

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS .....</b>	<b>149</b>
<b>THIS PAGE INTENTIONALLY LEFT BLANK .....</b>	<b>152</b>
<b>PERSONNEL .....</b>	<b>153</b>
Arrest of an employee .....	154
Confidentiality.....	155
Harassment, intimidation, or bullying.....	155
Internal mail system .....	155
Electronic communications.....	156
Nepotism .....	159
Reporting child abuse or neglect.....	159
State ethics law .....	160
Textbook publishing companies.....	161
Athletic tournaments.....	161
Copyright law .....	161
Competitive Grant Applications .....	162
Legal Assistance for Employees .....	163
Cell Phones and Other Electronic Devices .....	163
Drug-Free, Alcohol-Free, and Tobacco-Free Schools.....	163
Drug-free and alcohol-free schools .....	163
Establishment of ongoing drug awareness program .....	164
Protections for employees.....	164
Supervisor training.....	165
Alcohol and controlled substances testing .....	165
Alcohol testing and controlled substances testing of drivers of commercial motor vehicles .....	166
Tobacco-free schools.....	171
Tobacco industry marketing or sponsorship.....	172
Equal Employment Opportunity .....	172
Professional Staff Recruitment and Hiring.....	172
Recruitment.....	173
Hiring .....	173
State Law Enforcement Division (SLED) Background Checks.....	174
Classified Staff Employment.....	176
Hiring of Retirees .....	176
Salaries.....	177
Salary schedules .....	177
Deductions from wages .....	177
Returning teachers.....	177
New teachers – initial certification in S.C.....	177
All teachers – revised class of certificate.....	178
Method of payment of salaries, supplements, extra duties, and reimbursement.....	178
Reporting leave time for midday bus drivers.....	178
Mismatches Between Names and Social Security Numbers.....	178
Nonschool Employment of Professional Staff.....	179
Tutoring for pay .....	179
Nonschool Employment of Classified Staff .....	179
Discipline, Suspension, and Dismissal of Professional Staff .....	179
Reporting terminations and resignations of certified educators .....	180
Performance concerns.....	180
Misconduct concerns.....	180
Classified Staff Separation.....	181
Evaluation of Instructional and Administrative Staff .....	182
Instructional staff .....	182
Administrative staff .....	182
Individual professional development plans .....	182
Classified Staff Evaluations .....	183
Professional Staff Extra Duty and Staff Development .....	183
Extra duty .....	183
Staff development .....	183

<b><i>Gifts, Solicitations, and Distribution of Promotional Materials.....</i></b>	<b>183</b>
Selling items for personal profit.....	183
Soliciting of staff .....	183
Gifts from staff members to staff members .....	184
Gifts to staff members.....	184
Distribution of promotional materials.....	184
<b><i>Complaints and Grievances.....</i></b>	<b>184</b>
Definition of a grievance.....	185
Joint grievances .....	185
Grievance procedures.....	185
<b><i>Sexual Harassment of Employees.....</i></b>	<b>187</b>
Types of behavior which constitute sexual harassment of employees.....	188
Behavior prohibited of administrators/supervisors .....	188
Types of behavior which constitute inappropriate conduct of a sexual nature with students.....	188
Behavior prohibited of all employees .....	189
Preventive action.....	189
Reporting and response procedures .....	189
Additional obligations of employees .....	190
<b><i>Racial Harassment .....</i></b>	<b>191</b>
<b><i>Service Animals.....</i></b>	<b>191</b>
<b><i>Protective Eye Devices.....</i></b>	<b>191</b>
<b><i>Hazardous Substances.....</i></b>	<b>192</b>
<b><i>Staff Health .....</i></b>	<b>192</b>
Physical and mental health.....	192
Communicable diseases.....	192
Bloodborne pathogens .....	193
Communicable diseases – employees .....	193
<b><i>First Aid and Emergency Care.....</i></b>	<b>194</b>
<b><i>Professional and Support Staff Leaves and Absences .....</i></b>	<b>194</b>
Sick leave .....	194
Personal leave .....	197
Bereavement leave .....	197
Annual leave .....	197
Emergency leave .....	198
Legal absence.....	198
Military leave .....	199
Conferences and training workshops .....	200
Post-secondary courses and certification .....	200
Sabbaticals.....	201
Family and Medical Leave Act (FMLA).....	201
Sick Leave Bank .....	208
Deductions from salary.....	212
<b><i>Workday .....</i></b>	<b>213</b>
<b><i>Classified Staff Supplementary Pay and Overtime.....</i></b>	<b>214</b>
Minimum wage.....	214
Workweek.....	214
Hours worked.....	214
Overtime hours .....	215
Volunteers .....	215
Career and Technology Education Students .....	216
Record keeping.....	216
<b><i>Staff Participation in Political Activities .....</i></b>	<b>216</b>
Employee candidacy .....	216
Political activities in schools.....	217
<b><i>Professional Staff Reduction in Force .....</i></b>	<b>218</b>
Procedure.....	218
Notice to individual employee .....	219
Review of individual termination.....	219
Obligation with respect to re-employment.....	219
<b><i>Classified Staff Reduction in Force.....</i></b>	<b>220</b>
Procedure.....	220
Notice to individual employee .....	220
Review of individual termination.....	221

