hours of in-service training within two (2) years of the date of employment.

Additional training must occur every two (2) years thereafter for suicide awareness and prevention, and every five (5) years thereafter for school safety, violence prevention, prevention of child abuse, prevention of substance abuse, and promotion of positive youth development.

The ESC shall be registered with the SaferOH tip line operated by the Department of Public Safety or shall enter into an agreement with an anonymous reporting program selected by the Board that meets the requirements set forth in law (R.C. 3313.6610).

The ESC shall submit data to the Ohio Department of Education (ODE), in a manner prescribed by the Department, and to the Department of Public Safety at the end of the first full school year of the Center's participation in the anonymous reporting program, and at the end of each school year thereafter, disaggregated by the school.

The data shall be considered records and are not public records under R.C. 149.433.

The Superintendent will promote and inform students about the selected program and its reporting methods.

A law enforcement officer or children's services agency investigating child abuse or neglect may interview a student on school grounds only in accordance with Governing Board Policy 5540.

#### 8600.04 - BUS DRIVER CERTIFICATION

It is the policy of the Governing Board that all bus drivers obtain and hold proper certification under standards for school bus drivers established within the Ohio Revised Code. It is also the purpose of this Governing Board to protect its students from drivers whose certification is invalidated by the Ohio Point Law or point standards of this ESC.

A copy of each new school bus driver's complete driving record shall be obtained from the Ohio Department of Education prior to allowing the school bus driver to operate a school bus or school van for the first time. In accordance with State transportation regulations, the Superintendent shall request the administrator in charge of transportation to conduct at least a semi-annual review of each school bus driver's (i.e., current bus drivers and those newly hired bus drivers who remain employed with the Governing Board) driving record through the Ohio Department of Education to determine that such drivers have:

- A. No more than six (6) points within the last twenty-four (24) month period.
- B. Not been convicted of driving while under the influence of alcohol and/or a controlled substance during the past six (6) years (i.e., not been convicted of a violation of R.C. 4511.19).
- C. Not received two (2) (or more) of the following serious traffic violations as defined in R.C. 4506.01(II) during the last twenty-four (24) month period:
  - 1. a single charge of any speed in excess of the posted speed limit by fifteen (15) miles per hour or more;
  - 2. violation of R.C. 4511.20 (i.e., operation in willful or wanton disregard of the safety of persons or property) or R.C. 4511.201 (i.e., operation off street or highway in willful or wanton disregard of the safety of persons or property) or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state;
  - 3. violation of a law of this State or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident;
  - 4. violation of R.C. 4506.03 (i.e., commercial driver's license or temporary instruction requirements) or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with

the proper class or endorsement for the specific vehicle group being operated for the passengers or type of cargo being transported;

5. violation of R.C. 4506.03 (i.e., commercial driver's license or temporary instruction requirements) or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;
  6. violation of R.C. 4511.33 (i.e., driving in marked lanes) or R.C. 4511.34 (i.e., space between moving vehicles) or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state;
  7. violation while operating a commercial motor vehicle of a law of the state, any municipal ordinance, any county or township resolution, or any substantially similar law of another state or political subdivision of another state which prohibits texting while driving or using a handheld mobile device (except when a person is texting or using a mobile device to contact law enforcement or other emergency services); and
  8. violation of any other law of this State or ordinance or resolution relating to traffic control, other than a parking violation, that is determined to be a serious traffic violation by the United States Secretary of Transportation and the Director designates such by rule.
- D. No railroad crossing violations during the last twelve (12) months (as evidenced by a conviction, video, or report by a railroad official).
- E. Not received any violations that render the bus driver uninsurable by the ESC's Fleet Insurance Carrier.

The records obtained from the annual records check shall be maintained for a minimum of six (6) years.

A driver having any of the above-referenced violations shall be disqualified from operating a bus. The driver shall also be notified that his/her school bus certification shall be reviewed by the Superintendent and his/her employment as a school bus driver may be terminated.

A driver involved in a preventable school bus accident, or judged guilty of a minor traffic violation, shall be subject to the disciplinary action established by the Superintendent. Further, no driver who is convicted of a traffic violation or has his/her commercial driver's license (CDL) suspended shall

be permitted to operate a school bus or school van until the driver files a written notice of the conviction or suspension. Such written notice shall be immediately filed with the Superintendent or administrator in charge of transportation, irrespective of whether the traffic violation occurred while operating a Governing Board-owned vehicle or a private vehicle or during school or non-school hours. Failure to file the required written notice of conviction or suspension shall result in the revocation of the driver's certificate and/or disciplinary action, up to and including termination.

If a school bus driver has an interruption in driving a school bus or school van for a period of one (1) year or longer, s/he shall not be permitted to resume operating a school bus or school van until a copy of the school bus driver's complete driving record has been obtained.

In addition to the required driving record check, the administrator in charge of transportation shall obtain a satisfactory BCII report prior to hiring an individual as a new school bus or school van driver, along with an FBI background check (i.e., an FBI background check shall also be required prior to hiring new employees). An updated, satisfactory criminal background check report shall be obtained for each school bus driver every six (6) years with driver re-certification. Each six (6) year criminal records check request shall be made to the Superintendent of the Bureau of Criminal Identification and investigation and include both a BCII and FBI report unless both of the following conditions apply so that only records of the FBI are required:

- A. a BCII report was obtained at the time of hire; and
- B. the employee presents proof that he/she has been a resident of this state for the five-year period immediately prior to the date the recertification is requested.

Satisfactory shall be defined by the same standards applied to other public school employees. Such records shall also be maintained for a minimum of six (6) years (see Governing Board Policy 4121 for criminal history record check requirements). Any driver who has been convicted of or pleaded guilty to any disqualifying offense shall not be hired or shall be released from employment unless the person meets the rehabilitation standards prescribed for non-licensed ESC employees.

No bus driver shall be permitted to drive a school bus or school van unless s/he meets all other requirements contained in the rules adopted by the Ohio Department of Education prescribing qualifications of drivers of school buses and other student transportation. In addition, no bus driver shall be permitted to drive a school bus or school van unless:

- A. information pertaining to the bus driver has been submitted to the Ohio Department of Education, including the name of the Governing Board, name of the bus driver, driver license number, date of birth, date of hire, status of physical evaluation and status of training; and
- B. a criminal records check, including information from the Federal Bureau of Investigation, has been completed and received by the Superintendent.

**8660 - TRANSPORTATION OF STUDENTS BY PRIVATE VEHICLE**

No employee of this Governing Board shall use his/her private vehicle to transport students of the ESC, except in emergency situations. In such situations, an employee's personal automobile liability insurance shall provide primary coverage in the event of an accident.

Employees are permitted to arrange for volunteer parents to transport students to school events and activities. However, no volunteer parent shall be permitted to transport students unless such parent has signed and submitted the ESC's Volunteer Driver Consent Form, along with the required driver license and insurance verification, to the ESC. Employees are not permitted to arrange for students to transport other students.

## 8740 - BONDING

The Governing Board recognizes that prudent trusteeship of the resources of this ESC dictate that the Superintendent, Treasurer, all ESC employees responsible for the safekeeping of ESC monies and property, and the fiscal agent(s) for entities, programs, partnerships, scholarships, coalitions, and the like be bonded and/or alternatively be covered by an insurance policy issued by a Governing Board-approved and accredited insurance carrier or joint self-insurance pool.

An insurance policy must cover the Governing Board from losses caused by the fraudulent or dishonest actions of and the failure to perform a duty prescribed by law of the employee. Coverage must be equal to or greater than the amount required by the Governing Board for a surety bond.

The ESC shall be indemnified against loss of money and property by bonding of employees holding the positions and in the amounts determined by the Governing Board and/or by providing adequate coverage through issuance of an insurance policy.

All other employees handling money shall be covered under a blanket bond and/or insurance policy to an amount determined by the Governing Board. The Governing Board shall bear the cost of insuring and/or bonding each employee required to be covered ~~bonded~~ by this policy.

## 8900 - ANTI-FRAUD

The Governing Board expects all its employees to be honest and ethical in their conduct and to refrain from engaging in activities which may be fraudulent, illegal, or otherwise unethical. The ESC shall not tolerate such activities and shall investigate claims of suspected fraud or fraudulent activity and implement appropriate disciplinary measures, when necessary.

### Scope

This policy applies to any fraud, or suspected fraud, involving employees, consultants, vendors, contractors, outside agencies and employees of such agencies, and any other parties having a business relationship with the ESC.

