

**THE BOARD OF TRUSTEES**

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Uniform Complaint Procedure

The Board establishes this Uniform Complaint Procedure as a means to address complaints arising within the District. This Uniform Complaint Procedure is intended to be used for all complaints except those involving challenges to educational material and those governed by a specific process in state or federal law that supersedes this process or collective bargaining agreement. Matters covered by a collective bargaining agreement will be reviewed in accordance with the terms of the applicable agreement.

The District requests all individuals to use this complaint procedure, when the individual believes the Board or its employees or agents have violated the individual's rights under state or federal law or Board policy. Complaints against a building administrator shall be filed with the Superintendent. Complaints against the Superintendent or District administrator shall be filed with the Board.

The District will endeavor to respond to and resolve complaints without resorting to this formal complaint procedure and, when a complaint is filed, to address the complaint promptly and equitably. The right of a person to prompt and equitable resolution of a complaint filed hereunder will not be impaired by a person's pursuit of other remedies. Use of this complaint procedure is not a prerequisite to pursuit of other remedies, and use of this complaint procedure does not extend any filing deadline related to pursuit of other remedies.

Deadlines requiring District action in this procedure may be extended for reasons related but not limited to the District's retention of legal counsel and District investigatory procedures.

Level 1: Informal

An individual with a complaint is first encouraged to discuss it with the appropriate employee or building administrator, with the objective of resolving the matter promptly and informally. An exception is that a complaint of sexual harassment should be discussed directly with an administrator not involved in the alleged harassment.

Level 2: Building Administrator

When a complaint has not been or cannot be resolved at Level 1, an individual may file a signed and dated written complaint stating: (1) the nature of the complaint; (2) a description of the event or incident giving rise to the complaint, including any school personnel involved; and (3) the remedy or resolution requested. This written complaint must be filed within thirty (30) calendar days of the event or incident or from the date an individual could reasonably become aware of such event or incident. The applicability of the deadline is subject to review by the Superintendent to ensure the intent of this uniform complaint procedure is honored.

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1 When a complaint alleges violation of Board policy or procedure, the building administrator will  
2 investigate and attempt to resolve the complaint. The administrator will respond in writing to the  
3 complaint, within thirty (30) calendar days of the administrator's receipt of the complaint.  
4

5 If the complainant has reason to believe the administrator's decision was made in error, the  
6 complainant may request, in writing, that the Superintendent review the administrator's decision.  
7 (See Level 3.) This request must be submitted to the Superintendent within fifteen (15) calendar  
8 days of the administrator's decision.  
9

10 When a complaint alleges sexual harassment or a violation of Title IX of the Education  
11 Amendments of 1972 (the Civil Rights Act), Title II of the Americans with Disabilities Act of  
12 1990, or Section 504 of the Rehabilitation Act of 1973, the building administrator ~~shall~~ may turn  
13 the complaint over to ~~the applicable~~ District nondiscrimination coordinator. The coordinator  
14 ~~will complete~~ shall ensure an investigation ~~is completed in accordance with the applicable~~  
15 ~~procedure. In the case of a sexual harassment or Title IX complaint, the applicable investigation~~  
16 ~~and appeal procedure is Policy 3225P or 5012P. In the case of a disability complaint, the~~  
17 ~~coordinator shall complete an investigation~~ and file a report and recommendation with the  
18 Superintendent ~~for decision. Appeal of a decision in a disability complaint will be handled in~~  
19 ~~accordance with this policy. If the complainant is dissatisfied with the Superintendent's decision,~~  
20 ~~the complainant may request, in writing, that the Board consider an appeal of the~~  
21 ~~Superintendent's decision. (See Level 4.) This request must be submitted in writing to the~~  
22 ~~Superintendent, within fifteen (15) calendar days of the Superintendent's written response to the~~  
23 ~~complaint, for transmission to the Board.~~  
24

Level 3: Superintendent

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26  
27 If the complainant filed appeals the administrator's decision provided for in Level 2, the  
28 Superintendent will review the complaint and the administrator's decision. The Superintendent  
29 will respond in writing to the appeal, within thirty (30) calendar days of the Superintendent's  
30 receipt of the written appeal. In responding to the appeal, the Superintendent may: (1) meet with  
31 the parties involved in the complaint; (2) conduct a separate or supplementary investigation; (3)  
32 engage an outside investigator or other District employees to assist with the appeal; and/or (4)  
33 take other steps appropriate or helpful in resolving the complaint.  
34

35 If the complainant has reason to believe the Superintendent's decision was made in error, the  
36 complainant may request, in writing, that the Board consider an appeal of the Superintendent's  
37 decision. (See Level 4.) This request must be submitted in writing to the Superintendent, within  
38 fifteen (15) calendar days of the Superintendent's written response to the complaint, for  
39 transmission to the Board.  
40

Level 4: The Board41  
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1 Upon written appeal of a complaint alleging a violation the individual's rights under state or  
2 federal law or Board policy upon which the Board of Trustees has authority to remedy, the Board  
3 may consider the Superintendent's decision in Level 2 or 3.

4 Upon receipt of written request for appeal, the Chair will either: (1) place the appeal on the  
5 agenda of a regular or special Board meeting; or (2) appoint an appeals panel of not less than  
6 three (3) trustees to hear the appeal and make a recommendation to the Board, or (3) respond to  
7 the complaint with an explanation of why the appeal will not be heard by the Board of Trustees  
8 in accordance with this policy. If the Chair appoints a panel to consider the appeal, the panel  
9 will meet to consider the appeal and then make written recommendation to the full Board. The  
10 Board will report its decision on the appeal, in writing, to all parties, within thirty (30) calendar  
11 days of the Board meeting at which the Board considered the appeal or the recommendation of  
12 the panel. A decision of the Board is final, unless it is appealed pursuant to Montana law within  
13 the period provided by law.

14  
15 Cross Reference:     3210 – Equal Educational Opportunity and Nondiscrimination  
16                             5010 – Equal Employment Opportunity and Nondiscrimination  
17                             3225-3225P – Sexual Harassment of Students  
18                             5012-5012P – Sexual Harassment of Employees

19  
20 Legal Reference:     Title IX of the Education Amendments of 1972 (Civil Rights Act)  
21                             Title II of the Americans with Disabilities Act of 1990  
22                             § 504 of the Rehabilitation Act of 1973

23  
24 Policy History:

25 Adoption on: February 2007  
26 Revised on: April 21, 2009

27  
28 *Note: Lines 20-24 (page 1) were added to allow the Superintendent to higher an independent*  
29 *investigator if needed.*

## STUDENTS

### Students of Legal Age

Every student eighteen (18) years of age or older like all other students, will comply with the rules established by the District, pursue the prescribed course of study, and submit to the authority of teachers and other staff members as required by policy and state law. The administration is authorized to make exceptions to this policy for students related to reasons that include but are not limited to homelessness, emancipation, or applicable court order.

### Forms

Adult students who reside with parents or guardians and/or are classified as dependents of parents or guardians for tax purposes must have applicable forms completed by parents or guardians.

### Admission to School

The residence of an adult student who is not residing with a parent or guardian will be considered the residence for school purposes.

### Field Trips/Athletic Programs

Approved forms for participation will be required of all students. The form should indicate that the signature is that of the parent.

### Absence/Lateness/Tuancy

Absence notes will be signed by parents or guardians.. Excessive absences will result in consequences according to policy 3122P and will be reported on the report card.

### Suspension/Expulsion

All suspension and/or expulsion proceedings will conform to the requirements of state statutes. Notification of all such proceedings will be sent to parents or guardians.

### Withdrawal from School

Adult students may withdraw from school under their own cognizance. Counselors will guide and counsel potential dropouts and encourage their continued attendance. Parents will be notified of impending dropouts by the school.

### Permission to Inspect Student Records

A student that attains the age of legal majority is an “eligible student” under FERPA. An eligible student has the right to access and inspect their student records. An eligible student may not

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- 1 prevent their parents from accessing and inspecting their student records if they are a dependent
- 2 of their parents in accordance with Internal Revenue Service regulations.
- 3

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Report Cards

Progress reports will be sent to the parent or legal guardian.

Excuses from School

The school will verify requests from students who wish to leave school early for reasons such as job interviews, college visits, driver testing, etc., with the organization being visited. Permission to leave school early may be denied for what is considered a non-valid reason.

Financial Responsibility

Students of legal age can be held financially responsible for damage to school property.

Policy History:

Adopted on: February 2007

Revised on: January 2016, March 2020

January 2016 revision notes: Replaced paragraph in Permission to Inspect Student Records section.

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Sexual Harassment Grievance Procedure – Students

The Board requires the following grievance process to be followed for the prompt and equitable resolution of student complaints alleging any action that would be prohibited as sexual harassment by Title IX. The Board directs the process to be published in accordance with all statutory and regulatory requirements.

Definitions

The following definitions apply for Title IX policies and procedures:

“Actual knowledge”: notice of sexual harassment or allegations of sexual harassment to the District’s Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the District, or to any employee of an elementary or secondary school.

“Education program or activity”: includes locations, events, or circumstances over which the District exercised substantial control over both the individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, and the context in which the sexual harassment occurs.