<i>Resignation of Professional Staff</i> .....	221
<i>Resignation of Classified Staff</i> .....	222
<i>Retirement of Professional and Classified Staff</i> .....	222
Reimbursement of unused leave .....	Error! Bookmark not defined.
Teacher and Employee Retention Incentive ("TERI") program participants .....	222
<i>Assignments, Reassignments, and Transfer Requests</i> .....	222
<i>Personnel Files</i> .....	223
<i>Corporal Punishment</i> .....	224
<i>Physical Force</i> .....	224
<i>Information Gathering by Administrators</i> .....	224

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## PERSONNEL

### Responsibilities, Ethics, and Conflict of Interest

Staff members have a responsibility to familiarize themselves with, and abide by, federal and state laws, as well as regulations designed to implement these laws, as these affect their work. Staff members must know, understand, and follow District policies and rules. Ignorance of the provisions of District policies and rules will not be acceptable as a defense in the event of an infraction by a staff member. The District expects all staff members to carry out their assigned responsibilities with conscientious concern and professional behavior. Essential to the success of ongoing school operations are the following specific responsibilities, which the District requires of all personnel:

1. Professional behavior including, but not limited to, adherence to:
  - a. community standards of honesty, integrity, and morality;
  - b. the District's organizational culture that: (1) treats people, including parents, citizens and staff, with respect, dignity and courtesy, (2) values individual differences of opinion, (3) reasonably includes people in decisions that affect them, (4) requires appropriate open and honest communications in written and interpersonal interactions, (5) focuses on common achievement of the Board's governance policies on "Results," and (6) requires an open, responsive, and welcoming environment;
2. Support of, enforcement of, and adherence to federal laws and regulations, state laws and regulations, and District policies, rules, and procedures;
3. Faithfulness and promptness in attendance at work;
4. Care and protection of school property;
5. Attendance at school functions in accordance with the expectations of the District;
6. Concern and attention toward their own and the Board's legal responsibility for the safety and welfare of students, including the need to ensure that students are supervised at all times;
7. Annually viewing the District's required Safe Schools Training Courses;
8. Inspecting, verifying, and assuming responsibility for, the content of documents signed by the employee – documents including, but not limited to, information concerning: taxes, direct deposits, insurance, savings plans, flexible spending accounts, and retirement;
9. Adherence to the District's guidelines set forth in the District's program to prevent workplace injuries caused by, but not limited to, slips, trips, and falls (information is available in the "Workplace Safety Guidelines" manual provided by Health and Safety Services and located in the front office of each work location or online under the "Workplace Safety" quick link on the District's "For Staff" web page); staff members who fail to abide by the guidelines may be subject to disciplinary action.

In addition, the District:

1. Prohibits the use of corporal punishment (see "Corporal Punishment");
2. Prohibits sexual harassment of students or staff members (This includes any action of conduct communicated or performed in person, in writing, or electronically through such means as a telephone, cell phone, computer, personal data assistant, or other telecommunication device, including text messaging, instant messaging and social networking.);
3. Prohibits the illegal transfer of alcohol or illegal substances to students or staff;
4. Prohibits the use, possession, or being under the influence of alcohol or illegal substances while on the job; and
5. Prohibits employees, volunteers, and visitors from carrying or possessing on school property, in a school-related vehicle, or at District-related or school-related functions any weapon including, but not limited to, a pocket or sheath knife (with a blade over two inches long), blackjack, metal pipe or pole, firearm, or any other type of weapon, device, or object, which may be used to inflict bodily injury or death. A firearm is generally defined as a gun or destructive device and will be construed in accordance with Federal and State law (starter pistols which may chamber a live round capable of injuring a person are included in the definition of a firearm). No vehicles parked on District or school property may contain weapons of any type **unless the person is specifically authorized to carry a concealed weapon and such remains inside an attended or locked vehicle**

and is properly secured pursuant to the applicable state and/or federal law. Violators will incur appropriate sanctions and may face penalties under the law.

Classroom instruction and student activities, including instructional materials and displays, must be designed and implemented consistent with District goals, curriculum, and policies. Therefore, in the course of their employment, staff members must not participate in uncontrolled expression inconsistent with District goals, curriculum, and policies.

Certain “inappropriate conduct of a sexual nature” that District employees direct towards students may also be criminal conduct as defined by State law, including S.C. Code Section 16-3-755. However, the District will take appropriate action against any employee who engages in inappropriate conduct of a sexual nature, as defined in District policies, regardless of whether the conduct rises to the level of a crime.

In their association with students, employees are to exhibit an appropriate and professional demeanor through their manner, dress, courteousness, industry, and attitude in order to establish themselves as role models for young people. The District expects the staff to be exemplary models, as well as providing exemplary instruction and modeling the prevailing mores of the community. The use of profanity is in direct conflict with this concept and will not be condoned. Staff members are not to engage in any activity that conflicts or raises a reasonable question of conflict with their responsibilities in the District.