### Policy

Fraud and fraudulent activity are strictly prohibited.

Each employee or agent of the ESC shall be responsible for reporting any observed or suspected fraud or fraudulent activity to his/her immediate supervisor. If the employee's immediate supervisor is not available, responsive, or is the employee whose behavior is in question, the employee may report such information to the Superintendent. If the reported conduct relates to the Superintendent, the report may then be filed directly with the Governing Board President.

All administrators shall attempt to investigate and verify any conduct that appears to constitute fraud within the areas of their responsibility.

All reporting and investigation shall be done in accordance with the ESC's Whistleblower's Policies.

In addition to or instead of filing a written report with the supervisor or other ESC authority, the employee may file a report using the Auditor of State's system for reporting fraud in accordance with Ohio law.

### Notification

The ESC shall provide information about the Ohio fraud-reporting system and the means of reporting fraud to each new employee at the time of his/her employment. Each new employee shall confirm receipt of such information within thirty (30) days of beginning employment.

### Fraud – Definitions

"Fraud" is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his/her legal injury. For purposes of this policy, fraud includes the misuse and/or misappropriation of public money by any Governing Board employee member or official, or any office or Department of the ESC.

The following are examples of prohibited acts:

- A. falsification of any ESC record (particularly financial records) with the intent to conceal information to the ESC's detriment or the individual's advantage;
- B. forgery of a check, bank draft, wire transfer, or any other ESC financial document;
- C. unauthorized alteration of a financial document or account belonging to the ESC;
- D. misappropriation of funds, supplies, or other assets of the ESC;
- E. impropriety in handling or reporting money or financial transactions;
- F. disclosing confidential and proprietary information to outside parties for personal gain (either directly or indirectly);
- G. asking for or accepting anything of material value from contractors, vendors, or persons providing services or materials to the ESC, except as provided in gift policies;
- H. unauthorized destruction, removal, or use of records, furniture, fixtures and/or equipment for personal gain (either directly or indirectly); and
- I. misuse of State or Federal funds for other than their designated purposes.

This list is meant to illustrate the types of activities that are prohibited. It is not comprehensive. Other misconduct of a similar nature is prohibited.

#### **Confidentiality**

The ESC shall maintain confidentiality with regard to the reports of suspected misconduct and the investigation, to the extent consistent with the conduct of an appropriate investigation and its obligations under the Public Records Act. However, absolute confidentiality for reporting witnesses and investigation results cannot be guaranteed.

Except as authorized by the Superintendent or designee, the reporting witness and others interviewed are not to discuss the allegations or investigation with other ESC employees or officials, vendors or contractors. Such discussions may interfere with the investigation. Further, because of the nature of the alleged misconduct, unsubstantiated allegations that are not privileged may harm an innocent individual's reputation and result in potential civil liability.

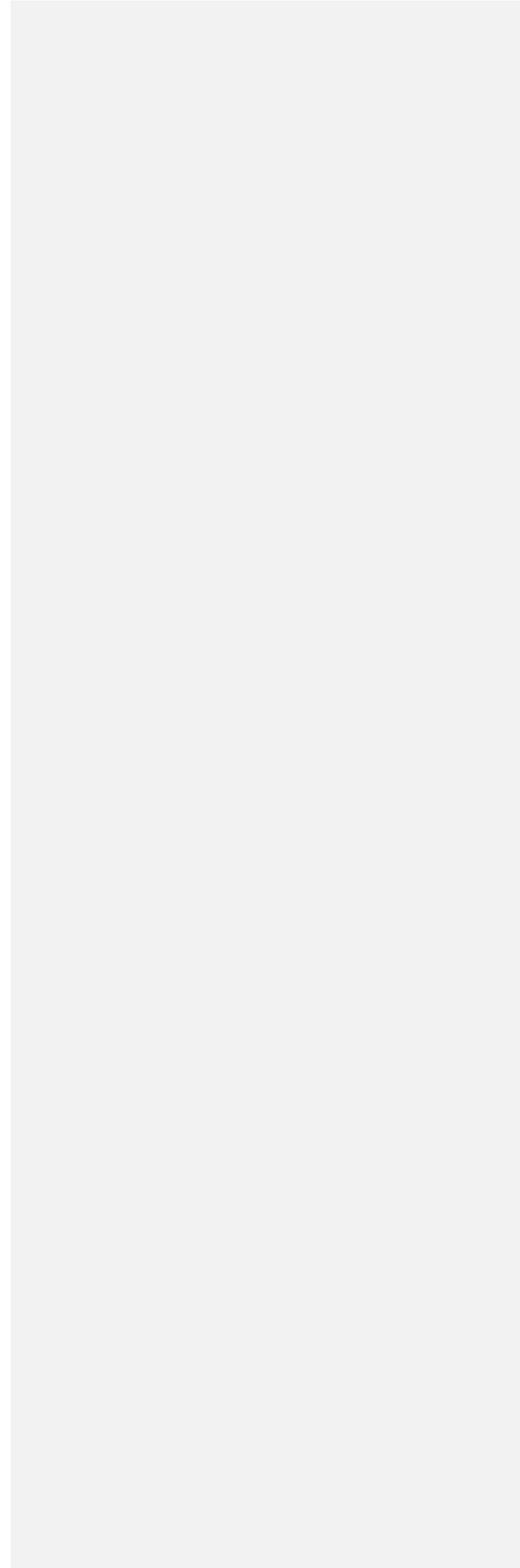
#### **Non-Retaliation**

Those who, in good faith, report suspected fraudulent activity shall not be subject to any retaliation as a result of bringing the suspected misconduct forward. They shall be subject to protection of the ESC's Whistleblower's Governing Board Policy 1411 (see also Governing Board Policy 3211 and Governing Board Policy 4211).

# **RELATIONS**

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## 9130 - PUBLIC COMPLAINTS

Any person or group, having a legitimate interest in the operations of this ESC shall have the right to present a request, suggestion, or complaint concerning ESC personnel, the program, or the operations of the ESC. At the same time, the Governing Board has a duty to protect its staff from unnecessary harassment. It is the intent of this policy to provide the means for judging each public complaint in a fair and impartial manner and to seek a remedy where appropriate.

It is the desire of the Governing Board to rectify any misunderstandings between the public and the ESC by direct discussions of an informal type among the interested parties. It is only when such informal meetings fail to resolve the differences, shall more formal procedures be employed.

Any requests, suggestions, or complaints reaching the Governing Board, Governing Board members, and the administration shall be referred to the Superintendent for consideration according to the following procedure.

### **Matters Regarding a Professional Staff Member**

#### A. First Level

If it is a matter specifically directed toward a professional staff member, the matter shall be addressed, initially, to the concerned staff member who shall discuss it promptly with the complainant and make every effort to provide a reasoned explanation or take appropriate action within his/her authority.

This level does not apply if the matter involves suspected child abuse, substance abuse, or any other serious allegation which may require investigation or inquiry by school officials prior to approaching the professional staff member.

As appropriate, the staff member shall report the matter and whatever action may have been taken to the Superintendent.

#### B. Second Level

If the matter cannot be satisfactorily resolved at the First Level, it shall be discussed by the complainant with the staff member's supervisor.

#### C. Third Level

If a satisfactory solution is not achieved by discussion with the staff member's supervisor, a written request for a conference shall be submitted to the Superintendent. This request should include:

1. the specific nature of the complaint and a brief statement of the facts giving rise to it;

2. the respect in which it is alleged that the complainant (or child of the complainant) has been affected adversely;
3. the action which the complainant wishes taken and the reasons why it is felt that such action be taken.

Should the matter be resolved in conference with the Superintendent, the Governing Board shall be advised of the resolution.

#### **Matters Regarding an Administrative Staff Member**

Since administrators are considered members of the ESC's professional staff, the general procedure specified in "Matters Regarding a Professional Staff Member" shall be followed.