“Complainant”: an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent”: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Formal complaint”: a document filed by a Complainant or signed by the title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation of sexual harassment.

“Supportive measures”: non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

District Requirements

When the District has actual knowledge of sexual harassment in an education program or activity of the District, the District will respond promptly in a manner that is not deliberately indifferent. When the harassment or discrimination on the basis of sex does not meet the definition of sexual harassment, the Title IX Coordinator will direct the individual to the applicable sex discrimination process, bullying and harassment policy, or public complaint procedure for investigation.

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The district treats individuals who are alleged to be the victim (Complainant) and perpetrator (Respondent) of conduct that could constitute sexual harassment equitably by offering supportive measures. Supportive measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District'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, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the District's property, campus escort services, changes in work locations, and other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Upon the receipt of a complaint, the Title IX Coordinator must promptly contact the Complainant 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. If the District does not provide the Complainant with supportive measures, then the District must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Timelines

The District has established reasonably prompt time frames for the conclusion of the grievance process, including time frames for filing and resolving appeals and informal resolution processes. The grievance process may be temporarily delayed or extended for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. In the event the grievance process is temporarily delayed for good cause, the District will provide written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

Response to a Formal Complaint

At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the District with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or other means designated by the District.

The District must follow the formal complaint process before the imposition of any disciplinary sanctions or other actions that are not supportive measures. However, nothing in this policy precludes the District from removing a Respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and



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provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. A period of removal may include the opportunity for the student to continue instruction in an offsite capacity. The District may also place a non-student employee Responded on administrative leave during the pendency of the grievance process. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Upon receipt of a formal complaint, the District must provide written notice to the known parties including:

1. Notice of the allegations of sexual harassment, including information about the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, the date and location of the alleged incident, and any sufficient details known at the time. Such notice must be provided with sufficient time to prepare a response before any initial interview;
2. An explanation of the District's investigation procedures, including any informal resolution process;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation;
4. Notice to 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 any evidence; and
5. Notice to the parties of any provision in the District's code of conduct or policy that prohibits knowingly making false statements or knowingly submitting false information.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or Respondent that are not included in the notice initially provided, notice of the additional allegations must be provided to known parties.

The District 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.

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the grievance process, the District must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not the parties;
2. Provide an equal opportunity for the parties to present witnesses and evidence;
3. Not restrict either party's ability to discuss the allegations under investigation or to gather and present relevant evidence;
4. Allow the parties to be accompanied with an advisor of the party's choice who may be, but is not required to be, an attorney. The District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
5. Provide written notice of the date, time, location, participants, and purpose of any interview or meeting at which a party is expected to participate, with sufficient time for the party to prepare to participate;
6. Provide the parties equal access to review all the evidence collected which is directly related to the allegations raised in a formal complaint and comply with the review periods outlined in this process;
7. Objectively evaluate all relevant evidence without relying on sex stereotypes;
8. Ensure that Title IX Coordinators, investigators, decision-makers, and individuals who facilitate an informal resolution process do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
9. Not make credibility determinations based on the individual's status as Complainant, Respondent, or witness;
10. Not use questions or evidence that constitute or seek disclosure of privileged information unless waived.

#### Dismissal of Formal Complaints

If the conduct alleged in the formal complaint would not constitute sexual harassment, even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under this policy.

The Title IX Coordinator also may dismiss the formal complaint or any allegations therein at any time during the investigation or hearing, if applicable, when any of the following apply:

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1. A Complainant provides written notification to the Title IX Coordinator that the Complainant would like to withdraw the formal complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by the District; or
3. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal, the Title IX Coordinator promptly sends written notice of the dismissal and the reasons for dismissal simultaneously to both parties. The grievance process will close in the event a notice of dismissal is provided to the parties. Support measure may continue following dismissal.

Evidence Review

The District provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence provided by the District must include evidence that is directly related to the allegations in the formal complaint, evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or other source. Prior to completion of the investigative report, the Title IX Coordinator must 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. The parties have 10 calendar days to submit a written response to the Title IX Coordinator, which the investigator will consider prior to completion of the investigative report.

Investigative Report

The investigator must prepare an investigative report that fairly summarizes relevant evidence and send the report to the Title IX Coordinator. The Title IX Coordinator must send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. The parties have 10 calendar days to submit a written response to the Title IX Coordinator.

Decision-Maker's Determination

The investigative report is submitted to the decision-maker. The decision-maker cannot be the same person(s) as the Title IX Coordinator or the investigator. The decision-maker cannot hold a hearing or make a determination regarding responsibility until 10 calendar days from the date the Complainant and Respondent receive the investigator's report.

Prior to reaching a determination regarding responsibility, the decision-maker must 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. 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. Questions must be submitted to the Title IX Coordinator within three calendar days from the date the Complainant and Respondent receive the investigator's report.

The decision-maker must issue a written determination regarding responsibility based on a preponderance of the evidence standard. The decision-maker's written determination must:

1. Identify the allegations potentially constituting sexual harassment;
2. Describe the procedural steps taken, including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather evidence, and hearings held;
3. Include the findings of fact supporting the determination;
4. Draw conclusions regarding the application of any District policies and/or code of conduct rules to the facts;
5. Address each allegation and a resolution of the complaint including a determination regarding responsibility, the rationale therefor, any recommended disciplinary sanction(s) imposed on the Respondent, and whether remedies designed to restore or preserve access to the educational program or activity will be provided by the District to the Complainant; and
6. The procedures and permissible bases for the Complainant and/or Respondent to appeal the determination.

A copy of the written determination must be provided to both parties simultaneously, and generally will be provided within 60 calendar days from the District's receipt of a formal complaint.

The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Where a determination of responsibility for sexual harassment has been made against the Respondent, the District will provide remedies to the Complainant that are designed to restore or preserve equal access to the District's education program or activity. Such remedies may include

supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of any remedies. Following any determination of responsibility, the District may implement disciplinary sanctions in accordance with State or Federal law and/or the negotiated agreement. For students, the sanctions may include disciplinary action, up to and including permanent exclusion.

### Appeals

Either the Complainant or Respondent may appeal the decision-maker's determination regarding responsibility or a dismissal of a formal complaint on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time that could affect the outcome; and
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent that affected the outcome.

The District also may offer an appeal equally to both parties on additional bases.

The request to appeal must be made in writing to the Title IX Coordinator within seven calendar days after the date of the written determination. The appeal decision-maker must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and cannot be the Title IX Coordinator, the investigator, or the decision-maker from the original determination.

The appeal decision-maker must notify the other party in writing when an appeal is filed and give both parties a reasonable equal opportunity to submit a written statement in support of, or challenging, the outcome. After reviewing the evidence, the appeal decision-maker must issue a written decision describing the result of the appeal and the rationale for the result. The decision must be provided to both parties simultaneously, and generally will be provided within 10 calendar days from the date the appeal is filed.

### Informal Resolution Process

Except when concerning allegations that an employee sexually harassed a student, at any time during the formal complaint process and prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility, provided that the District:

1. Provides 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 provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and
- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process.

The informal resolution process generally will be completed within 30 calendar days, unless the parties and the Title IX Coordinator mutually agree to temporarily delay or extend the process. The formal grievance process timelines are stayed during the parties' participation in the informal resolution process. If the parties do not reach resolution through the informal resolution process, the parties will resume the formal complaint grievance process, including timelines for resolution, at the point they left off.

#### Recordkeeping

The District must maintain for a period of seven years records of:

1. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the District's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District must make these training materials publicly available on its website.

The District must create, and maintain for a period of seven 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 District must document the basis for its conclusion that its

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response was not deliberately indifferent, and document that it has taken measure designed to restore or preserve equal access to the District's education program or activity.

Cross Reference:	Policy 3210	Equal Education, Nondiscrimination, and Sex Equity
	Policy 3225	Sexual Harassment
	Policy 3310	Student Discipline

Legal Reference:	Art. X, Sec. 1, Montana Constitution – Educational goals and duties	
	Section 49-3-101, et seq., MCA, Montana Human Rights Act	
	Civil Rights Act, Title VI; 42 USC 2000d et seq.	
	Civil Rights Act, Title VII; 42 USC 2000e et seq.	
	Education Amendment of 1972, Title IX; 20 USC 1681 et seq.	
	Section 20-5-201, MCA Duties and Sanctions	
	Section 20-5-202, MCA, Suspension and Expulsion	
	34 CFR Part 106	Nondiscrimination on the basis of sex in education programs or activities receiving Federal financial assistance
	10.55.701(1)(f), ARM	Board of Trustees
	10.55.719, ARM	Student Protection Procedures
	10.55.801(1)(a), ARM	School Climate

Policy History:

Adopted on: November 2020

Revised on:

*Revision Note:*

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Student Discipline

The Board grants authority to a teacher or principal to hold a student to strict accountability for disorderly conduct in a school building, on property owned or leased by a school district, on a school bus, on the way to or from school, or during intermission or recess.