1. No employee of the District will engage in or have a financial interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his/her duties and responsibilities in the District.
2. An employee will not engage in work of any type where information concerning a customer, client, or employer originates from any information available to him/her through District sources.
3. A professional employee will not sell instructional supplies, equipment, or reference books in the District nor will the employee furnish the names of students or parents to anyone selling these materials.
4. Any intellectual property prepared by an employee within the scope of his/her employment is the sole property of the District. An employee violating this policy will be subject to disciplinary action, up to and including a recommendation for termination of his/her employment relationship with the District.

The personal life of an employee, including the employee’s personal use of non-District issued electronic equipment outside of working hours (such as through social networking sites and personal portrayal on the Internet), will be the concern of and warrant the attention of the District if it impairs the employee’s ability to effectively perform his/her job responsibilities or if it violates local, State, or federal law or contractual agreements. Unprofessional conduct may subject the employee to disciplinary actions consistent with State law, federal law, and/or District policy.

Staff members are expected to adhere to reasonable time schedules as established by the District or their supervisors.

*Legal reference.*

*State.*

*S.C. Code § 59-23-420 and 59-23-430 – Concealed weapons, school property exception.*

*Revised: 7-1-04; 12-16-04; 7-26-05; 7-31-05; 7-1-06; 9-7-07; 7-1-09; 7-1-10; 8-8-12; 7-1-14.*

## **Arrest of an employee**

The Board delegates specific authority to the Superintendent to take appropriate employment action with regard to an employee who has been arrested, consistent with State law. An employee must notify his or her supervisor immediately if he or she is arrested.

*Adopted: 7-1-09.*

## Confidentiality

As part of employees' duties and responsibilities, it may be necessary for them to maintain, process, handle, review, and/or be privy to student information, personnel information, and other information which is considered private and confidential. Unless mandated for legal reasons, private and confidential information is not to be discussed with any person other than District personnel with a work-related need to know. Unauthorized discussion, disclosure, and/or dissemination of confidential information could result in disciplinary action up to and including a recommendation for termination of employment.

*Adopted: 7-1-04.*

## Harassment, intimidation, or bullying

Pursuant to the S.C. Safe School Climate Act, "harassment, intimidation, or bullying" means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of (1) harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage or (2) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school. In this context, "school" means in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child. Staff members may not engage in:

- Harassment, intimidation or bullying,
- Reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying, or
- Reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

An employee or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the principal or the designated school contact person of the school that the victim attends or to the Executive Director for Student Affairs. Reports may be anonymous; however, formal disciplinary action must not be taken solely on the basis of an anonymous report. The principal or the Executive Director for Student Affairs who receives the report is responsible for seeing that an investigation is promptly conducted and the incident appropriately resolved consistent with any other District policies or regulations that may apply.

Employees and volunteers who commit acts of harassment, intimidation, or bullying or who engage in reprisal or retaliation shall be subject to disciplinary action, up to and including:

- in the case of staff members, dismissal from employment with the District and
- in the case of volunteers, dismissal from the volunteer program and/or denial of consideration for future employment with the District.

Information concerning harassment, intimidation, or bullying will be publicized through the District's Parent-Student Handbook. In addition, principals shall provide for the discussion of the District's harassment, intimidation, or bullying policy with students.

*Legal reference.*

*State.*

*S.C. Code § 59-63-110 et seq – Safe School Climate Act.*

*S.C. Code § 59-23-420 and 59-23-430 – Concealed weapons, school property exception.*

*Adopted: 1-1-07.*

## Internal mail system

The District's internal mail system ~~may be used only for the distribution of materials~~ is provided for use in conducting District business and as such, all information sent and received through this system may be

monitored and reviewed as necessary without notification of or consent from the end user. ~~Therefore, materials sent through the internal mail system are considered to be District property.~~

See, also: "Distribution of promotional materials."

*Adopted: 7-1-07. Revised: 7-1-14.*

## Electronic communications

Electronic messaging systems are important tools which enhance communication and increase productivity when properly used. The District has established this policy with regard to the acceptable use of District-provided electronic messaging systems including, but not limited to, email and instant messaging. This policy applies to any and all electronic messages composed, sent, or received by any employee or by any person using District-provided electronic messaging resources. The District will not restrict the speech of an employee on matters of public concern on the basis of a disagreement with the opinions the employee is expressing as long as the speech does not violate District policy or applicable law or regulations.