#### **Matters Regarding the Superintendent or Treasurer**

Should the matter be a concern regarding the Superintendent or Treasurer which cannot be resolved through discussion with the Superintendent or Treasurer, the complainant may submit a written request to the Governing Board President for a conference with the Governing Board. This request shall include:

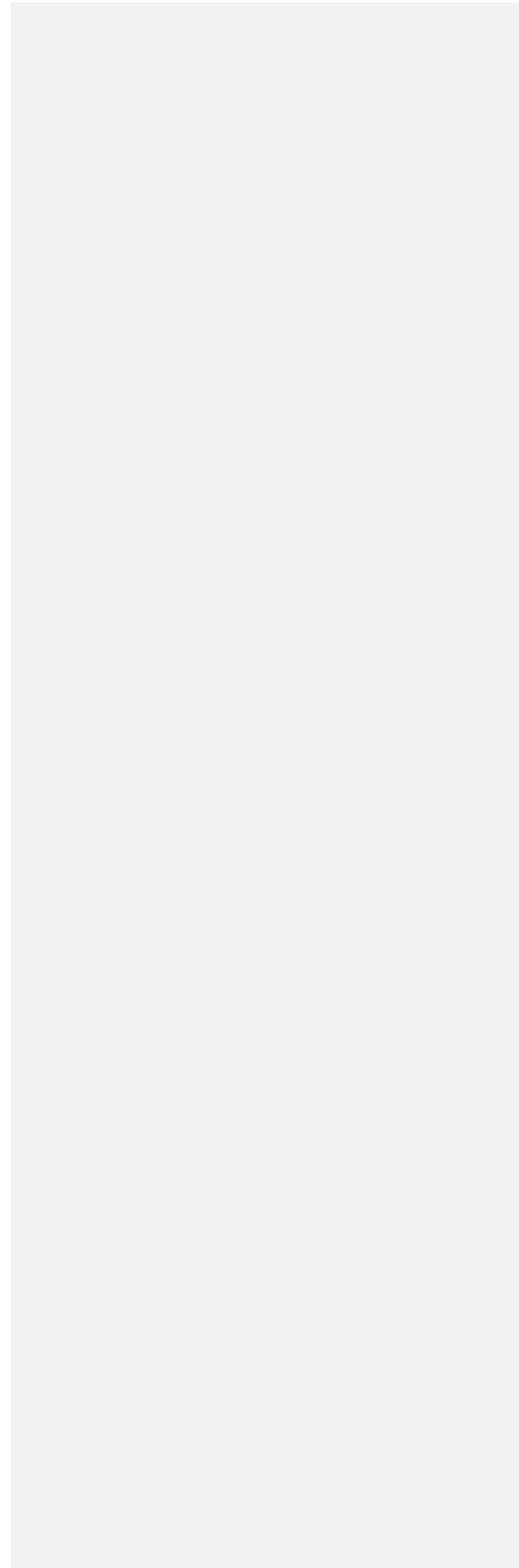
- A. the specific nature of the complaint and a brief statement of the facts giving rise to it;
- B. the respect in which it is alleged that the complainant (or child of the complainant) has been affected adversely;
- C. the reason that the matter was not able to be resolved with the Superintendent or Treasurer;
- D. the action which the complainant wishes taken and the reasons why it is felt that such action should be taken.

The Governing Board, after reviewing the request, may grant a meeting before the Governing Board, or a committee of the Governing Board, or refer the matter, if permitted by applicable laws and regulations, to an executive session.

The complainant shall be advised, in writing, of the Governing Board's decision.

#### **Matters Regarding a Classified Staff Member**

In the case of a classified staff member, the same procedure is to be followed as for "Matters Regarding a Professional Staff Member."



### **Matters Regarding ESC Services or Operations**

If the request, suggestion, or complaint relates to a matter of ESC procedure or operation, it should be addressed, initially, to the person in charge and then brought, in turn, to higher levels of authority in the manner prescribed in “Matters Regarding a Professional Staff Member.”

### **Matters Regarding the Educational Program**

If the request, suggestion, or complaint relates to a matter of ESC program, it should be addressed, initially, to the Superintendent and then brought, in turn, to higher levels of authority in the manner prescribed in “Matters Regarding a Professional Staff Member.”

### **Matters Regarding Instructional Materials**

The Superintendent shall provide notice addressing students’ and parents’ rights to be adequately informed each year regarding their ability to inspect instructional materials and the procedure for completing such an inspection.

If the request, suggestion, or complaint relates to instructional materials such as textbooks, library books, reference works, and other instructional aids used in the ESC, the following procedure shall be followed:

- A. The criticism is to be addressed to the principal, in writing, and shall include:
  - 1. author;
  - 2. title;
  - 3. publisher;
  - 4. the complainant’s familiarity with the material objected to;
  - 5. sections objected to, by page and item;
  - 6. reasons for objection.
- B. Upon receipt of the information, the principal shall, after advising the Assistant Superintendent of the complaint, and upon the Assistant Superintendent’s approval, the Assistant Superintendent may appoint a review committee which may consist of one (1) or more professional staff members and one (1) or more lay persons knowledgeable in the area.
- C. The committee, in evaluating the questioned material, shall be guided by the following criteria:

1. the appropriateness of the material for the age and maturity level of the students with whom it is being used
  2. the accuracy of the material
  3. the objectivity of the material
  4. the use being made of the material
- D. The material in question may be withdrawn from use pending the committee's recommendation to the Superintendent.
- E. The committee's recommendation shall be reported to the Superintendent in writing within thirty (30) calendar days following the formation of the committee. The Superintendent shall advise the complainant, in writing, of the committee's recommendation and advise the Governing Board of the action taken or recommended.
- F. The complainant may appeal this decision, within thirty (30) calendar days, to the Governing Board through a written request to the Superintendent, who shall forward the request and all written material relating to the matter to the Governing Board.
- G. The Governing Board shall review the case and advise the complainant, in writing, of its decision within thirty (30) calendar days.

**9140.01 - GOVERNING BOARD POLICY REVIEW COMMITTEE**

The Superintendent shall establish a “Governing Board Policy Review Committee” which shall meet at least quarterly during the school year to review Governing Board bylaws and policies.

The Governing Board Policy Review Committee shall consist of the following individuals:

- A. Superintendent and/or designee;
- B. Treasurer (as needed);
- C. Legal counsel (as needed); and
- D. NEOLA consultant (as needed).

## 9141 - BUSINESS ADVISORY COUNCIL

### Purpose and Management

Businesses are important partners who can help shape the educational experiences of all students in Ohio schools. Businesses can partner with schools to share news about job trends and opportunities, as well as economic changes that shall affect jobs. They can play a role in ESC curriculum development and help create new opportunities for students, such as work-based learning experiences.

The Governing Board recognizes the increasing importance to the nation's productivity and future well-being of its citizens that students enter the labor market with employable skills and attitudes.

The Governing Board and ESC staff also recognize that the necessary educational effort involves close cooperation among interested parties and that decisions regarding the curriculum should not be made without appropriate input from those affected by the educational results.

In order to obtain more effective assistance from groups particularly affected by student entry-level skills and potential employers, the Governing Board shall establish and appoint a Business Advisory Council ("BAC") to serve as a continuing advisory group to the Governing Board and administration, as well as participating school districts, pursuant to R.C. 3313.82, R.C. 3313.821, and applicable laws.

The BAC shall advise and provide recommendations to the ESC on matters specified by the ESC including, but not necessarily limited to, advising the ESC on changes in the economy and job market and the area in which future jobs are most likely to be available; advocating for the employment skills most critical to business and industry and the development of curriculum to teach these skills; aiding and supporting the ESC by offering suggestions for developing a working relationship among businesses, labor organizations and educators; identify new and emerging careers; offering recommendations on needed knowledge, skills and competencies; advocating for effective curriculum; offering work-based learning opportunities; and making recommendations on the facilities and equipment needed to teach work-based skills.

The Governing Board has entered into an agreement with affiliated school districts so that the BAC shall represent businesses of the participating school districts.

For those school districts with whom the ESC has entered into an agreement under R.C. 3313.843 and/or R.C. 3313.845 to receive any services from the ESC, the ESC is willing and able to serve as the school district's business advisory council and represent the business of the school district provided that a joint agreement is entered into between the school district and ESC appointing the BAC to serve as the school district's business advisory council under the terms and conditions agreed upon by the school district and ESC.

For those joint vocational school districts and/or cooperative education school districts that are not required to appoint their own business advisory councils as a matter of law, the ESC is willing and

able to allow such school districts to participate in the BAC to the extent permitted by law and agreed upon by and between the joint vocational/cooperative education school district and the ESC.

The BAC shall operate in accordance with the standards established by the Superintendent of Public Instruction, in consultation with the Governor's Executive Workforce Board.

Regular updates from the BAC shall be reviewed by the Governing Board.

As a public body of the ESC, the BAC shall comply with all applicable provisions of the Ohio Open Meetings Act and Ohio Public Records Act.