Disciplinary action may be taken against any student guilty of gross disobedience or misconduct, including but not limited to instances set forth below:

- Using, possessing, distributing, purchasing, or selling tobacco products including alternative nicotine and vapor products as defined in 16-11-302, MCA.
- Using, possessing, distributing, purchasing, or selling alcoholic beverages. Students who may be under the influence of alcohol will not be permitted to attend school functions and will be treated as though they had alcohol in their possession.
- Using, possessing, distributing, purchasing, or selling drug paraphernalia, illegal drugs, marijuana, controlled substances, or any substance which is represented to be or looks like a narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, stimulant, depressant, or intoxicant of any kind, including such substances that contain chemicals which produce the same effect of illegal substances including but not limited to Spice and K2. Students who may be under the influence of such substances will not be permitted to attend school functions and will be treated as though they had drugs in their possession.
- Using, possessing, controlling, or transferring a weapon in violation of the “Possession of a Weapon in a School Building” section of this policy.
- Using, possessing, controlling, or transferring any object that reasonably could be considered or used as a weapon.
- Disobeying directives from staff members or school officials or disobeying rules and regulations governing student conduct.
- Using violence, force, noise, coercion, threats, intimidation, fear, or other comparable conduct toward anyone or urging other students to engage in such conduct.
- Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person’s property.
- Engaging in any activity that constitutes an interference with school purposes or an educational function or any other disruptive activity.
- Unexcused absenteeism. Truancy statutes and Board policy will be utilized for chronic and habitual truants.
- Intimidation, harassment, sexual harassment, sexual misconduct, hazing, bullying, or retaliation against any person who alleged misconduct under Policy 3225 or 3226 or participated in an investigation into alleged misconduct under Policy 3225 or 3226.
- Defaces or damages any school building, school grounds, furniture, equipment, or book belonging to the district.
- Forging any signature or making any false entry or attempting to authorize any document used or intended to be used in connection with the operation of a school.



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- Engaging in academic misconduct which may include but is not limited to: cheating; unauthorized sharing of exam responses or graded assignment work; plagiarism; accessing websites or electronic resources without authorization to complete assigned coursework; and any other act designed to give unfair academic advantage to the student

These grounds stated above for disciplinary action apply whenever a student's conduct is reasonably related to school or school activities, including but not limited to the circumstances set forth below:

- On, or within sight of, school grounds before, during, or after school hours or at any other time when school is being used by a school group.
- Off school grounds at a school-sponsored activity or event or any activity or event that bears a reasonable relationship to school.
- Travel to and from school or a school activity, function, or event.
- Anywhere conduct may reasonably be considered to be a threat or an attempted intimidation of a staff member or an interference with school purposes or an educational function.

Disciplinary Measures

Disciplinary measures include but are not limited to:

- Expulsion
- Suspension from class
- In-School Suspension
- Clean-up duty
- Loss of student privileges
- Loss of bus privileges
- Notification to juvenile authorities and/or police
- Restitution for damages to school property

No District employee or person engaged by the District may inflict or cause to be inflicted corporal punishment on a student. Corporal punishment does not include reasonable force. District personnel are permitted to use as needed to maintain safety for other students, school personnel, or other persons or for the purpose of self-defense.

Non-Disciplinary Measures

The Superintendent or designee is authorized to assign a student to non-disciplinary offsite instruction pending the results of an investigation or for reasons related to the safety or well-

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being of students and staff. During the period of non-disciplinary offsite instruction, the student will be permitted to complete all assigned schoolwork for full credit. The assignment of non-disciplinary offsite instruction does not preclude the Superintendent or designee from disciplining a student who has, after investigation, been found to have violated a School District policy, rule, or handbook provision.

Gun-Free Schools

The Board will expel any student who uses, possesses, controls, or transfers a firearm or any object that can reasonably be considered or looks like a firearm at any setting that is under the control and supervision of the District, for a definite period of time of at least one (1) calendar year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. The Board may modify an expulsion period on a case-by-case basis. Any modification from the one-(1)-year mandatory expulsion must be in writing. A building administrator will notify the criminal justice or juvenile delinquency system of any student who brings a firearm to school.

When a student violating this gun-free policy is identified as disabled, either under the IDEA or Section 504 of the Rehabilitation Act of 1973, a building administrator must determine whether a student's conduct is related to disability. If a violation of policy is owing to a disability recognized by the IDEA or Section 504, lawful procedures for changes in placement must be followed.

The Board will grant a hearing for any student subject to an expulsion in accordance with § 20-5-202, MCA, and Policy 3300.

Possession of a Weapon in a School Building

The District will refer to law enforcement for immediate prosecution any person who possesses, carries, or stores a weapon in a school building, except as provided below, and the District may take disciplinary action as well in the case of a student. In addition, the District will refer for possible prosecution a parent or guardian of any minor violating this policy on grounds of allowing a minor to possess, carry, or store a weapon in a school building.

For the purposes of this section only, "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities; "weapon" means any object, device, or instrument designed as a weapon or through its use is capable of threatening or producing bodily harm or which may be used to inflict self-injury, including but not limited to any firearm, whether loaded or unloaded; air guns; pellet guns; BB guns; fake (facsimile) weapons; all knives; blades; clubs; metal knuckles; numchucks; throwing stars; explosives; fireworks; mace or other propellants; stun guns; ammunition; poisons; chains; arrows; and objects that have been modified to serve as a weapon.

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No person shall possess, use, or distribute any object, device, or instrument having the appearance of a weapon, and such objects, devices, or instruments shall be treated as weapons, including but not limited to weapons listed above which are broken or non-functional, look-alike guns; toy guns; and any object that is a facsimile of a real weapon.

No person shall use articles designed for other purposes (i.e., lasers or laser pointers, belts, combs, pencils, files, scissors, etc.) to inflict bodily harm and/or intimidate, and such use will be treated as the possession and use of a weapon.

The Board may grant persons and entities advance permission to possess, carry, or store a weapon in a school building. All persons who wish to possess, carry, or store a weapon in a school building must request permission of the Board at a regular meeting. The Board has sole discretion in deciding whether to allow a person to possess, carry, or store a weapon in a school building.

This policy does not apply to on-duty law enforcement personnel.

Delegation of Authority

The Board grants authority to any teacher and to any other school personnel to impose on students under their charge any disciplinary measure, other than suspension or expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with policies and rules on student discipline. The Board authorizes teachers to remove students from classrooms for disruptive behavior.

Cross Reference:	3300	Corrective Actions and Punishment
	3225	Sexual Harassment of Students
	3226	Bullying, Harassment
	5015	Bullying, Harassment

## Legal Reference:

§ 20-4-302, MCA	Discipline and punishment of pupils – definition of corporal punishment – penalty - defense
§ 16-11-302(1)(7), MCA	Definitions
§ 20-5-202, MCA	Suspension and expulsion
§ 45-8-361, MCA	Possession or allowing possession of weapon in school building – exceptions – penalties – seizure and forfeiture or return authorized – definitions
§ 45-5-637, MCA	Possession or consumption of tobacco products, alternative nicotine products, or vapor products by persons under 18 years of age is prohibited – unlawful attempt to purchase - penalties

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20 U.S.C. § 8921, et seq.

Gun Free Schools Act of 1994

29 U.S.C. § 701

Rehabilitation Act of 1973

Initiative 190“Montana Marijuana Regulation and Taxation Act”,January 1, 2021Policy History:

Adopted on: February 2007

Revised on: January 20, 2009, February 15, 2011, January 2016, November 2020

*Revision Note: January 2016 Clarifies e-Cigarette as alternative nicotine product and references**MCA, Legal References updated.*

## COMMUNITY RELATIONS

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Visitor and Spectator Conduct

Any person, including an adult, who behaves in an unsportsmanlike or inappropriate manner during a visit to the school or a school event may be ejected from the event and/or denied permission to access school buildings or property or school events as determined by the Board of Trustees. Examples of unsportsmanlike or inappropriate conduct include but are not limited to:

- Using vulgar or obscene language or gestures;
- Possessing or being under the influence of any alcoholic beverage ~~or illegal substance~~;
- Possessing or consuming any illegal substance or marijuana;
- Possessing a weapon in a school building;
- Fighting or otherwise striking or threatening another person;
- Failing to obey instructions of a security officer or District employee; and
- Engaging in any illegal or disruptive activity.
- Other violations of District Policy

The Superintendent is authorized to temporarily restrict access to school buildings or property and recommend to the Board of Trustees denial of future admission to any person by delivering or mailing a notice by certified mail with return receipt requested, containing:

1. Date, time, and place of a Board hearing;
2. Description of the unsportsmanlike conduct; and
3. Proposed time period admission to school events will be denied.

Legal Reference:	§ 20-1-206, MCA	Disturbance of school – penalty
	§ 20-4-303, MCA	Abuse of teachers
	§ 45-8-101, MCA	Disorderly conduct
	§ 45-8-351, MCA	Restriction on Local Government Regulation of Firearms
	Article X, section 8	Montana Constitution
	<u>Initiative 190</u>	<u>“Montana Marijuana Regulation and Taxation Act”,</u>
		<u>January 1, 2021</u>

Policy History

Adopted on: February 2007

Revised on: March 2020

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Conduct on School Property

In addition to prohibitions stated in other District policies, no person on school property shall:

1. Injure or threaten to injure another person;
2. Damage another's property or that of the District;
3. Violate any provision of the criminal law of the state of Montana or town or county ordinance;
4. Smoke or otherwise use tobacco or nicotine products, including alternative nicotine and vapor products as defined in 16-11-302, MCA, or other similar products;
5. Consume, possess, or distribute alcoholic beverages, illegal drugs, or ~~possess weapons~~  
~~(as defined in Policy 3311) at any time; marijuana;~~
6. Possess weapons (as defined in Policy 3310/3311) in a school building at any time;
76. Impede, delay, or otherwise interfere with the orderly conduct of the District's educational program or any other activity occurring on school property;
87. Enter upon any portion of school premises at any time for purposes other than those which are lawful and authorized by the Board; or
98. Willfully violate other District rules and regulations.