1. The District provides electronic messaging resources to assist in conducting District business, and it is the District's intention that these resources constitute a non-public, limited forum. District office personnel and school-level administrators are authorized to send the same message to multiple addresses throughout the District by way of distribution lists or by other means in order to conduct District business with staff members. However, unless an exception is granted in writing by the principal, other school-level employees are authorized to use such methods only for communicating with staff members at the same location with copies sent, as appropriate, to the District-level staff member(s) with a need to be informed about the content of the message. ~~Communication about professional matters by such school-level employees should be by use of a ListServ or through an electronic forum—a system which will be implemented by the District. If a staff member at a school would like to send the same message to multiple addresses throughout the District by way of distribution lists or other means, he/she should submit his/her request to his/her principal, along with a description of the type(s) of messages that will be sent and the groups of employees to whom the messages will be sent. The principal, after consulting with the Chief Accountability Officer about the intent of this policy, will grant or deny permission for such use. However, few requests are to be granted since the use of the ListServes and the electronic forum will reduce high traffic uses that would take away bandwidth resources from activities necessary to District operations. The decision of the district office administrator shall be final, and the decision may not be the subject of a grievance. The District hosts ListServes for use within its intranet system. Such ListServes may only be established by a ListServ manager in the District's Technology Department if recommended by a principal or an appropriate District-level department head. If disputes arise concerning a particular ListServ or its messages, the Chief Accountability Officer shall resolve the matter. His/her decision shall be final, and his/her decision may not be the subject of a grievance. The District provides an electronic forum that enables employees to share information on matters of professional importance. Policies and conditions of use of the forum are made available to employees. Employees posting their views on the forum may do so only with the understanding that their views do not necessarily represent the views of the District and that they are solely responsible for the views they post, which must conform to District policy. Use of the forum is limited to District employees and members of the Horry County Board of Education. The forum may not be used to make personal attacks on anyone. The Superintendent or his/her designee reserves the right to remove a topic/thread from the forum if it violates District policy or applicable law or regulations. The decision to remove a topic shall be final, and the decision may not be the subject of a grievance.~~
2. The District prohibits discrimination based on race, sex, color, religion, religious or political beliefs, national origin, age, disability, sexual orientation, immigrant status, English-speaking status, marital status, or any other characteristic protected by applicable federal or S.C. law. Use of electronic messaging resources to discriminate based on any or all of the aforementioned characteristics is prohibited.



3. The electronic messaging system is District property. Therefore, all messages composed and/or sent using District-provided electronic messaging resources must comply with all District policies and may be reviewed at any time without consent from or notification of the end user.
4. The District will deny access to electronic messaging resources, including, but not limited to, the ability to download, forward, print, or retrieve any message or contact information stored in the system, regardless of sender or recipient when an employee's employment with the District is terminated or during the period of time that an employee is either suspended from employment or placed on administrative leave.
5. An employee assigned an email address is to use that email address while conducting District business via email. Employees are to safeguard their passwords by not sharing their passwords with anyone and by not hiding or posting their passwords in a place accessible to anyone. However, when absolutely necessary during their absence, employees may give proxy access to an appropriate, responsible District employee and upon return must remove the proxy access and change all passwords, if shared.
6. ~~Accessing external email systems from District-provided equipment is prohibited except for compelling reasons and unless authorized for a limited time by the Technology Department. This includes, but is not limited to, Yahoo! Mail, Mail, MSN Hotmail, AOL, Earthlink, and other email services offered by Internet service providers.~~
7. Employees are prohibited from automatically forwarding electronic messages sent through District-provided systems to external messaging systems.
8. The District has the right to monitor electronic communications to enforce ~~its rule that~~ messages will not be illegal, libelous, profane, obscene, vulgar, harassing, insulting, disruptive, pornographic, defamatory, racially offensive, abusive, sexually oriented, present a danger to the health and safety of others, etc. Therefore, the District reserves the right to intercept, monitor, review and/or disclose any and all messages composed, sent or received from within District facilities or via District owned/provided infrastructure. The interception, monitoring and reviewing of messages may be performed with the assistance of content filtering software or by designated District employees and/or designated external entities. Employees designated to review messages may include, but are not limited to, an employee's supervisor or manager and/or others deemed by the District to need access.
9. The District reserves the right to alter, modify, re-route, or block the delivery of messages as appropriate. This includes but is not limited to:
  - a. Rejecting, quarantining or removing the attachments and/or malicious code from messages that may pose a threat to District resources;
  - b. Discarding attachments, such as music, considered to be of little business value and of significant resource cost;
  - c. Rejecting or quarantining messages with content suspected of violating District policy or law;
  - d. Rejecting or quarantining messages containing offensive language;
  - e. Re-routing messages with content suspected of violating District policy or law to designated company employees for manual review;
  - f. Rejecting or quarantining messages determined to be unsolicited email (spam);
  - g. Appending legal disclaimers to messages.
10. Employees are not permitted to use email and the Internet in a way or at a time that results in the neglect of assigned duties.
11. District-provided electronic messaging resources may not be used for the promotion of any particular political candidate(s), political party, or partisan political endeavor of any kind. Also, the resources may not be used for the purpose of religious proselytizing or for the promotion of any particular religious faith(s) or religious practice(s). The restrictions are not meant to constrain users from expressing professional educational viewpoints that might have related political and religious underpinnings and overtones.