The BAC shall be composed of five (5) members. The ESC Superintendent shall serve as the BAC Chairman.

The ESC Superintendent shall appoint the BAC members and the ESC's contact representative. BAC membership should be representative of the ESC, be available to attend meetings and participate in council activities and have a sincere interest in making a positive contribution to ESC/BAC ventures.

BAC Members may be selected from:

- A. local or regional businesses and industries;
- B. workforce development or economic development groups or organizations;
- C. local chambers of commerce;
- D. local business or industry associations;
- E. other organizations with unique knowledge of the local economy or business environment, such as higher education institutions;
- F. the ESC Governing Board (at least one member);
- G. ESC leadership teams; and
- H. Participating school district leadership teams.

The BAC shall document its practices in a written description of how the BAC shall work. The description should include:

- A. mission statement;
- B. member appointment and terms of service;

- C. appointment of officers and responsibilities of each office;
- D. BAC meeting schedules;
- E. process the council shall use to provide public notice of all meetings;
- F. process for taking and recording minutes of each BAC meeting;
- G. procedures for appointment of BAC subcommittees, if applicable;
- H. parliamentary procedure to be practiced during BAC meetings;
- I. process for reporting to the Governing Board on a quarterly basis; and
- J. schedule for review and revision of description of operations of the BAC.

This description outlines the BAC's purpose and guides its management by defining the BAC's responsibilities and limitations as well as expectations for its members.

#### Conflicts of Interest

The maintenance of unusually high standards of honesty, integrity, impartiality, and professional conduct by members of the BAC is essential to ensure the proper performance of school business as well as to earn and keep public confidence in the ESC.

#### BAC Activity

The ESC Superintendent, working with the members of the BAC, shall decide the manner in which meetings are conducted, the way decisions are recorded, the process for developing the required plan and joint statement, and other activities of the BAC.

#### Frequency of Meetings

The BAC shall meet with the ESC at least quarterly.

#### BAC Plan

The BAC and ESC shall develop a plan specifying matters upon which the BAC shall advise and make recommendations to the ESC. The plan shall be revised and updated annually. The plan shall be filed with the Ohio Department of Education each year.

At minimum, the plan shall address how the BAC shall make recommendations on these items:

- A. delineating employment skills and developing curriculum to instill these skills;

- B. changes in the economy and job market, and the types of employment in which future jobs are most likely to be available; and
- C. developing a working relationship among business, labor, and education personnel.

The BAC may consider incorporating these elements into their plans:

- A. The schedule of required joint meetings of the ESC and BAC for the year. The BAC shall meet with the ESC at least quarterly).
- B. A schedule, as determined appropriate, of additional meetings of the BAC or of BAC subcommittees.
- C. Data analysis or other information that describes changes in the economy and job market and the types of employment in which future jobs are most likely to be available. Data may also focus on student skills or deficiencies and other information that informs the plan.
- D. A needs assessment, based on data analysis, that identifies business community needs as well as students' educational needs. The latter includes the academic, nonacademic, and employment skills and knowledge students shall have to succeed in higher education and careers. Needs might include such things as improving awareness of job opportunities, and improving certain skills among students.
- E. A schedule and description of events, activities or programs conducted by the BAC to address the identified business or student needs. While the law does not prescribe specific events, activities or programs may include:
  - 1. Job Fairs or Conferences: A gathering of business representatives and employees in a location that allows students and families to learn about business activities and job opportunities in the ESC or region.
  - 2. Job Shadowing: Organized opportunities through which students can shadow employees of businesses to understand the nature of the business and job.
  - 3. Internships, cooperative training, work-based learning opportunities or employment for students: Organized opportunities through which students perform work over an extended time in a business setting to fully understand the nature of a job and how to do it. This can include unpaid as well as paid work; including full-time, part-time, or summer employment.
  - 4. Mentoring and tutoring programs for students: Programs through which employers provide opportunities for employees to serve as mentors and

tutors to students, helping improve academic skills as well as social, emotional, and workplace and employability skills.

5. Career Counseling and Exploration: This can include helping students learn to use the OhioMeansJobs suite of tools and services. It may also include other career exploration activities or training for ESC employees on career counseling strategies.
6. Promoting student commitment to being drug free. This may include activities that raise awareness for students not only about the dangers of drug and alcohol use, but also how the use of drugs and alcohol negatively impacts workplace safety and productivity. Focus on how the commitment to remain drug free is a win-win situation for both employers and employees. If possible, provide examples to illustrate the point.
7. Promoting the use of the OhioMeansJobs Readiness Seal. This may include activities that raise awareness by employers and students of the seal and help students gain and demonstrate competencies included as part of the seal. It may also include training for employers on how to rate students on the various competencies required for the seal.
8. Informing curriculum design and development: This may include any of the following:
  - a. reviewing curriculum materials for technical content accuracy;
  - b. identifying knowledge or skill competency levels and performance standards in both technical and academic courses;
  - c. helping the ESC obtain instructional materials;
  - d. identifying employability skills;
  - e. donating or otherwise helping the ESC acquire equipment or facilities for specialized training needs;
  - f. encouraging and promoting secondary and postsecondary connections;
  - g. recommending technical resource personnel;
  - h. using OhioMeansJobs K-12 to show desired employability skills for in-demand jobs;
  - i. supporting a school's application for STEM designation; and

- j. offering recommendations to implement career pathways.
  - 9. Engaging educators: This may include activities that provide teachers and other ESC personnel with information and experiences relative to the businesses in the community. It may include activities like teacher externships and other learning opportunities for educators.
- F. Publicizing and communicating local economy and job information: This would include activities designed to inform students, educators, and the community about changes to the local economy and which jobs shall be most in demand. Activities may include:
- 1. developing and implementing a local marketing plan for in-demand careers;
  - 2. arranging for meetings between chambers of commerce or business roundtables to discuss economic development in the area;
  - 3. preparing and sharing reports and information on employment trends from the U.S. and Ohio Bureau of Labor Statistics;
  - 4. inviting representatives from postsecondary and the workforce development community to meetings to discuss the future of jobs in the area; and
  - 5. using OhioMeansJobs K-12 to show in-demand jobs both throughout Ohio and in the local community.
- G. Fostering collaboration, beyond the BAC, among business, labor and education personnel. Activities may include:
- 1. broadly engaging local businesses to support the community's education system and participate in activities specified in the plan; and
  - 2. soliciting input from businesses on the work of the BAC.

Submitting a Joint Statement

The BAC and ESC shall file a joint statement, not later than the first day of March of each school year. This joint statement should report progress on work they outlined in the BAC plan for that year, summarize actions taken and actions pending, and specify how the BAC and ESC have fulfilled their respective responsibilities under the law.

At a minimum, the joint statement should reference:

- A. meetings conducted by the BAC;
- B. the BAC's plan and implementation progress;
- C. brief summaries of specific activities the BAC conducted;
- D. the nature of the BAC's advice and recommendations, if any, on needed employment skills and curriculum development to instill those skills;
- E. The nature of the BAC's advice and recommendations, if any, on economic and job market changes and the types of employment in which future jobs are most likely to be available; and
- F. the nature of the BAC's advice and suggestions, if any, for developing working relationships among businesses, labor organizations, and educational personnel.

## 9150 - ESCVISITORS

The Governing Board welcomes and encourages visits to school by parents, other adult residents of the community and interested educators. But in order for the educational program to continue undisturbed when visitors are present and to prevent the intrusion of disruptive persons into the schools, it is necessary to invoke visitor controls.

The Superintendent or principal has the authority to prohibit the entry of any person to a school of this ESC or to expel any person when there is reason to believe the presence of such person would be detrimental to the good order of the school. If such an individual refuses to leave the school grounds or creates a disturbance, the principal is authorized to request from the local law enforcement agency whatever assistance is required to remove the individual.

Except as set forth in ESC policy or in the case of “service animals” required for use by a person with a disability, no other animals may be on school premises at any time.

Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to such grounds or premises if there are no formal entrances, and at the main entrance to each school building. In addition, the rules shall be posted in a central location in each school and made available to students, upon request.

## 9160 - PUBLIC ATTENDANCE AT SCHOOL EVENTS

The Governing Board welcomes and encourages members of the community to attend athletic and other public events held by the schools in the ESC. Due to the need to maintain order and preserve the facilities of the ESC during the conduct of such events, the Governing Board retains the right to bar the attendance of or remove any person whose conduct may constitute a disruption at a school event. School administrators are expected to call law enforcement officials if a person violates posted regulations or does not leave school property when reasonably requested. In accordance with Governing Board Policy 7440, administrators may use metal detectors and other devices to protect the safety and well-being of participants and visitors.