"School property" means within school buildings, in vehicles used for school purposes, or on owned or leased school grounds. District administrators will take appropriate action as circumstances warrant.

Cross Reference: Policy 3311 Firearms and Weapons

Legal Reference: Pro-Children Act of 1994, 20 U.S.C. § 6081  
Smoke Free School Act of 1994  
16-11-302, MCA Definitions  
§ 20-1-220, MCA Use of tobacco product in public school building or property prohibited  
§ 20-5-410, MCA Civil penalty  
§ 45-8-351, MCA Restriction on Local Government Regulation of Firearms  
Article X, section 8 Montana Constitution  
Initiative 190 "Montana Marijuana Regulation and Taxation Act",  
January 1, 2021

COMMUNITY RELATIONS

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- 1
- 2 Policy History:
- 3 Adopted on: February 2007
- 4 Revised on: January 2016, March 2020
- 5 *Note: Revision included the insertion of the word “nicotine” in #4 and the change of policy in*
- 6 *the Cross Reference.*
- 7 *January 2016 Revision adds definitions as per 16-11-302 MCA and reference to vapor cigarettes*

Committee

Sexual Harassment Grievance Procedure – Employees

The Board requires the following grievance process to be followed for the prompt and equitable resolution of employee complaints alleging any action that would be prohibited as sexual harassment by Title IX. The Board directs the process to be published in accordance with all statutory and regulatory requirements.

Definitions

The following definitions apply for Title IX policies and procedures:

“Actual knowledge”: notice of sexual harassment or allegations of sexual harassment to the District’s Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the District or to any employee of an elementary or secondary school.

“Education program or activity”: includes locations, events, or circumstances over which the District exercised substantial control over both the individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment and the context in which the sexual harassment occurs.

“Complainant”: an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent”: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Formal complaint”: a document filed by a Complainant or signed by the title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation of sexual harassment.

“Supportive measures”: non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

District Requirements

When the District has actual knowledge of sexual harassment in an education program or activity of the District, the District will respond promptly in a manner that is not deliberately indifferent. When the harassment or discrimination on the basis of sex does not meet the definition of sexual harassment, the Title IX Coordinator will direct the individual to the applicable sex discrimination process, bullying and harassment policy, or public complaint procedure for investigation.



The District treats individuals who are alleged to be the victim (Complainant) and perpetrator (Respondent) of conduct that could constitute sexual harassment equitably by offering supportive measures. Supportive measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District'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, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the District's property, campus escort services, changes in work locations, and other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Upon the receipt of a complaint, the Title IX Coordinator must promptly contact the Complainant 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. If the District does not provide the Complainant with supportive measures, then the District must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

#### Timelines

The district has established reasonably prompt time frames for the conclusion of the grievance process, including time frames for filing and resolving appeals and informal resolution processes. The grievance process may be temporarily delayed or extended for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. In the event the grievance process is temporarily delayed for good cause, the District will provide written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

#### Response to a Formal Complaint

At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the District with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or other means designated by the District.

The District must follow the formal complain process before the imposition of any disciplinary sanctions or other actions that are not supportive measures. However, nothing in this policy precludes the District from placing a non-student employee Respondent on administrative leave during the pendency of the grievance process. The District may also remove a student Respondent alleged to have harassed an employee Complainant from the education setting. The

student may receive instruction in an offsite capacity during the period of removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Upon receipt of a formal complaint, the District must provide written notice to the known parties including:

1. Notice of the allegations of sexual harassment, including information about the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, the date and location of the alleged incident, and any sufficient details known at the time. Such notice must be provided with sufficient time to prepare a response before any initial interview;
2. An explanation of the District's investigation procedures, including any informal resolution process;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation;
4. Notice to 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 any evident; and
5. Notice to the parties of any provision in the District's code of conduct or policy that prohibits knowingly making false statements or knowingly submitting false information.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice initially provided, notice of the additional allegations must be provided to known parties.

The District 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.

#### Investigation of a Formal Complaint

When investigating a formal complaint and throughout the grievance process, the District must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not the parties;

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2. Provide an equal opportunity for the parties to present witnesses and evidence;
3. Not restrict either party's ability to discuss the allegations under investigation or to gather and present relevant evidence;
4. Allow the parties to be accompanied with an advisor of the party's choice who may be, but is not required to be, an attorney. The District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
5. Provide written notice of the date, time, location, participants, and purpose of any interview or meeting at which a party is expected to participate with sufficient time for the party to prepare to participate;
6. Provide the parties equal access to review all the evidence collected which is directly related to the allegations raised in a formal complaint and comply with the review periods outlined in this process;
7. Objectively evaluate all relevant evidence without relying on sex stereotypes;
8. Ensure that Title IX Coordinators, investigators, decision-makers, and individuals who facilitate an informal resolution process do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
9. Not make creditability determinations based on the individual's status as Complainant, Respondent, or witness; and
10. Not use questions or evidence that constitute or seek disclosure of privileged information unless waived.

Dismissal of Formal Complaints

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under this policy.

The Title IX Coordinator also may dismiss the formal complaint or any allegations therein at any time during the investigation or hearing, if applicable, when any of the following apply:

1. a Complainant provides written notification to the Title IX Coordinator that the Complainant would like to withdraw the formal complaint or any allegations therein;

2. the Respondent is no longer enrolled or employed by the District; or
3. specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal, the Title IX Coordinator promptly sends written notice of the dismissal and the reasons for dismissal simultaneously to both parties. The grievance process will close in the event a notice of dismissal is provided to the parties. Support measures may continue following dismissal.

#### Evidence Review

The District provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence provided by the District must include evidence that is directly related to the allegations in the formal complaint, evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or other source. Prior to completion of the investigative report, the Title IX Coordinator must 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. The parties have 10 calendar days to submit a written response to the Title IX Coordinator, which the investigator will consider prior to completion of the investigative report.

#### Investigative Report

The investigator must prepare an investigative report that fairly summarizes relevant evidence and send the report to the Title IX Coordinator. The Title IX Coordinator must send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy for their review and written response. The parties have 10 calendar days to submit a written response to the Title IX Coordinator.

#### Decision-Maker's Determination

The investigative report is submitted to the decision-maker. The decision-maker cannot be the same person(s) as the Title IX Coordinator or the investigator. The decision-maker cannot hold a hearing or make a determination regarding responsibility until 10 calendar days from the date the Complainant and Respondent receive the investigator's report.

Prior to reaching a determination regarding responsibility, the decision-maker must 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. 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

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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. Questions must be submitted to the Title IX Coordinator within three calendar days from the date the Complainant and Respondent receive the investigator's report.

The decision-maker must issue a written determination regarding responsibility based on a preponderance of the evidence standard. The decision-maker's written determination must:

1. Identify the allegations potentially constituting sexual harassment;
2. Describe the procedural steps taken, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearing held;
3. Include the findings of fact supporting the determination;
4. Draw conclusions regarding the application of any District policies and/or code of conduct rules to the facts;
5. Address each allegation and a resolution of the complaint including a determination regarding responsibility, the rationale therefor, any recommended disciplinary sanction(s) imposed on the Respondent, and whether remedies designed to restore or preserve access to the educational program or activity will be provided by the District to the Complainant; and
6. The procedures and permissible bases for the Complainant and/or Respondent to appeal the determination.

A copy of the written determination must be provided to both parties simultaneously, and generally will be provided within 60 calendar days from the District's receipt of a formal complaint.

The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Whether a determination of responsibility for sexual harassment has been made against the Respondent, the District will provide remedies to the Complainant that are designed to restore or preserve equal access to the District's education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of any remedies. Following any determination of responsibility, the District may implement disciplinary sanctions in accordance with State or Federal law and/or the negotiated

agreement. For employees, the sanctions may include any form of responsive discipline, up to and including termination.

#### Appeals

Either the Complainant or Respondent may appeal the decision-maker's determination regarding responsibility or a dismissal of a formal complaint on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time that could affect the outcome; and
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent that affected the outcome.

#### The District also may offer an appeal equally to both parties on additional bases.

The request to appeal must be made in writing to the Title IX Coordinator within seven calendar days after the date of the written determination. The appeal decision-maker must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and cannot be the Title IX Coordinator, the investigator, or the decision-maker from the original determination.

The appeal decision-maker must notify the other party in writing when an appeal is filed and give both parties a reasonable equal opportunity to submit a written statement in support of or challenging the outcome. After reviewing the evidence, the appeal decision-maker must issue a written decision describing the result of the appeal and the rationale for the result. The decision must be provided to both parties simultaneously, and generally will be provided within 10 calendar days from the date the appeal is filed.