12. ~~The District may permit the use of instant messaging programs on a case by case basis. The policies in this document apply equally to instant messages as well as email. Employees authorized to use instant messaging programs will be advised specifically on which instant message programs are permissible and which ones are not. Employees authorized to use instant messaging programs will be assigned a unique instant messaging identifier, also known as a buddy name, handle, or nickname.~~
13. The unique email addresses and/or instant messaging identifiers assigned to an employee are the property of the District. Employees may use these identifiers only while employed by the District. The right to use these identifiers terminates upon separation from the District.
14. The District uses ~~sophisticated~~ **standardized** anti-virus/~~malware~~ software. Employees are prohibited from disabling ~~anti-virus~~ this software ~~running~~ on District-provided computer equipment.
15. Any employee who discovers a violation of these policies must immediately notify the Executive Director of Technology. Suspected illegal activities will be reported to law enforcement authorities **immediately**.
16. The District employs certain practices and procedures in order to maintain the functionality and efficiency of electronic messaging resources, to achieve District objectives, and/or to meet various regulations. These practices and procedures are subject to change by the District as appropriate or required under the circumstances.
17. The District ~~may~~ **serializes**, **archives**, and **retains** copies of all internal and external email messages for a period consistent with its records retention schedule.
18. While electronic messaging resources allow employees to conduct District business efficiently, use of email and instant messaging systems comes with some inherent risks. All employees should be aware of these risks and take precautions to mitigate them.
  - a. Messages sent electronically can be intercepted inside or outside the District and as such caution and **sound** judgment should be used when ~~disclosing proprietary or confidential information through email or instant messages~~ determining what information should be sent through normal, unencrypted electronic messaging systems. General safety and security guidelines suggest only sending information through unencrypted electronic communications one would be comfortable sending on a postcard via postal mail.
  - b. ~~In some cases, e~~Electronic messages may not be unconditionally and unequivocally deleted **as all internal and external email messages are archived**. The ~~remote~~ possibility of discovery always exists. Use caution and judgment in determining whether a message should be delivered electronically instead of in person **or by phone call**.
  - c. Electronic messages may be subject to disclosure to the public under the S.C. Freedom of Information Act (**FOIA**) and legally discoverable and permissible as evidence in a court of law.
  - d. Electronic messages are frequently inadequate in conveying mood and context. Carefully consider how the recipient might interpret a message before composing or sending it.
  - e. Even though the District uses anti-virus software, some virus-infected messages can enter the District's messaging systems. Viruses, "worms," and other malicious code can spread quickly if appropriate precautions are not taken:
    - (1) Be suspicious of messages sent by people not known by you;
    - (2) Do not open attachments unless they were anticipated by you;
    - (3) Disable features in electronic messaging programs that automatically preview messages before opening them.
  - f. Do not forward a chain **or any other questionable content** messages, ~~a pyramid message, a spoofed identity message, or spam mail~~. **Simply delete them.**
  - g. The District considers unsolicited email or spam a nuisance and potential security threat. Use caution if you remove yourself from future delivery of a message that you determine is spam. "Remove Me" links often are used by unscrupulous mass junk emailers as a means to verify that you **and your email address** exist. Attempting to remove yourself may increase the amount of spam you receive.

- h. Internet message boards are a fertile source from which mass junk emailers harvest email addresses and email domains. **Avoid Be mindful when** using District-provided email addresses **when to posting** to external message boards, **forums and social media sites.**

19. An employee in violation of this policy is subject to disciplinary action up to and including termination of employment.

*Adopted: 7-1-04. Revised: 7-26-05; 2-17-06; 7-1-14.*

## **Nepotism**

The District will not offer a recommendation for the appointment or transfer of any person to a position that would require the person to supervise and/or evaluate a family member or be supervised and/or evaluated by a family member. Family member for purposes of this policy includes the following:

- spouse
- parent
- brother, sister
- child
- aunt, uncle, niece, nephew
- grandparent, grandchild
- person similarly related by marriage
- other relative living in household
- mother-in-law, father-in-law, son-in-law, daughter-in-law
- individual he/she claims as a dependent for income tax purposes.

Those individuals serving in such positions as of April 22, 1996, may retain their positions provided the Superintendent concludes that the continued assignments are in the best interest of the District. The Superintendent may reassign any persons affected by this policy if he/she considers such reassignment to be in the best interest of the District.

The District will not make a recommendation for the appointment of a family member of the Superintendent for a position in the District office, for a position as a principal or assistant principal, or for any other position which is directly supervised and/or directly evaluated by the Superintendent.

The S.C. Code § 59-25-10 provides that no board member's immediate family member (parents, children, brothers, or sisters only) may be employed without the written consent of the board of trustees.

## **Reporting child abuse or neglect**

The schools of this district will cooperate vigorously to expose the problems of child abuse and neglect. Any principal, assistant principal, school teacher, nurse, school attendance officer, social worker or counselor who has received information in his/her professional capacity which gives him/her reason to believe that the physical or mental health or welfare of a child under the age of 18 has been or may be adversely affected by abuse (including physical or mental injury or sexual abuse) or neglect must report such a situation, as provided in S.C. Code Ann. Section 63-7-310.

As mandated reporters, the principal, assistant principal, teacher, nurse, school attendance officer, social worker or counselor must make the report to the county department of social services or a law enforcement agency in the county where the child resides. Other school employees who have reason to believe that a child under the age of 18 has been subjected to, or who may be subjected to abuse or neglect, should also report or cause a report to be made as stated above.

The state of South Carolina provides both civil and criminal immunity to those reporting suspected child abuse or neglect in good faith. Anyone required to report who knowingly fails to do so may be found guilty of a misdemeanor in a court of law.

## **Reporting procedures**

School personnel who suspect child abuse or neglect should make a report in good faith. It is not the responsibility of school personnel to prove that the child has been abused or neglected, or to make a determination of whether the child is in need of protection. Any involvement of school personnel in investigation or treatment should be in conjunction with the local child protection unit of the department of

social services. The department of social services must keep the name of the reporter confidential, except as otherwise required by law.