No alcoholic beverage or other controlled substance may be possessed, consumed, or distributed at any function sponsored by the ESC or at any function occurring on Governing Board property.

Smoking and/or the use of tobacco and/or tobacco substitute products is prohibited at any time within any enclosed facility owned or leased or contracted for by the Governing Board, and in areas directly or indirectly under the control of the Governing Board immediately adjacent to locations of ingress or egress to such facilities. Such prohibition also applies to school grounds, and any school-related event.

The Governing Board is aware of the increasing desire of many parents and other members of an audience to make audio and/or video recordings of school events.

Such recordings can be made by parents or other members of the audience without restriction if the performance is not of copyrighted material. However, if the performance is of copyrighted material, recording can be made if the appropriate license authorizing such recordings has been secured in advance by the ESC. If the performance is of copyrighted material and the necessary license has not been secured in advance by the ESC, the audience shall be advised before the performance begins that audio and/or video recordings that shall be re-broadcast or distributed in any way, such as posting on the internet, are prohibited.

The Governing Board authorizes the Superintendent to establish rules and procedures governing the use of non-ESC audio/visual recording equipment at any ESC-sponsored event or activity. Such rules are to be distributed in such a manner that members of the audience who wish to record the event are aware of the rules early enough to make proper arrangements to obtain their recordings without causing delay or disruption to an activity.

Any person or organization seeking to film students or a school activity which is not a public event, shall obtain prior permission from the Superintendent.

All notices, signs, schedules, and other communications about school events shall contain the following statement:

“In accordance with State and Federal law, the ESC shall provide reasonable accommodations to persons with disabilities who wish to attend and/or participate in

school events. Such individuals should notify the Director of Student Services if they require a reasonable accommodation.”

**9555 - PARTNERSHIPS WITH BUSINESS**

The Governing Board is well aware of the role that education shall play in increasing the nation's productivity and future well-being. To ensure success requires the combining of talent and resources within the region between business and education. It also recognizes that schools of the ESC need to operate as an integral part of the economic community if students are to receive the type of education and training they shall need to function effectively in the twenty-first century.

The Governing Board shall seek to establish not only partnerships between the ESC and individual companies but also, if possible, consortia involving several companies and/or ESCs. The purpose shall be to seek opportunities for students and staff to share in new strategies and technologies being created in the business world and offer, in exchange, the knowledge and skill of ESC personnel in creating more effective continuing education for employees and members of the community. Properly planned and implemented, such partnerships or consortia could have significant impact on the nature and content of the curriculum as well as on the manner in which students are taught to learn.

The Superintendent is authorized to actively seek such partnerships.

## 9700 - RELATIONS WITH SPECIAL INTEREST GROUPS

Any request from civic institutions, charitable organizations, or special interest groups which involve such activities as patriotic functions, contests, exhibits, sales of products to and by students, sending promotional materials home with students, graduation prizes, fund raising, and free teaching materials shall be carefully reviewed to ensure that such activities promote student interests.

It is the policy of the Governing Board that students, staff members, and ESC facilities are not to be used for promoting the interests of any non-school agency or organization, public or private, without the approval of the Governing Board or its designee; and any such approval, granted for whatever cause or group, shall not be construed as an endorsement of said cause or group by this Governing Board.

### A. Political Interests

All materials or activities proposed by outside political sources for student or staff use or participation shall be reviewed by the Superintendent on the basis of their (1) educational contribution to part or all of the school program and (2) benefit to students, and no such approval shall have the primary purpose of advancing the special interest of the proposing group.

The Governing Board shall not permit the use of any type of educational material, program, or equipment in its curricular, co-curricular, or extra-curricular activities or at any time during the school day if such materials, programs, or equipment contain partisan political or commercial messages. Professional staff may, however, utilize political materials or those provided by special interest-groups in adopted courses of study with the approval of the principal.

School facilities or equipment may not be used as a means of producing or disseminating to the community any materials that advertises or promotes a political party, a political cause, or the candidacy of an individual for public office. Students and employees of the Governing Board shall not be used to distribute campaign literature within the schools or on school grounds.

Outside speakers representing commercial organizations shall be welcome only when the commercial aspect is limited to naming the organization represented and the subject matter advances the educational aims of the ESC.

### B. Contests/Exhibits

The Governing Board recognizes that contests, exhibits, and the like may benefit individual students or the ESC as a whole, but participation in such special activities may not:

1. have the primary effect of advancing a special product, group, or company;
2. make unreasonable demands upon the time and energies of staff or students or upon the resources of the ESC;
3. involve any direct cost to the ESC; or
4. interrupt the regular school program.

**C. Distribution/Posting of Literature**

No outside organization or staff member or student representing an outside organization may distribute or post literature on that organization's behalf on ESC property either during or after school hours without the permission and prior review of the Superintendent.

**D. Solicitation of Funds**

Because the ESC cannot accommodate every organization that desires to solicit funds for worthy purposes, the Governing Board shall not permit any organization not related to the ESC to solicit funds on ESC property.

Permission to solicit funds shall be granted only to those organizations, individuals, or staff members who meet the permission criteria established in the ESC's administrative guidelines. Solicitation shall take place at such times and places and in such a manner as specified in the administrative guidelines. In accordance with Governing Board Policy 5830, no ESC student may participate in the solicitation without the Superintendent's approval.

1. The Governing Board disclaims all responsibility for the protection of, or accounting for, such funds.
2. Solicited funds are not to be deposited in any regular or special accounts of the ESC.
3. A copy of this policy as well as the relevant administrative guidelines shall be given to any individual granted permission to solicit funds on ESC property.
4. This policy does not apply to the raising of funds for ESC sponsored or school-sponsored activities.
5. Use of the name, logo, or any assets of the ESC, including, but not limited to facilities, technology, or communication networks, is prohibited without the specific permission of the Superintendent.

The Governing Board does not permit or sanction the use of crowdfunding for ESC or specific school programs or activities, including co-curricular or extracurricular activities.

E. **Prizes/Scholarship**

The Governing Board is appreciative of the generosity of organizations which offer scholarships or prizes to deserving students in this ESC. But, in accepting the offer of such scholarships or prizes, the Governing Board directs that these guidelines be observed: No information either academic or personal shall be released from the student's record for the purpose of selecting a scholarship or prize winner without the permission of the student who is eighteen (18), or the parents of a student who is younger in accordance with the Governing Board's policy on student records.

The type of scholarship or prize, the criteria for selection of the winner, and any restrictions upon it shall be approved by the Superintendent.

F. **Sale of School Supplies**

In determining the appropriateness of the sale of school supplies by organizations other than the ESC, the Governing Board requires that:

1. the organization have a purpose which shall benefit the ESC and its students;
2. the organization's planned activities are clearly in the best interest of the ESC and its students; and
3. the organization has submitted the following information and assurances on the form provided by the ESC: a statement noting the purpose of the organization, financial accountability assurances, and use of facility assurances.

All funds generated by the sale of such school supplies shall be kept separate from other activity funds or other transactions of the Governing Board.

G. **Surveys and Questionnaires**

Neither ESC-related nor non-ESC-related organizations shall be allowed to administer a survey or questionnaire to students or staff unless the instrument and the proposed plan is submitted, in advance, to the Superintendent. If approved, a copy of the results and the proposed manner of their communication are to be provided to him/her for review and approval before they are released.

Students shall not be required to complete surveys to provide marketing information to vendors, or distribute to vendors any personal information of students, including but not limited to names, addresses, and telephone numbers, except as may be required by law. In addition, the ESC shall not enter into any contract for products or services, including electronic media services, where personal information shall be collected from the students by the providers of the services.

## 9700.01 – ADVERTISING AND COMMERCIAL ACTIVITIES

The purpose of this policy is to provide guidance for the appropriate and inappropriate use of advertising or promoting of commercial products or services to students and parents in the schools.

“Advertising” comes in many different categories and forums and is defined as an oral, written, or graphic statement made by the producer, manufacturer, or seller of products, equipment, or services which calls for the public’s attention to arouse a desire to buy, use or patronize the product, equipment, or services. This includes the visible promotion of product logos for other than identification purposes. Brand names, trademarks, logos or tags for product or service identification purposes are not considered advertising.