#### Informal Resolution Process

Except when concerning allegations that an employee sexually harassed a student, at any time during the formal complaint process and prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility, provided that the District:

1. Provides to the parties a written notice disclosing:
  - a. The allegations;

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- b. The requirements of the informal resolution process including the circumstances under which is precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and
- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process.

The informal resolution process generally will be completed within 30 calendar days, unless the parties and the Title IX Coordinator mutually agree to temporarily delay or extend the process. The formal grievance process timelines are stayed during the parties' participation in the informal resolution process. If the parties do not reach resolution through the informal resolution process, the parties will resume the formal complaint grievance process, including timelines for resolution, at the point they left off.

Recordkeeping

The District must maintain for a period of seven years records of:

1. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the District's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District must make these training materials publicly available on its website.

The district must create and maintain for a period of seven 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 District must 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 District's education program or activity.

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Policy 5012 Sexual Harassment  
Policy 5255 Employee Discipline

Legal Reference: Art. X, Sec. 1, Montana Constitution – Educational goals and duties  
Section 49-3-101, et seq., MCA, Montana Human Rights Act  
Civil Rights Act, Title VI; 42 USC 2000d et seq.  
Civil Rights Act, Title VII; 42 USC 2000e et seq.  
Education Amendments of 1972, Title IX; 20 USC 1681 et seq.  
34 CFR Part 106 Nondiscrimination on the basis of sex in  
education programs or activities receiving  
Federal financial assistance  
10.55.701(1)(f), ARM Board of Trustees  
10.55.719, ARM Student Protection Procedures  
10.55.801(1)(a), ARM School Climate

Policy History:

Adopted on: November 2020

Revised on:

*Revision Note:*



# Jefferson High School District #1

Lorie Carey  
Business Manager/District Clerk

312 S. Main St.  
PO Box 838  
Boulder, MT 59632

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## Determination of Eligibility for Hire – Policy 5120F

\_\_\_\_\_  
Date

RE: \_\_\_\_\_  
Name of Applicant

In regards to the determination of eligibility for hire/licensure; based on the minimum criteria as specified in the Jefferson High School District Applicant Background Check Procedure, the individual listed below:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date of Birth

- ☐ **Meets eligibility criteria**  
☐ **Does NOT meet eligibility criteria**

Please contact Jefferson High School District with any questions regarding this determination or to be provided with a copy of the Jefferson High School District Applicant Background Check Procedure.

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**Determination Completed By:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Privacy Act Statement - Policy 5120F

*This privacy act statement is located on the back of the [FD-258 fingerprint card](#).*

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

As of 03/1/2021



## Dissemination Log – Policy 5120F

For national criminal history fingerprint-based background checks under Policy 5120P

Date	Person Making Dissemination	Name and Date of Birth on Disseminated Information	Receiving Entity As Verified by CHRI Auditor (Name, Phone Number, Person)	Disseminated by Telephone, Fax, Mail?	Date Qualified Entity Status Verified by ID

**Instructions:** A log entry must be made every time you share with another qualified entity any information you obtained from a criminal history records check through the Montana Department of Justice (MDOJ) or the FBI. This includes the sharing of “No Record” information. The Dissemination Log must be retained for four (4) years from the date of the entry, and it must be made available to MDOJ and FBI auditors.

**Reminder:** Criminal history record information received from MDOJ or the FBI under NCPA/VCA and/or Public Law 92-544, shall be used or shared only for the screening of current or prospective Montana employees, volunteers, contractors, and/or vendors of QUALIFIED ENTITIES, pursuant to these laws.

Fingerprint Background Handling Procedure Federal Background Check Fingerprint and Information Handling Procedure

1. Who needs to be fingerprinted: All individuals 18 years of age or older to be volunteers or recommended for hire by Jefferson High School District need to be fingerprinted under the National Child Protection Act and Volunteers for Children's Act (NCPA/VCA).
2. Jefferson High School District will obtain a signed waiver from all applicants and provide written communication of applicant rights (Applicant Rights and Consent to Fingerprint Form 5122F). Applicants shall also be provided the Applicant Privacy Statement (Policy 5120F). The Applicant Rights and Consent to Fingerprint Form will be kept on file for 5 years or for the length of employment, whichever is longer. The form will be filed in the employee's Personnel File.

Authority to Fingerprint Basis to Collect and Submit Fingerprints for Purposes of Federal Background Check (Boards will select one option)

OPTION 1: Ink fingerprints are captured in house by agency personnel that have completed and passed the certification course provided by CRISS. All applicants must provide a current government issued photo identification at the time of fingerprinting for identification verification. Two ink fingerprint cards are captured for each applicant and all data fields are completed and checked for accuracy. Complete fingerprint cards are then mailed to DOJ/CRISS along with payment. The Jefferson High School District will send candidates recommended for hire to an entity of the Department of Justice (DOJ) to obtain fingerprinting.

OR

OPTION 2: Livescan fingerprints are captured in house by agency personnel that have completed and passed the certification course provided by CRISS. All applicants must provide a current government issued photo identification at the time of fingerprinting for identification verification. Fingerprints are then submitted to CRISS via the Livescan.

OR

OPTION 3: Fingerprints are obtained via local law enforcement agencies: Jefferson County Jail on Thursdays and Sundays from 1:00pm to 6:30pm by appointment only. Call 406.225.4091.

A spreadsheet of those fingerprinted is kept by Jefferson High School District to identify the individual, position being hired for, date of fingerprint, date print received, and date print billed.

Jefferson High School District staff that have received training by CRISS will process the fingerprints and send them to the DOJ.

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LASO

(First and last name) has been appointed as the Local Agency Security Officer and acts as the primary point of contact between the School District and CRISS. (Name of LASO) is responsible for ensuring CJIS Policy compliance by all authorized recipients within the School District. LASO is also responsible of any Privacy and Security Agreements with those who do not use CHRI on a regular basis. Any change in appointment of the LASO or authorized personnel will be reported to CRISS immediately.

Access of CHRI

All background results are received by (first and last name) through the State File Transfer Service. Results are printed and stored in a locked filing cabinet in the business office until a determination for employment is made. Only authorized personnel that have undergone Privacy and Security Information have access to printed criminal history record information. Authorized recipients of CHRI include Superintendent Tim Norbeck, Principal Mike Moodry, and the Business Manager Lorie Carey.

Printed background checks are reviewed by the Business Manager Lorie Carey and a determination form is completed. If any adverse results are present on the background check, it is given to the Superintendent and Principal for final determination of eligibility. Jefferson High School utilizes a determination form and the CHRI is then shredded.

Determination Procedures

Personnel staff that have been trained by CRISS and granted access to criminal history record information will receive the background results through their Montana State File Transfer account.

- a. Results are reviewed for determination of eligibility to hire.
- b. Any adverse reports are presented to the appropriate administrator for final approval.
- c. Determination is noted on a determination form and kept in a locked file cabinet.

Retention and Storage Procedure (Note: if the School District seeks to store electronically, you must contact DOJ's IT department.)

All criminal history record information is stored in a locked filing cabinet within the business office. Only authorized personnel, Superintendent, Principal, and the Business Manager as noted in this policy have access to this information. Only authorized personnel are present during the determination process when the criminal record is being reviewed.

Boards will select one option:

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OPTION 1: Printed background checks are stored until a final determination for employment has been made, two weeks or less. A determination form is then completed and CHRI is then destroyed in accordance with the Destruction Procedure outlined in this document.

OR

OPTION 2: Printed CHRI is kept (SPECIFIC TIME FRAME) and then destroyed in accordance with the Destruction Procedure outlined in this document.

Dissemination Logs are maintained for a period of 3 years from the date of dissemination or between audits, and the Applicant Rights and Consent to Fingerprint form is maintained for at least five years or the length of employment, whichever is longer.

~~Printed background is stored in a locked file cabinet in a sealed envelope marked "confidential". This file cabinet is only accessible to staff that have received CRISS training.~~

Dissemination Procedure (Boards will select one option)

OPTION 1: Applicants wishing to obtain a copy of their background report may make a request to the LASO. A current government photo identification must be presented at the time of the request. A copy of the background report is made and marked as a "copy" and provided to the applicant. The dissemination is then logged. Dissemination logs include what was shared, the date it was shared, the method of sharing, and the agency personnel that shared the record. The dissemination log is stored in a locked filing cabinet for at least 3 years or between audits, whichever is longer.

OR

OPTION 2: The Jefferson High School District ~~does will~~ not disseminate ~~any~~ criminal history record/fingerprint information with any other agency. A copy of our determination form can be provided to outside agencies upon request.

Destruction Procedure (Boards will select one option)

OPTION 1: At the end of the retention and storage period outlined in this document, all CHRI and related information is shredded in house by (authorized personnel name).

OR

OPTION 2: At the end of the retention and storage period outlined in this document, all CHRI and related information is shredded on site by a company that comes to our location. Authorized personnel witness the shredding of the CHRI.

- ~~• Criminal history record information will be stored with the personnel file in a sealed envelope marked “confidential” for two (2) years or the length of employment, whichever comes first. Jefferson High School District utilizes shredding for destruction of information no longer needed.~~
- ~~• Dissemination logs are destroyed 3 years from date of entry.~~

Applicant Procedures for Challenging or Correcting Their Record (Boards must select one option)

All applicants are given the opportunity to challenge or complete their record before a final determination is made.