The teacher or other school employee suspecting the abuse must make an oral report by telephoning, or otherwise, which includes the following information to law enforcement or the department of social services.

- Name, address, and age of student
- Name and address of parent or caretaker
- Nature and extent of injuries or description of neglect
- Any other information that might help to establish the cause of the injuries or condition

The person making the report should notify the principal of the school that he/she made an oral or written report of a case of suspected child abuse or neglect in order to provide for appropriate communication and follow-up by the school administration during any investigation.

School employees who make child abuse or neglect reports must maintain the confidentiality of the information contained in the report. Employees will release this information only to the department of social services or, in the alternative, the county law enforcement agency.

As provided in S.C. Code Ann. Section 63-7-380, a person required to report suspected child abuse or neglect, may take, or cause to be taken, color photographs of the areas of trauma visible on a child who is the subject of the report. In the alternative, the reporter should bring the condition to the attention of the person to whom the report is made.

*Legal references.*

*State.*

*S.C. Code § 63-7-310 – Persons required to report.*

*S.C. Code § 63-7-380 – Photos and x-rays without parental consent.*

*Adopted: 7-1-10.*

## **State ethics law**

Employees are under the jurisdiction of the S.C. Ethics Act, as amended, and are subject to the rules of conduct of the statute. Such rules include the following:

A public employee:

1. May not use his/her position or office for personal financial gain (§ 8-13-700);
2. Must report the receipt of anything of value worth \$25 or more under certain circumstances (§ 8-13-710);
3. May not receive compensation to influence action (§ 8-13-705);
4. May not receive additional money as payment for advice or assistance given in the course of their employment (§ 8-13-720);
5. May not receive anything of value for speaking before a public or private group if the employee is acting in an official capacity (§ 8-13-715);
6. May not use government personnel, equipment, materials, or office buildings in an election campaign (§ 8-13-765);
7. May not use or disclose confidential information gained in the course of employment (§ 8-13-725);
8. May not serve as a member or employee of a governmental regulatory commission that regulates any business with which the employee is associated (§ 8-13-730);
9. May not represent another person before a governmental entity (§ 8-13-740);
10. May not have an economic interest in a contract if the employee is authorized to perform an official function relating to the contract (§ 8-13-775);
11. May not use or disclose confidential information in any way that would affect his/her economic interest (§ 8-13-725);
12. May not cause the employment, appointment, promotion, transfer, or advancement of a family member to a position which the employee supervises or manages (§ 8-13-750);

13. May not participate in an action relating to the discipline of the employee's family member (§ 8-13-750).

However, public facilities may be utilized for political meetings or campaign-related activities if they are rented or made available on similar terms to all candidates or committees.

In cases where an employee is required to take action or make a decision which affects himself/herself or other individuals, the employee will take such steps as the Ethics Commission will prescribe to remove him/herself from the potential conflict of interest (§ 8-13-700).

The Superintendent must file an annual statement of economic interest with the State Ethics Commission (S.C. Code § 8-13-1110).

*Legal reference.*

*State.*

*S.C. Code § 8-13-100 et seq – Ethics, Governmental Accountability, and Campaign Reform.*

*Revised: 7-1-06.*

### **Textbook publishing companies**

A textbook publishing company may furnish free books and other teaching materials for trial use in a classroom as long as the donation is not intended to influence the teacher in discharging his/her official responsibilities, as well as, the materials are aligned with the District curricula and initiatives are approved by the District for trial use. Teachers who have used textbooks and other teaching materials donated by a publisher may present their findings and recommendations to an adoption committee, but they should not serve on an adoption committee while it is considering the donated textbook or competing textbooks.

Teachers are not to accept pay from a textbook publishing company for testing the company's products in their classrooms. Although it is not advisable, a teacher may accept:

1. Educational material of a nominal value directly related to the teacher's official responsibilities;
2. Items of nominal value, not to exceed ten dollars, containing or displaying promotional materials;
3. Printed informational or promotional material, not to exceed ten dollars in monetary value;
4. A personalized plaque or trophy with a value that does not exceed \$150; or
5. Promotional or marketing items offered to the general public on the same terms and conditions without regard to the teacher's status as a public employee.

*Adopted: 7-1-06; 8-8-12.*

### **Athletic tournaments**

Staff members shall not require students to participate in non-school activities, and a decision by a student or his/her parent for the student to not participate in a non-school activity shall not affect the student's grade(s) or cause the student to be ineligible to participate in curricular or extra-curricular programs.

### **Copyright law**

The 1976 Federal Copyright Law, P.L. 94-553, (effective January 1, 1978) makes it illegal to duplicate or scan copyrighted materials without permission except for certain exempt purposes. Unauthorized reproduction and/or use of copyrighted materials is illegal, unethical, and not permitted by the District. Violations of the copyright law may result in criminal or civil suits and/or suspension and/or dismissal from employment in the District.