The Governing Board may permit advertising in ESC facilities or on ESC property in the following categories or forums in accordance with the guidance set forth herein:

### **Product Sales:**

- A. product sales benefiting an ESC, school, or student activity (e.g., the sale of beverages or food within schools);
- B. exclusive agreements between the ESC and businesses that provide the businesses with the exclusive right to sell or promote their products or services in the schools (e.g., pouring rights contracts with soda companies); and/or
- C. fundraising activities (e.g., short term sales of gift wrap, cookies, candy, etc.) to benefit a specific student population, club, or activity where the school receives a share of the profits.

### **Direct Advertising/Appropriation of Space:**

- A. signage and billboards in schools and school facilities;
- B. corporate logos or brand names on school equipment (e.g., marquees, message Governing Boards or score Governing Boards);
- C. ads, corporate logos, or brand names on book covers, student assignment books, or posters;
- D. ads in school publications (newspapers and yearbooks and event programs);
- E. media-based electronic advertising (e.g., Channel One or Internet or web-based sponsorship); and/or
- F. free samples (e.g., of food or personal hygiene products).

**Indirect Advertising:**

- A. corporate-sponsored instructional or educational materials, teacher training, contests, incentives, grants, or gifts; and/or
- B. the Governing Board approves the use of instructional materials developed by commercial organizations such as films and videos only if the education value of the materials outweighs their commercial nature.

The films or material shall be carefully evaluated by the program manager for classroom use to determine whether the films or materials contain undesirable propaganda and are in compliance with the guidance as set forth above.

**Market Research:**

- A. surveys or polls related to commercial activities;
- B. internet surveys or polls asking for information related to commercial activities; and/or
- C. tracking students' internet behavior and responses to questions calling for personal identification at one or more websites.

It is further the policy of the Governing Board that its name, students, staff members and ESC facilities shall not be used for any commercial advertising or otherwise promoting the interests of any commercial, political, nonprofit, or other non-school agency or organization, public or private, without the approval of the Governing Board or its designee.

Any commercial advertising shall be structured in accordance with the General Advertising Guidance set forth below.

**General Advertising Guidance**

The following guidance shall be followed with respect to any form of advertising on school grounds:

- A. When working together, schools and businesses shall protect educational values. All commercial or corporate involvement should be consistent with the ESC's educational standards and goals.
- B. Any advertising that may become a permanent or semi-permanent part of a school requires prior approval of the Governing Board.
- C. The Governing Board reserves the right to consider requests for advertising in the schools on a case-by-case basis.

- D. No advertisement shall promote or contain references to alcohol, tobacco, drugs, drug paraphernalia, weapons, or lewd, vulgar, obscene, pornographic, or illegal materials or activities, gambling, violence, hatred, sexual conduct or sexually explicit material, X or R rated movies, or gambling aids.
- E. No advertisement shall promote any specific religion or religious, ethnic, or racial group, political candidate or ballot issue and shall be non-proselytizing.
- F. No advertisement may contain libelous material.
- G. No advertisement may be approved which would tend to create a substantial disruption in the school environment or inhibit the functioning of any school.
- H. No advertisement shall be false, misleading, or deceptive.
- I. Each advertisement shall be reviewed in advance for age appropriateness.
- J. Advertisements may be rejected by the ESC if determined to be inconsistent with the educational objectives of the ESC, inappropriate, or inconsistent with the guidance set forth in this policy.
- K. All corporate support or activity shall be consistent with the Governing Board's policies prohibiting discrimination on the basis of race, color, national origin, religion, sex, disability, or age, and shall be age appropriate.
- L. Students shall not be required to advertise a product, service, company, or industry.
- M. Advertising shall not be permitted on the outside or the inside of school buses.
- N. The Superintendent or designee is responsible for screening all advertising.
- O. The Superintendent or designee may require that samples of advertising be made available for inspection.
- P. The inclusion of advertisements in ESC publications, in ESC facilities, or on ESC property does not constitute or imply approval and/or endorsement of any product, service, organization, or activity.
- Q. Final discretion regarding whether to advertise and the content and value of the materials shall be with the Governing Board.

#### **Accounting**

Advertising revenues shall be properly reported and accounted for.

## 9999 - News Media and News Media Representative Relations, Interactions, and Access

### A. Overview and General Protocols

1. The Educational Service Center of the Western Reserve is renowned as a premier educational service center and has a reputation for providing an excellent system of public education. The Educational Service Center of the Western Reserve enjoys strong relationships with our students, parents/guardians, community members, and stakeholders. Since we provide an excellent system of public education, the news media is frequently interested in the Educational Service Center of the Western Reserve. All Governing Board members and employees shall have the responsibility to be open and responsive to news media information requests within the protocols established and outlined in this Policy because the news media is among the many ways our students, parents/guardians, community members, and stakeholders build their individual perceptions of the Educational Service Center of the Western Reserve.
2. **“News Media” Defined:** For the purpose of this Policy, “news media” **shall only** include print news media (newspapers and newsmagazines) and broadcast news media (radio and television) that encompass all of the following three “media integrity” qualities: (a) independence from private and/or political interests, (b) transparency about its own financial interests, and (c) commitment to well-established journalism ethics and standards. Simply having a social media account and/or page, website, hyperlocal platform, online newspaper, online newsmagazine, blog, podcast, and/or other means to disseminate information over the Internet and/or other electronic, wireless, and/or optical networking technologies **shall not** constitute “news media” for the purpose of this Policy. If an organization believes that it should constitute “news media” under this Policy, the organization may submit a formal request to the Superintendent explaining why the organization believes that it should be considered “news media” under this Policy. The determination as to whether an entity constitutes “news media” shall be determined solely by the Superintendent. The decision of the Superintendent shall be final.
3. **“News Media Representative” Defined:** For the purpose of this Policy, a “news media representative” **shall only** include those individuals (e.g., reporters, editors working as reporters, producers, video camera operators, still photographers, etc.) directly employed by the news media organization requesting “Educational Service Center of the Western Reserve News Media Credentials” on behalf of the employed individual. For the purpose of this Policy, a “news media representative” **shall not** constitute a freelancer and/or a self-employed person offering services to one or more clients and/or businesses at a time. If any news media organization believes that a specific individual should be considered its “news media representative” under this Policy, the news media organization may submit a formal request to the Superintendent explaining why the specific individual should be considered its

“news media representative” under this Policy including, but not limited to, the steps the news media organization has taken and shall continue to take to ensure that the specific individual meets the “Educational Service Center of the Western Reserve News Media Credentials” eligibility requirements and responsibilities as well as the protocols established and outlined in this Policy. The determination as to whether any person constitutes a “news media representative” shall be determined solely by the Superintendent. The decision of the Superintendent shall be final.

4. Positive relationships with the news media are developed and maintained by providing accurate, comprehensive, and complete information to news media representatives in a timely manner. Whenever contacted by news media representatives, the same courtesy and professionalism we extend to all of our students, parents/guardians, community members, and stakeholders shall be extended toward the news media representatives.
5. To ensure that information provided to the news media is accurate, comprehensive, and complete and to ensure that news media representatives have appropriate access to the best sources of information as determined by the Superintendent or designee, protocols for providing information to the news media are established and outlined in this Policy.
6. To assist the news media in obtaining accurate, comprehensive, and complete information, news media representatives are encouraged to make public record requests to the Treasurer/CFO pursuant to R.C. 149.43 and Governing Board Policy 8130 (Public Records) so the Treasurer/CFO may provide appropriate responses to news media representatives.
7. All Governing Board members and employees shall notify the Superintendent or designee whenever they are contacted by any news media representative for any reasons, including public record requests, and shall comply with the protocols established and outlined in this Policy. If any inquiry or request made by a news media representative is sensitive and/or significant, the Governing Board member or employee shall immediately notify the Superintendent directly.
8. If any Governing Board member or employee feels that there has been a misquote and/or misrepresentation made by any news media representative, that Governing Board member or employee shall immediately contact the Superintendent or designee so an attempt can be made to provide the news media representative with (a) accurate, comprehensive, and complete information and (b) the opportunity to retract, clarify, and/or correct any misquotes and/or misrepresentations.
9. No Governing Board member or employee shall ever release information and/or documentation which are private and/or confidential as identified by local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing

Board. If any Governing Board member or employee believes that private and/or confidential information and/or documentation has been released, that Governing Board member or employee shall immediately contact the Superintendent or designee.