OPTION 1: Applicants wishing to challenge their record are given a copy of the background report.

OR

OPTION 2: Applicants wishing to challenge their record are advised how to obtain a copy of their background report.

The applicant is then given 10 days to contact the state or agency in which the record was created to make corrections. After the allotted time, the applicant must then provide the School District with a copy of the corrected background report provided by and notarized by the State Identification Bureau. The fee associated for a copy of the state record provided by the State Identification Bureau will be the responsibility of the applicant.

Policy and Procedures for Misuse of CHRI

The School District does not allow dissemination of CHRI to persons or agencies that are not directly involved in the hiring and determination process. If CHRI is disseminated outside of the authorized receiving department, (agency LASO) will report this to CRISS immediately and provide CRISS with an incident response form. The incident response form will include the nature of the incident, any internal reprimands that may have resulted from the incident, as well as our agency’s plan to ensure that this incident does not get repeated.

Training Procedure

- Local Agency Security Office (LASO)
  - Signed user agreement between district and CRISS
- Privacy and Security Training
  - CRISS training on CHRI required to receive background reports

Legal Reference:

**PERSONNEL**

5120P  
Page 5 of 5

- 1 Policy History:
- 2 Adopted on: April 2019
- 3 Revised on:
- 4
- 5 *Revision Note:*

Committee



## Applicant Rights and Consent to Fingerprint

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for employment or a license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification<sup>8</sup> by Jefferson High School that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared.
- If you have a criminal history record, the officials making a determination of your suitability for employment, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the employment, license, or other benefit based on information in the criminal history record.<sup>9</sup>

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.<sup>10</sup>

If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks/services/cjis/identity-history-summary-checks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency.

If a change, correction, or update needs to be made to a Montana criminal history record, or if you need additional information or assistance, please contact Montana Criminal Records and Identification Services at [DOJCRISdojitsdpublicrecords@mt.gov](mailto:DOJCRISdojitsdpublicrecords@mt.gov) or 406-444-3625.

*Your signature below acknowledges this agency has informed you of your privacy rights for fingerprint-based background check requests used by the agency.*

Signed:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

<sup>8</sup> Written notification includes electronic notification, but excludes oral notification.

<sup>9</sup> See 28 CFR 50.12(b).

<sup>10</sup> See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

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**NCPA/VCA Applicants**

To \_\_\_\_\_:  
You have applied for employment with, will be working in a volunteer position with, or will be providing vendor or contractor services to (write in Agency or Entity name) \_\_\_\_\_ for the position of (please be specific) \_\_\_\_\_.

The National Child Protection Act of 1993 (NCPA), Public Law (Pub. L.) 103-209, as amended by the Volunteers for Children Act(VCA), Pub. L. 105-251 (Sections 221 and 222 of Crime Identification Technology Act of 1998), codified at 42 United States Code (U.S.C.) Sections 5119a and 5119c, authorizes a state and national criminal history background check to determine the fitness of an employee, or volunteer, or a person with unsupervised access to children, the elderly, or individuals with disabilities.

1. Provide your name, address, and date of birth, as appears on a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. 18 U.S.C. §1028(D)(2).
2. Provide a certification that you (a) have not been convicted of a crime, (b) are not under indictment for a crime, or (c) have been convicted of a crime. If you are under indictment or have been convicted of a crime, you must describe the crime and the particulars of the conviction, if any.
3. Prior to the completion of the background check, the entity may choose to deny you unsupervised access to a person to whom the entity provides care.

The entity shall access and review State and Federal criminal history records and shall make reasonable efforts to make a determination whether you have been convicted of, or are under pending indictment for, a crime that bears upon your fitness and shall convey that determination to the qualified entity. The entity shall make reasonable efforts to respond to the inquiry within 15 business days.

Your Name:

First	Middle	Maiden	Last
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Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

City	State	Zip
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☐ I have been convicted of, or am under pending indictment for, the following crimes [include the dates, location/jurisdiction, circumstances and outcome]:

☐ I have not been convicted of, nor am I under pending indictment for, any crimes

☐ I authorize Montana Department of Justice, Criminal Records and Identification Services Section to disseminate criminal history record information to Jefferson High School.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Legal Reference:

Policy History:

Adopted on: March 2018

**PERSONNEL**

5122F  
Page 3 of 3

- 1 Revised on:
- 2
- 3 *Revision Note:*

Committee

**PERSONNEL**

Personal Conduct

Employees are expected to maintain high standards of honesty, integrity, and impartiality in the conduct of District business.

All employees are expected to maintain high standards of honesty, integrity, professionalism, decorum, and impartiality in the conduct of District business. All employees shall maintain appropriate employee-student relationship boundaries in all respects, including but not limited to personal, speech, print, and digital communications. Failure to honor the appropriate employee student relationship boundary will result in a report to the Department of Public Health and Human Services and the appropriate law enforcement agency.

While on school property, employees shall not injure or threaten to injure another person, damage another's property, or that of the District. While in a school building, employees shall not use, control, possess, or transfer any weapon or any item that could be reasonably considered to be a weapon as defined in Policies 3310 and 3311. "School property" means within school buildings, in vehicles used for school purposes, or on grounds leased or owned by the school district. "School building" means all buildings owned or leased by a local school district that are used for instruction or for student activities.

In accordance with state law, an employee should not dispense or utilize any information gained from employment with the District, accept gifts or benefits, or participate in business enterprises or employment that creates a conflict of interest with the faithful and impartial discharge of the employee's District duties. A District employee, before acting in a manner which might impinge on any fiduciary duty, may disclose the nature of the private interest which would create a conflict. Care should be taken to avoid using or avoid the appearance of using official positions and confidential information for personal advantage or gain.

Further, employees are expected to hold confidential all information deemed not to be for public consumption as determined by state law and Board policy. Employees also will respect the confidentiality of people served in the course of an employee's duties and use information gained in a responsible manner. The Board may discipline, up to and including discharge, any employee who discloses confidential and/or private information learned during the course of the employee's duties or learned as a result of the employee's participation in a closed (executive) session of the Board. Discretion should be used even within the school system's own network of communication.

Administrators and supervisors may set forth specific rules and regulations governing staff conduct on the job within a particular building.

Cross Reference: Policy 5232 – Abused and Neglected Children

Legal Reference: § 20-1-201, MCA School officers not to act as agents  
§ 45-5-501, MCA Definitions  
§ 45-5-502, MCA Sexual Assault

**PERSONNEL**

5223

- 1 Policy History:
- 2 Adopted on: February 2007
- 3 Revised on: March 2020

Committee

Drug-Free Workplace

All District workplaces are drug- and alcohol-free. All employees are prohibited from:

- ~~Unlawfully manufacturing, dispensing, distributing, possessing, using, or being under the influence of a controlled substance while on District premises or while performing work for the District, or including employees possessing a "medical marijuana" card.~~
- Distributing, consuming, using, possessing, or being under the influence of alcohol while on District premises or while performing work for the District.

For purposes of this policy, a controlled substance is ~~one that is:~~

- Not legally obtainable;
- Being used in a manner other than as prescribed;
- Legally obtainable but has not been legally obtained;
- Marijuana or marijuana paraphernalia that is possessed or consumed on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school or in a school bus;
- Marijuana purchased, consumed, transported, possessed, or used by a person under 21 years of age;
- Marijuana smoked in a location where smoking tobacco is prohibited;
- Marijuana consumed in a manner that endangers others; or ~~or~~
- Referenced in federal or state controlled-substance acts.

As a condition of employment, each employee will:

- Abide by the terms of the District policy respecting a drug- and alcohol-free workplace; and
- Notify his or her supervisor of his or her conviction under any criminal drug statute, for a violation occurring on District premises or while performing work for the District, no later than five (5) days after such conviction.

In order to make employees aware of dangers of drug and alcohol abuse, the District will endeavor to:

- Provide each employee with a copy of the District drug- and alcohol-free workplace policy;
- Post notice of the District drug- and alcohol-free workplace policy in a place where other information for employees is posted;
- Enlist the aid of community and state agencies with drug and alcohol informational and rehabilitation programs, to provide information to District employees; and
- Inform employees of available drug and alcohol counseling, rehabilitation, reentry, and any employee-assistance programs.

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District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. Alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse, employee-assistance rehabilitation program.

The Board will take disciplinary action with respect to an employee convicted of a drug offense in the workplace, within thirty (30) days of receiving notice of a conviction.

Should District employees be engaged in the performance of work under a federal contract or grant, or under a state contract or grant, the Superintendent will notify the appropriate state or federal agency from which the District receives contract or grant moneys of an employee's conviction, within ten (10) days after receiving notice of the conviction.