To protect staff members and the District against legal redress for alleged violation of the copyright laws, the person making the reproduction is responsible for determining that the action is within the law. When an individual is not certain, he/she should contact his/her principal or supervisor in order to ascertain

whether copying or scanning falls under "permitted use." If it does not, permission to reproduce materials must be obtained from copyright holders.

District equipment is not to be used to copy or scan copyrighted materials unless the reproduction is legally permissible.

The following information must be prominently displayed on a sign, at least 8 by 10 inches in size, on or near each District copier or facsimile machine with copy capabilities:

#### NOTICE

The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material under certain conditions. Any person using this equipment to make copies in excess of "fair use" under copyright law is solely responsible for any copyright infringement liability.

*Legal reference.*

*Federal.*

*1976 Federal Copyright Law, P.L. 94-553, effective 1/1/78.*

*Revised: 7-1-04.*

### **Competitive Grant Applications**

~~Except in extraordinary circumstances with written approval by the Superintendent, an application for a competitive grant shall not be submitted if it would require expenditure of District funds during and/or after implementation.~~

~~Before preparing a grant application, an employee must first secure the consent of his/her principal or district office supervisor, whose approval may be given only with the consent of the executive director for elementary, middle, or high schools. As soon as a draft of the grant application is available, it must be submitted to Fiscal Services for review and approval of its budget.~~

~~When the grant application is ready for submission, the employee shall attach a synopsis to the front of the application and have the aforementioned staff members indicate their endorsement of the application by signing and dating the synopsis, which must be presented along with the application to the Superintendent or his/her designee.~~

Competitive grants are considered by the district in order to maximize the resources available to carry out the district's vision. Proposed outcomes and goals of such grant proposals must be aligned with the school/district strategic plan and require the appropriate approvals and assurances. Competitive grants in excess of \$2500 and necessitating a district application shall involve the input and involvement of the appropriate district level offices for issues addressed in the grant. When a grant is designated "one per district" and is available for district application, a screening process will be utilized to determine which school(s) may make application. District office supervisors may distribute grant opportunities in coordination with the district grant facilitator to ensure opportunities are given on a reasonable basis to all schools.

Before preparing a grant application, an employee must first secure the consent of his/her principal. Applications for awards less than \$2500 are per the discretion of the building site principal. A grant award of \$2500 or less from a funding source outside of the school district is to be registered with the district utilizing the online form, "Grant Awards \$2500 or Less" available on the HCS Grant webpage. Grant applications for an award greater than \$2500 may be eligible for grant writing support from the district grant facilitator. All grants requiring assurance signatures from the Superintendent shall be submitted to the district grants facilitator to secure required signatures.

Acceptance of any grant constitutes a contract between the Horry County School District and the funding source. For this reason, applications should be discussed with the various departments that will be impacted before being submitted to the Superintendent for approval. Grants greater than \$2500 require

planning well in advance of deadlines for submission and require that the district grant facilitator be notified in a timely manner to ensure necessary support and approvals. *Please refer to: **HCS Grants Flowchart** available on the HCS Grant webpage.* This process must be followed. The district grants facilitator is available to answer questions and assist at the beginning of the application process.

Except in extraordinary circumstances with written approval by the Superintendent, an application for a competitive grant shall not be submitted if it would require expenditure {matching funds} of District funds during and/or after implementation.

*Revised: 7-1-04; 7-1-14.*

## Legal Assistance for Employees

The District is obligated by law to defend employees in legal actions resulting from acts done or omitted in good faith in the course of their employment. This requirement applies to civil or criminal actions or special proceedings in the courts of S.C. or of the U.S. Any employee needing legal assistance in a legal action arising out of his/her employment must submit a request in writing to the Superintendent. The Superintendent will determine whether legal assistance will be provided to the employee appropriate and consistent with the intent of the law. The Superintendent reserves the right to withdraw legal assistance at any time if he/she receives information indicating that the employee was not acting in good faith in the course of his/her employment.

*Legal reference.*

*State.*

*S.C. Code § 59-17-110 - Duty of school districts to defend actions or proceedings against their employees.*

## Cell Phones and Other Electronic Devices

While driving a vehicle in the course of employment with the District, personnel are not to use cell phones, and/or other electronic devices under any circumstances where such use might create or appear to create a hazard to themselves, other persons, personal property, and/or real property. Such devices are to be used only when safety is not compromised and in accordance with federal and state laws and regulations. Devices with camera and/or video capability are never to be used in any area associated in any way whatsoever with the District, its programs, or activities in which an individual has a reasonable expectation for privacy including, but not limited to, restrooms, locker rooms, and showers.

Employees are not to interfere with the instructional program, a school activity, or a work-related meeting; and employees are not to inappropriately message or record through the use of a cell phone, a device with camera and/or video capability, a paging device, or any other electronic device.

Personally owned devices are to be turned off during the foregoing programs and activities (except athletic competitions). Principals and District-level department heads may make such exceptions to this requirement as are necessary for the efficient administration of the schools and the health and safety of students and staff members. Violations will result in disciplinary action such as, but not limited to, revocation of the right to use such devices at work.