10. The protocols established and outlined in this Policy shall apply to both the Communications & Public Relations Office and Communications & Public Relations Coordinator. The Superintendent has the authority to place greater protocols upon both the Communications & Public Relations Office and Communications & Public Relations Coordinator provided those protocols are consistent with the protocols established and outlined in this Policy.
11. No Governing Board member or employee shall – in any manner – repost, share, redistribute, and/or repurpose any “news media” source as defined in this Policy, “news media representative” source as defined in this Policy, “parent organization” source as defined in Governing Board Policy 9210, and/or “district support organization” source as defined in Governing Board Policy 9211 to any social media account owned, operating, and/or relating to the Educational Service Center of the Western Reserve and/or its Governing Board, schools, departments, and/or activities without (a) the prior written approval of the Superintendent or designee; (b) without properly crediting the appropriate news media, new media representative, parent organization, and/or district support organization source; and (c) without violating copyrights under local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, Governing Board Policies 2531 (Copyrighted Works) and 7540.02 (District Web Page). The decision of the Superintendent shall be final.
12. No Governing Board member or employee shall ever – in any manner – repost, share, redistribute, and/or repurpose any non-news media, non-news media representative, non-parent organization, and/or non-district support organization source to any social media account owned, operating, and/or relating to the Educational Service Center of the Western Reserve and/or its Governing Board, schools, departments, and/or activities. If a Governing Board member or employee believes that a non-news media, non-news media representative, non-parent organization, or non-district support organization source contains a topic of interest to the Educational Service Center of the Western Reserve, that Governing Board member or employee shall contact the Superintendent or designee and a determination shall be made by the Superintendent or designee regarding whether to incorporate such a topic in a source created and distributed by the Educational Service Center of the Western Reserve itself. This process allows the Educational Service Center of the Western Reserve to take steps to avoid violating copyrights under local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, Governing Board Policies 2531 (Copyrighted Works) and 7540.02 (ESC Web Page). This process also allows the Educational Service Center of the Western Reserve to take steps to protect its

own copyrights under local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, Governing Board Policies 1231.01 (Research and Publishing), 2531 (Copyrighted Works), 3231.01 (Research and Publishing), and 7540.02 (ESC Web Page). The decision of the Superintendent shall be final.

13. No Governing Board member or employee shall ever – in any manner – like or comment upon any source as the Educational Service Center of the Western Reserve and/or its Governing Board, schools, departments, and/or activities without the prior written approval of the Superintendent or designee. The decision of the Superintendent shall be final.
14. A news media representative who violates any applicable local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, this Policy, shall have his/her “Educational Service Center of the Western Reserve News Media Credentials” permanently revoked. The decision to permanently revoke “Educational Service Center of the Western Reserve News Media Credentials” rests solely with the Superintendent. The decision of the Superintendent shall be final.
15. Nothing in this Policy is intended as a restraint on the rights of students, parents/guardians, community members, and/or stakeholders to have any interaction with and/or access to schools, events, parents/guardians, students, and Governing Board employees in accordance with local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, Governing Board Policies 8105 (Civility Policy), 8310 (Public Records), 9150 (School Visitors), and 9160 (Public Attendance at School Events).

**B. News Media Spokesperson**

1. The Superintendent shall serve as the primary news media spokesperson for the Educational Service Center of the Western Reserve and the Governing Board. The Superintendent may designate news media spokesperson duties and responsibilities to administrators with regard to areas relating to their respective administrative positions and assignments. The Superintendent may also designate news media spokesperson duties and responsibilities to the Communications & Public Relations Coordinator. Any designation of news media spokesperson duties and responsibilities may be withdrawn by the Superintendent at any time and without any prior notice. The decision of the Superintendent shall be final.
2. All Governing Board members shall refer all news media matters to the Superintendent or designee in accordance with this Policy. As set forth in Bylaw 0148, the Governing Board President functions as the official spokesperson for the Governing Board for all matters that have been memorialized pursuant to one or more resolutions of the Governing Board. While it is understood that individual

Governing Board members may, from time-to-time, make public statements on education matters to local, state, and/or federal news media and/or public officials; all individual Governing Board members shall, when writing or speaking on education matters to news media representatives, make it abundantly clear that the views of the individual Governing Board member do not necessarily reflect the views of the Governing Board or his/her colleagues.

**C. Governing Board Employee Responsibilities**

1. Each program manager is authorized to keep parents/guardians and students informed about a school's programs, events, and activities in accordance with local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board.
2. News media releases that are of concern to only one school, or to an organization of only one school, are the responsibility of the building principal/program manager and may only be released after coordination with the Communications & Public Relations Office and upon prior written approval of the Superintendent or designee.
3. Publicity regarding students shall always be evaluated in terms of the effect on the students and may only be released after coordination with the Communications & Public Relations Office and upon prior written approval of the Superintendent or designee.
4. All Governing Board employees shall direct any and all news media representatives with inquiries and requests to the Office of the Superintendent. No Governing Board employee shall tell any news media representative that he/she is not allowed to talk to the news media or that he/she has to get permission to do so. Instead, all Governing Board employees shall simply tell news media representatives that: "The Educational Service Center of the Western Reserve has policy is to refer all news media inquiries to the Office of the Superintendent. You can reach the Office of the Superintendent at 440-350-2563 and the regular Central office hours are Monday through Friday from 8:00 a.m. to 4:00 p.m." All Governing Board employees must respond quickly, courteously, and professionally to all news media inquiries and requests as news media representatives have deadlines to meet. Responding to news media representatives quickly, courteously, and professionally is important because the way a Governing Board employee responds to new media inquiries and requests may be the news media representative's first impression of the Educational Service Center of the Western Reserve and that first impression may end up in the published story and/or broadcasted news segment.
5. After having been given prior approval by the Superintendent or designee, a Governing Board employee may only respond to news media inquiries and/or requests in a manner that is accurate, factual, and on a subject related to the employee's area of knowledge, experience, and expertise.

6. If the Governing Board employee is not able to respond to news media inquiries and/or requests in a manner that is accurate, factual, and on a subject related to the employee's area of knowledge, experience, and expertise; the Governing Board employee shall direct any and all news media representatives to the Office of the Superintendent consistent with the protocols established and outlined in this Policy.
7. Nothing in this Policy is intended as a restraint on the expression of personal opinion by any Governing Board employee as permitted by local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board. Nonetheless, every Governing Board employee is individually responsible for fully understanding any and all of the laws, rules, regulations, and policies that legally limit the Governing Board employee's expression of personal opinion. To the extent any Governing Board employee may legally express his/her personal opinion, the Governing Board employee shall, when writing or speaking on education matters to news media representatives, make it abundantly clear that the views of the individual Governing Board employee do not necessarily reflect the views of the Governing Board, Educational Service Center of the Western Reserve, or his/her colleagues. Any questions regarding the ability of a Governing Board employee to express the Governing Board employee's personal opinion shall be directed to the Superintendent or designee for written clarification.

**D. News Media Representative Interaction and Access**

1. **Educational Service Center of the Western Reserve Educational Service Center News Media Credentials**
  - a. "Educational Service Center of the Western Reserve News Media Credentials" shall be issued before any news media representative may have any interaction with and access to students, schools, events, parents/guardians, and Governing Board employees.
  - b. The Superintendent or designee shall be responsible for issuing Educational Service Center of the Western Reserve News Media Credentials consistent with the protocols established and outlined in this Policy.
  - c. All Educational Service Center of the Western Reserve News Media Credentials must be requested, in writing, at least seven (7) business days in advance of any public or non-public school event.
  - d. In issuing any Educational Service Center of the Western Reserve News Media Credentials, the Superintendent or designee shall have the sole discretion to determine the duration upon which any such news media credentials shall expire (e.g., one hour, one day, one week, etc.) provided that no news media credential shall extend beyond June 30 (e.g., a news

media credential issued on June 25 shall expire on June 30). Upon expiration of any Educational Service Center of the Western Reserve News Media Credentials, the news media representative may request subsequent news media credentials, which the Superintendent or designee shall have the sole discretion to determine the duration upon which any subsequent news media credentials shall expire provided that no news media credential shall extend beyond June 30. The decision of the Superintendent or designee shall be final.