Legal Reference:	41 USC 702, 703, 706	Drug Free Workplace Requirements For Federal Grant Recipients
	§ 50-46-205(2)(b), MCA	Limitations of Medical Marijuana Act
	<u>Initiative 190</u>	<u>"Montana Marijuana Regulation and Taxation Act", January 1, 2021</u>

Policy History:

Adopted on: February 2007

Revised on: April 15, 2008

*Note: Revision includes reference to "medical marijuana card" (line 7-page 1), the legal reference to the Medical marijuana Act, and the elimination of the \$5,000 limitation on notice about convictions.*

**ACKNOWLEDGEMENT OF RECEIPT  
POLICY 5228F**

I, \_\_\_\_\_, an employee serving as a commercially licensed driver for Jefferson High School District, complete this form to document that I have received School District Policies 5228 and 5228P and been given the opportunity to ask questions about the policies to fully understand how the policies govern my employment with the School District.

Employee Signature:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Receipt:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NEW - Committee



**REQUEST FOR RECORDS  
POLICY 5228F2**

I, \_\_\_\_\_, an employee serving as a commercially licensed driver for Jefferson High School District, complete this form to request any records pertaining to my use of drugs or alcohol, including any records pertaining to my drug or alcohol tests in accordance with School District Policies 5228 and 5228P. If I chose to have these records forwarded to a third party, I am noting the contact information in the space provided on this form.

Employee Signature:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Receipt:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- ☐ I authorize the School District to send the requested records to the following individual or entity in accordance with the authorization outlined on this form.

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Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

School bus and commercial vehicle drivers shall be subject to a drug and alcohol testing program that fulfills the requirements of the Code of Federal Regulations, Title 49, Part 382.

Other persons who drive vehicles designed to transport sixteen (16) or more passengers, including the driver, are likewise subject to the drug and alcohol testing program.

Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, §§ 40, et seq.

Pre-Employment Tests

Tests shall be conducted before the first time a driver performs any safety-sensitive function for the District.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work, until he/she is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing, or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the District or paid work for any entity.

The tests shall be required of an applicant only after he/she has been offered the position.

Exceptions may be made for drivers who have had the alcohol test required by law within the previous six (6) months and participated in the drug testing program required by law within the previous thirty (30) days, provided that the District has been able to make all verifications required by law.

Post-Accident Tests

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state or local law, for a moving traffic violation arising from the accident.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention.

No such driver shall use alcohol for eight (8) hours after the accident, or until after he/she

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undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two (2) hours or if a drug test is not administered within thirty-two (32) hours, the District shall prepare and maintain records explaining why the test was not conducted. Tests will not be given if not administered within eight (8) hours after the accident for alcohol or within thirty-two (32) hours for drugs.

Tests conducted by authorized federal, state, or local officials will fulfill post-accident testing requirements, provided they conform to applicable legal requirements and are obtained by the District. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Random Tests

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during, or just after the performance of safety-sensitive functions. The number of random alcohol tests annually must equal twenty-five percent (25%) of the average number of driver positions. The number of random drug tests annually must equal fifty percent (50%) of the average number of driver positions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made.

Reasonable Suspicion Tests

Tests shall be conducted when a supervisor or District official trained in accordance with law has reasonable suspicion that the driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before, or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two (2) hours of a determination of reasonable suspicion, the District shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight (8) hours.

A supervisor or District official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

Enforcement

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Any driver who refuses to submit to a post-accident, random, reasonable suspicion, or follow-up test shall not perform or continue to perform safety-sensitive functions.

Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and including dismissal.

A driver who violates District prohibitions related to drugs and alcohol shall receive from the District the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person, or organization in which he/she has a financial interest, except under circumstances allowed by law.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

Return-to-Duty Tests

A drug or alcohol test shall be conducted when a driver who has violated the District's drug or alcohol prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and District standards.

Follow-Up Tests

A driver who violates the District's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions.

Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records

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pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

Notifications

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the District's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify:

1. The person designated by the District to answer driver questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. Specific information concerning driver conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation, and treatment;
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; ~~and~~
11. Information concerning the effects of drugs and alcohol on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or

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referral to management; and-

12. The requirement that the following personal information collected and maintained under this part shall be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse:

- A. A verified positive, adulterated, or substituted drug test result;
- B. An alcohol confirmation test with a concentration of .04 or higher;
- C. A refusal to submit to any test required by law;
- D. An employer's report of actual knowledge, as defined in law;
- E. On duty alcohol use;
- F. Pre-duty alcohol use;
- G. Alcohol use following an accident;
- H. Controlled substance use;
- I. A substance abuse professional report of the successful completion of the return-to-duty process;
- J. A negative return-to-duty test; and
- A-K. An employer's report of completion of follow-up testing.

Drivers shall also receive information about legal requirements, District policies, and disciplinary consequences related to the use of alcohol and drugs.

Each driver shall sign a statement certifying that he/she has received a copy of the above materials.

Before any driver operates a commercial motor vehicle, the District shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements.

Before drug and alcohol tests are performed, the District shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the compliance date specified in law.

The District shall notify a driver of the results of a pre-employment drug test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of his/her employment application.

The District shall notify a driver of the results of random, reasonable suspicion, and post-accident drug tests if the test results are verified positive. The District shall also tell the driver which controlled substance(s) were verified as positive.

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

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Clearinghouse

The School District will comply with the requirements of the Commercial Driver's License Drug and Alcohol Clearinghouse. The School District and Transportation service providers are called upon to report DOT drug and alcohol testing program violations to the Clearinghouse. Drivers have been notified that any information subject to disclosure will be submitted to the Clearinghouse in accordance with this policy and applicable regulations.

Legal Reference:     49 C.F.R. Part 40     Procedures for Transportation Workplace Drug and Alcohol Testing  
                              49 C.F.R. Part 382     Controlled Substances and Alcohol Use and Testing

Policy History:

Adopted on:   February 2007

Revised on:

*Revision Note:*

~~Abused and Neglected Child Reporting~~ Child Abuse, Neglect, and Sex Trafficking Reporting

A District employee who has reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a ~~child~~student may be ~~is~~ abused, or neglected, or subjected to sex trafficking by anyone regardless of whether the person suspected of causing the abuse, neglect, or trafficking is a parent or other person responsible for the child's welfare, ~~child~~ shall report the matter promptly~~such a case~~ to the Montana Department of Public Health and Human Services and notify the Superintendent or principal that a report has been made~~local law enforcement~~.

–Child abuse or neglect means actual physical or psychological harm to a child, substantial risk of physical or psychological harm to a child, exposure to or involvement with sex trafficking, and abandonment. This definition includes sexual abuse and sexual contact by or with a student. The obligation to report suspected child abuse or neglect also applies to actual or attempted sexual or romantic contact between a student and a staff member.

The District administration is authorized to provide access to educational resources for interested parents, teachers, and students on how to prevent and report child abuse, neglect, and sex trafficking; identify the warning signs of child abuse, neglect, and sex trafficking; recognize predatory behaviors; and coordinate efforts with law enforcement, the Department of Public Health and Human Services, and local organizations on these topics.

A District employee who makes a report of child abuse, ~~or~~ neglect, or sex trafficking is encouraged to notify the building administrator of the report. An employee does not discharge the obligation to personally report by notifying the Superintendent or principal.

Any District employee who fails to report a suspected case of abuse, ~~or~~ neglect, or sex trafficking to law enforcement or the Department of Public Health and Human Services, or who prevents another person from doing so, may be civilly liable for damages proximately caused by such failure or prevention and is guilty of a misdemeanor. The employee will also be subject to disciplinary action up to and including termination.

When a District employee makes a report, the DPHHS may share information with that individual or others as permitted by law. Individuals in the District who receive information related to a report of child abuse, ~~or~~ neglect, or sex trafficking shall maintain the confidentiality of the information.

Cross Reference: Policy 5223 – Personal Conduct  
Policy 3225 – Sexual Harassment of Students

Legal Reference: § 41-3-201, MCA Reports  
§ 41-3-202, MCA Action on reporting  
§ 41-3-203, MCA Immunity from liability  
§ 41-3-205, MCA Confidentiality – disclosure exceptions  
§ 41-3-207, MCA Penalty for failure to report



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1                           § 45-5-501, MCA   Definitions  
2                           § 45-5-502, MCA   Sexual Assault  
3                           § 20-7-1316, MCA   Child Sex Trafficking Prevention  
4

5 Policy History:

6 Adopted on:   February 2007

7 Revised on:   July 2013, March 2020

8  
9 *Note: The revision allows the DPHHS to give information back to the person who reported a*  
10 *possible abuse and neglect case.*

## PERSONNEL

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Family Medical LeaveWho Is Eligible

Employees are eligible if they have worked for the District for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there have been at least fifty (50) District employees within seventy-five (75) miles for each working day during twenty (20) or more workweeks in the current or preceding calendar year.

Benefit

Under certain conditions, eligible employees, if qualified, may be entitled to up to twelve (12) weeks leave with continuing participation in the District's group insurance plan.

Reasons for Taking Leave

Unpaid leave will be granted to eligible employees for any of the following reasons:

- a. To care for the employee's child after birth, or placement for adoption or foster care;
- b. To care for the employee's spouse, child, or parent (does not include parents-in-law) who has a serious health condition;
  - i. "son or daughter" includes a biological or adopted child, foster child, stepchild, a legal ward, or a child of a person standing in loco parentis.
- c. For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave1. Military Caregiver Leave

- a. An eligible employee who is a relative of a service member can take up to 26 weeks in a 12 month period in order to care for a covered service member who is seriously ill or injured in the line of duty.

2. Qualified Exigency Leave (only applies to eligible employees with family members who are in the National Guard or Reserves, not the Regular Armed Forces)

- a. An eligible employee can take up to the normal 12 weeks of leave if a family member who is a member of the National Guard or Reserve is called up to active duty on a contingency mission, is on covered active duty. Covered active duty includes duty of a member of a regular component of the Armed Forces during deployment to a foreign country, and duty of a member of a reserve component of the Armed Forces during deployment to a foreign country under a call or order to active duty in support of specified contingency operations.

Qualifying Exigencies include:

- i. Short-notice deployment
- ii. Military events and related activities

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- iii. Childcare and school activities
- iv. Financial and legal arrangements
- v. Counseling
- vi. Rest and recuperation
- vii. Post-deployment activities; and
- viii. Additional activities agreed to by the employer and the employee

Substitution of Paid Leave

Paid leave will be substituted for unpaid leave under the following circumstances:

- a. Accumulated sick/personal leave will be utilized concurrently with any FMLA leave that is taken for a serious health reason as described in (b) or (c) above.
- b. Accumulated vacation/personal leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in (a) above.
- c. Accumulated sick leave will be utilized concurrently with FMLA leave, whenever the FMLA leave is taken for reasons which qualify for sick leave benefits pursuant to District policy or an applicable collective bargaining agreement.
- d. Whenever appropriate workers' compensation absences shall be designated FMLA leave.
- e. Service member FMLA runs concurrent with other leave entitlements provided under federal, state and local law.

~~Limitations on husband and wife of "Same Employer" When Both Spouses are District Employees~~

~~A husband and wife who are eligible for FMLA leave and are employed by the same covered employer are limited to a combined total of twelve (12) weeks of leave during any twelve (12) month period if the leave is taken: (1) for the birth of the employee's son or daughter or to care for the child after birth; (2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or (3) to care for the employee's parent with a serious health condition. Care for parents-in-law is not covered by the FMLA.~~

~~Examples: (1) If each spouse took six (6) weeks of leave to care for a healthy, newly placed child, each could use an additional six (6) weeks due to his or her own serious health condition or to care for a child with a serious health condition. (2) A husband and wife may each take twelve (12) weeks of FMLA leave if needed to care for an adopted or foster child with a serious health condition provided they have not exhausted their entitlements during the applicable 12-month FMLA period.~~

~~If spouses are employed by the same employer, the aggregate number of weeks of leave that can be taken is twenty-six (26) weeks in a single twelve (12) month period for serviceperson leave or a combination of exigency and serviceperson leave. The aggregate number of weeks of leave that can be taken by a husband and wife who work for the same employer is twelve (12) weeks if for exigency leave only.~~

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placement of a child for adoption or foster care, or to care for the child after placement; or (3) to care for a parent (but not a parent-in-law) with a serious health condition. When spouses work for the same employer and each spouse is eligible to take FMLA leave, the FLMA limits the combined amount of leave they may take for some, but not all, FMLA-qualifying leave reasons.

For purposes of FMLA leave, spouse means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law or same-sex marriage. Spouse also includes a husband or wife in a marriage that was validly entered into outside of the United States, if the marriage could have been entered into in at least one state.

Eligible spouses who work for the same employer are limited to a combined total of 12 workweeks of leave in a 12-month period for the following FMLA-qualifying reasons:

- The birth of a son or daughter and bonding with the newborn child,
- The placement of a son or daughter with the employee for adoption or foster care and bonding with the newly-placed child, and
- The care of a parent with a serious health condition.

Eligible spouses who work for the same employer are also limited to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered servicemember with a serious injury or illness (commonly referred to as “military caregiver leave”) if each spouse is a parent, spouse, son or daughter, or next of kin of the servicemember. When spouses take military caregiver leave as well as other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed above.

The limitation on the amount of leave for spouses working for the same employer does not apply to FMLA leave taken for some qualifying reasons. Eligible spouses who work for the same employer are each entitled to up to 12 workweeks of FMLA leave in a 12-month period, without regard to the amount of leave their spouses use, for the following FMLA-qualifying leave reasons:

- The care of a spouse or son or daughter with a serious health condition;
- A serious health condition that makes the employee unable to perform the essential functions of her or her job; and
- Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member on “covered active duty”.

#### Employee Notice Requirement

The employee must follow the employer’s standard notice and procedural policies for taking FMLA.

#### Employer Notice Requirement (29 C.F.R. §825.300)

Employers are required to provide employees with notice explaining the FMLA through a poster and

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either a handbook or information upon hire. If an employee requests FMLA leave, an employer must provide notice to the employee within five (5) business days of whether the employee meets the FMLA eligibility requirements. If an employee is not eligible to take FMLA, the employer must provide a reason. The employer must also provide a rights and responsibilities notice outlining expectations and obligations relating to FMLA leave. If FMLA leave is approved by the employer, it must provide the employee with a designation notice stating the amount of leave that will be counted against an employee's FMLA entitlement.

Notice ~~For~~ Leave Due ~~To~~ Active Duty ~~Of~~ Family Member

In any case in which the necessity for leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

Requests

A sick leave request form is to be completed whenever an employee is absent from work for more than three (3) days or when an employee has need to be absent from work for continuing treatment by (or under the supervision of) a health care provider.

An employer may require that a request for leave be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.

Medical Certification

The District will require medical certification to support a request for leave or any other absence because of a serious health condition (at employee expense) and may require second or third opinions (at the employer's expense) and a fitness-for-duty report or return-to-work statement.

Intermittent/Reduced Leave

FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with District approval. Where FMLA leave is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. An employee may be reassigned to accommodate intermittent or reduced leave. When an employee takes intermittent leave or leave on a reduced leave schedule, increments will be limited to the shortest period of time that the District's payroll.

Insurance

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An employee out on FMLA leave is entitled to continued participation in the appropriate group health plan, but it is incumbent upon the employee to continue paying the usual premiums throughout the leave period. An employee's eligibility to maintain health insurance coverage will lapse if the premium payment is more than thirty (30) days late. The District will mail notice of delinquency at least fifteen (15) days before coverage will cease.

Return

Upon return from FMLA leave, reasonable effort shall be made to place the employee in the original or equivalent position with equivalent pay, benefits, and other employment terms.

Recordkeeping

Employees, supervisors, and building administrators will forward requests, forms, and other material to payroll to facilitate proper recordkeeping.

Summer Vacation

The period during the summer vacation or other scheduled breaks (i.e., Christmas) an employee would not have been required to work will not count against that employee's FMLA leave entitlement.

***SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES***Leave More Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave more than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

- a. The leave is at least three (3) weeks; and
- b. The employee's return would take place during the last three-(3)-week period of the semester term.

Leave Less Than Five (5) Weeks Before End of Term

If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than five (5) weeks before the end of term, the District may require the employee to continue taking leave until the end of a semester term, if:

- a. The leave is longer than two (2) weeks; and
- b. The employee's return would take place during the last two-(2)-week period of the semester term.

Leave Less Than Three (3) Weeks Before End of Term

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If an instructional employee begins FMLA leave for a purpose other than that employee's own serious health condition less than three (3) weeks before the end of term, the District may require the employee to continue taking leave until the end of the academic term if the leave is longer than five (5) days.

Intermittent or Reduced Leave

Under certain conditions, an instructional employee needing intermittent or reduced leave for more than twenty percent (20%) of the total working days over the leave period may be required by the District to:

- a. Take leave for a period(s) of particular duration not to exceed the duration of treatment, or
- b. Transfer to an alternate but equivalent position.

Procedure History:

Promulgated on: February 2007

Revised on: Unknown

*Revision Note:*

*First revision: Clarified reasons for taking leave (lines 22-30---page 1).*

*Second Revision: Added "Military Family Leave" section, and clarified "employee" and "employer" notice requirements.*

*Third Revision: Clarified "Limitations on husband and wife of same employer".*

**FINANCIAL MANAGEMENTSECTION**

Use of Federal Title I Funds

The School District will ensure that federal Title I funds are used only to supplement and not supplant state and local funds that would, in the absence of federal funds, be spent on Title I programs or services supported by federal funds.

Title I funds will not take the place of funds supporting education services that are to be provided to all students. The School District uses Title I funds only to supplement funds that would, in the absence of Title I funds, be made available from state and local non-federal sources for the education of children participating in Title I programs.

Cross Reference: 2160 – Title I Family Engagement

Legal Reference: Elementary and Secondary Education Act, Section 1118(b)(1)

Policy History:

Adopted on:

Revised on:

*Revision Note:*



**FINANCIAL MANAGEMENT SECTION**

Use of Federal Title I Funds Methodology

In accordance with the Every Student Succeeds Act (ESSA), Jefferson High School District has adopted this procedure to ensure that Title I-A federal funds are supplementing District resources and not supplanting District resources. The procedure documents that the School District's neutrally determined distribution of state and local funds to each school within the boundaries of the School District is in compliance with federal law.

Jefferson High School District is a district with a single school and is exempt from the methodology requirement.

Cross Reference: 7220 – Use of Title I Funds

Legal Reference: Elementary and Secondary Education Act, Section 118(b)(1)

Policy History:

Adopted on:

Revised on:

*Revision Note:*