- e. Educational Service Center of the Western Reserve News Media Credentials shall only be available to news media representatives who meet all of the following eligibility requirements:
  - i. Present to the Superintendent or designee valid and current press identification issued by the employing media news organization.
  - ii. Present to the Superintendent or designee written document from the employing news media organization addressed to the Superintendent and (1) requesting that the specific news media representative be issued Educational Service Center of the Western Reserve News Media Credentials and (2) verifying that the specific news media representative shall – at all times – be acting on behalf of the employing news media organization only, and (3) verifying that the specific news media representative shall – at all times – fully comply with the protocols established and outlined in this Policy. This written request and verification shall be presented to the Superintendent or designee no later than seven (7) calendar days after the date affixed to the written request and verification.
  - iii. Present to the Superintendent or designee sworn verification by the news media representative that he/she has no prior and/or current criminal convictions (this does not include minor traffic violations) as an adult regardless of whether the conviction has been either sealed or expunged. If the news media representative receives any criminal conviction (this does not include minor traffic violations) after having been issued Educational Service Center of the Western Reserve News Media Credentials, that news media representative shall immediately notify the Superintendent or designee of all the details of the same.
  - iv. Present to the Superintendent or designee sworn verification by the news media representative that he/she: (1) has not been non-renewed for good and just cause by any public or news media employer, (2) has not been terminated by any school district pursuant to either R.C. 3319.16 or R.C. 3319.081 or by any public

or news media employer for grounds similar to those set forth in either R.C. 3319.16 or R.C. 3319.081, and (3) has not resigned/retired from employment from any public or news media employer to avoid nonrenewal for just cause or termination pursuant to either R.C. 3319.16 or R.C. 3319.081, or for similar grounds.

- v. Present to the Superintendent or designee verification of having successfully passed an annual Federal Bureau of Investigation (FBI) background check which can be processed by the Governing Board upon full payment by the news media representative. Additional periodic FBI background checks may be required by the Superintendent or designee at the sole cost of the news media representative.
- vi. Present to the Superintendent or designee verification of having successfully passed an annual Ohio Bureau of Criminal Investigation (BCI) background check which can be processed by the Governing Board upon full payment by the news media representative. Additional periodic BCI background checks may be required by the Superintendent or designee at the sole cost of the news media representative.
- vii. Present to the Superintendent or designee sworn verification by the news media representative that he/she shall – at all times – comply with any and all applicable local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, this Policy.
- viii. Present to the Superintendent or designee sworn verification by the news media representative that he/she shall not profit – in any way – from attendance at any school event beyond payment to the news media representative by the new media employer.
- ix. Present to the Superintendent or designee verification that the news media representative:
  - 1. Has been credentialed for similar events of the Educational Service Center of the Western Reserve in the current and prior school years.
  - 2. Can demonstrate having written about the Educational Service Center of the Western Reserve or related education issues in the current and prior school years.

3. Where the first two conditions cannot be met, a provisional one-time credential may be provided upon the sole discretion of the Superintendent or designee. The decision of the Superintendent or designee shall be final.
- f. Students of the Educational Service Center of the Western Reserve who have been designated “student reporter” status by their building principal/program manager shall be issued Educational Service Center of the Western Reserve News Media Credentials and shall – at all times – comply with any and all applicable local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, this Policy.
  - g. If there is limited space for news media at any public or non-public school event, the Superintendent or designee, at the sole discretion of the Superintendent or designee, may limit the number of Educational Service Center of the Western Reserve News Media Credentials that are issued. The decision of the Superintendent or designee shall be final.
  - h. A news media representative who refuses to comply with the directives of the Superintendent or designees shall have his/her Educational Service Center of the Western Reserve News Media Credentials permanently revoked. The decision to permanently revoke Educational Service Center of the Western Reserve News Media Credentials rests solely with the Superintendent. The decision of the Superintendent shall be final.
  - i. Educational Service Center of the Western Reserve News Media Credentials shall not be available to any individual engaging in advertising, marketing, public relations, or management departments/firms. Any individual found to have engaged or engaging in such conduct shall have his/her Educational Service Center of the Western Reserve News Media Credentials permanently revoked. The decision to permanently revoke any Educational Service Center of the Western Reserve News Media Credentials rests solely with the Superintendent. The decision of the Superintendent shall be final.
  - j. All news media representatives must prominently display – at all times – both their (1) valid and current press identifications issued by the employing media news organizations and (2) their Educational Service Center of the Western Reserve News Media Credentials. Failure to prominently display both the press identification and news media credential – at all times – shall result in the news media representative immediately being ejected from any and all school property. The news media representative shall also have his/her Educational Service Center of the Western Reserve News Media Credentials permanently revoked. The decision to permanently revoke any

Educational Service Center of the Western Reserve News Media Credentials rests solely with the Superintendent. The decision of the Superintendent shall be final.

- k. All news media representatives must – at all times – be accompanied by a school official selected by the Superintendent or designee. Failure to accompany the school official – at all times – shall result in the news media representative immediately being ejected from any and all school property. The news media representative shall also have his/her Educational Service Center of the Western Reserve News Media Credentials permanently revoked. The decision to permanently revoke any Educational Service Center of the Western Reserve News Media Credentials rests solely with the Superintendent. The decision of the Superintendent shall be final.
2. **Public School Events:** A news media representative who has been properly issued Educational Service Center of the Western Reserve News Media Credentials shall have access to all school events to which the public has been invited provided that the news media representative shall remain in the locations designated for news media only. Prior approval from the Superintendent or designee is not required to interview, film, or photograph staff or students at public events such as athletic contests, dramatic productions, music concerts, and graduation ceremonies provided that the news media representative remains in the locations designated for news media only.
3. **Non-Public School Events:** A news media representative who has been properly issued Educational Service Center of the Western Reserve News Media Credentials must first obtain prior written approval from the Superintendent or designee before the news media representative may be permitted to enter any school to cover any event other than public events and the following conditions shall be complied with in full:
  - a. Prior written approval from the Superintendent or designee shall be obtained before interviewing, filming, and/or photographing students, parents/guardians, and/or Governing Board employees. The decision of the Superintendent or designee shall be final.
  - b. Prior written approval from the Superintendent or designee shall be obtained before taking group shots that do not identify individual students by name - either still photos or video. The decision of the Superintendent or designee shall be final.
  - c. Prior written approval from both the parents/guardians and the Superintendent or designee shall be obtained before individual students are interviewed, taped, or photographed. The Superintendent or designee shall obtain parental/guardian permissions. A signed form giving

parental/guardian permission for use of the student's image in video print and/or broadcast shall be kept on file at the school. Parents/guardians have the right to request that their child not be interviewed and/or photographed individually for video, print, and/or broadcast and the news media representative shall honor – without reservation – that right.

- d. Classes shall not be interrupted for general interview purposes unless the building principal/program manager and teacher, as well as the Superintendent or designee, feel that the interview will promote classroom discussion and consistent with the protocols established and outlined in this Policy. The decision of the Superintendent or designee shall be final.
  - e. News media representatives may sit in on and/or videotape footage in classrooms if it is agreeable to the building principal/program manager and the teacher(s) involved, as well as the Superintendent or designee, and consistent with the protocols established and outlined in this Policy. The decision of the Superintendent or designee shall be final.
  - f. News media representatives may have access to students and teachers for interview purposes during lunch periods and after school hours on school property with permission from the building principal/program manager and the Superintendent or designee consistent with the protocols established and outlined in this Policy. The decision of the Superintendent or designee shall be final.
  - g. News media representatives shall comply with any and all applicable local, state, and/or federal laws, rules, and regulations, as well as the policies of the Governing Board including, but not limited to, Governing Board Policies 8105 (Civility Policy), 9150 (School Visitors), and 9160 (Public Attendance at School Events)
4. **Requests from the Building Level:** When a publicity request is made from the program level to the Superintendent or designee as a result of a school event, the Superintendent or designee shall determine whether the request is appropriate and shall determine the manner in which to issue proper notification to the appropriate news media and issue Educational Service Center of the Western Reserve News Media Credentials consistent with the protocols established and outlined in this Policy. The decision of the Superintendent or designee shall be final.
5. **Requests from News Media Representatives:** When a request is initiated by a news media representative to enter the school as a result of an independent school-related story on which the news media representative is working, the news media representative shall supply the following information to the Superintendent or designee: (a) the date and general time of day the news media representative wants to come into the school, (b) to whom the news media representative wants to talk,

and (c) for what reason. The Superintendent or designee shall then determine whether to grant the request. If the request is granted, Superintendent or designee, will attempt to work with the news media representative and principal/program manager to coordinate a schedule agreeable to all concerned for a school visit and interview, as well as issue the Educational Service Center of the Western Reserve News Media Credentials consistent with the protocols established and outlined in this Policy. The decision of the Superintendent or designee shall be final.

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