*Revised: 7-1-04; 7-26-05; 7-1-06; 8-8-12.*

## Drug-Free, Alcohol-Free, and Tobacco-Free Schools

### Drug-free and alcohol-free schools

The District is committed to providing a drug-free and alcohol-free learning environment and workplace. Drug and alcohol use at school or in connection with school-sponsored activities on or off school grounds threatens the health and safety of our students and our employees and adversely affects the educational mission of the schools. The District is taking steps to address the problem of substance use that

negatively affects every workplace. The District is concerned with the health and well-being of all employees. Behaviors related to substance use can endanger all employees, not just the substance users.

No employee will unlawfully manufacture, distribute, dispense, possess, be under the influence of, or use any drug or alcohol on or in the workplace, at school or at a school-sponsored activity. Any employee who violates the terms of this policy may be subject to disciplinary action, up to and including termination.

"Workplace" includes any school building; any school premises; any school-owned vehicle, any county-owned vehicle, or any other school-approved vehicle used to transport students to and from school, school activities, or work sites. It also includes off-school property during any school-sponsored or school-approved activity, event, or function such as a field trip or athletic event where students are under the jurisdiction of the District.

"Drug" means any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, benzodiazepine, cocaine, marijuana, methadone, opiate, systemic opiate and narcotic, or any other controlled substance as defined by the policy.

The District holds all employees accountable in terms of substance use but also supports referrals for employees who have substance abuse problems. If an employee has a substance abuse problem and does not come forward and the employee then tests positive for drug or alcohol use, he/she is in violation of the policy, and the District reserves the right to terminate employment for violation of this work rule. Employees whose jobs are subject to special law or regulation may face additional requirements in terms of substance use. Other consequences that apply to all employees who violate this policy are described within this document.

The District recognizes drug dependency as a major health problem. It also recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use services provided by the following, as appropriate: Commission on Alcohol and Drug Abuse, the Employee Intervention Program (Department of Vocational Rehabilitation), and the State group health insurance plan.

### **Establishment of ongoing drug awareness program**

Human Resources will maintain an ongoing drug-free awareness program to inform employees about the following:

1. The dangers of drug abuse in the workplace;
2. The District's policy of maintaining a drug-free workplace;
3. Any available drug counseling, rehabilitation, and employee assistance programs; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace or off the property of the District while conducting District business.

### **Protections for employees**

This program is designed to protect employees from the behaviors of substance abusers. Some of the protections built into the program are:

1. Employee records, like testing results and referrals for treatment, will be kept confidential. Information will be on a need-to-know basis. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.
2. Each situation will be reviewed individually. Employee assistance is available for employees through the services listed above. Any employee with a substance abuse issue is encouraged to self-report to their immediate Supervisor.
3. All administrators and supervisors will be trained in their duties related to testing of employees.
4. All employees will receive awareness education to help identify problems and learn where employees can go for help.



5. Collection of urine specimens and breath testing will be done by an independent testing company, and a certified laboratory will analyze urine drug test specimens. These labs use the highest level of care in ensuring that results are accurate, and the process that is used is 100% accurate in detecting the substances that the District is concerned about are present in the employee in sufficient quantity to lead to behaviors that may hurt the person, students, or other employees. The lab will work closely with the independent testing company to ensure the fairness and accuracy of every test.
6. If an employee requests a retest following a positive test (required use of a split specimen), the employer shall pay for the test only if the result is negative.
7. The testing program consists of an initial screening test. If the initial results are positive, then a second test is used. Cut-off levels for each drug, and for alcohol are established for what will be considered a positive test. These levels show that the employee didn't just have a little of the substance in his/her system, but enough to affect workplace safety or the ability to perform his/her job responsibilities. These cut-off levels come from Federal guidelines and are fair and established for all employees.

### Supervisor training

Supervisors will be trained to recognize substance problems that may endanger the employee or others, as well as, violate this policy. This training is in addition to the employee education session. Supervisors will be trained about testing responsibilities, how to recognize behaviors that may demonstrate an alcohol/drug problem and how to make referrals for help.

### Alcohol and controlled substances testing

Employees who drive buses, District vehicles, or vehicles rented or leased by the District are prohibited from using alcohol or drugs while on duty or just prior to coming on duty. In compliance with the Omnibus Transportation Employee Testing Act of 1991, all employees who are required to hold commercial driver licenses will undergo alcohol and controlled substances testing consistent with DOT Federal regulations. In addition, any employee that drives or operates a vehicle owned by the state or District will be required to undergo a new DOT alcohol and controlled Substances Test which will include a 10-panel drug screening. Such employees shall receive appropriate education related to the requirements of this policy and its accompanying procedures.

Testing will be used to detect problems and as a mechanism of taking appropriate action to correct any perceived situations. In addition to alcohol, the drugs that are being tested for as well as the screening and confirmation thresholds are:

Drug	Screening Threshold	Confirmation Threshold
Amphetamines/Methamphetamine (Speed, uppers)	300 NG/ML	500 NG/ML
Barbiturates	300 NG/ML	300 NG/ML
Benzodiazepines	300 NG/ML	300 NG/ML
Cocaine Metabolite (including crack cocaine)	300 NG/ML	150 NG/ML
LSD	20 NG/ML	20 NG/ML
Marijuana Metabolite	50 NG/ML	15 NG/ML
MDMA/MDA (Ecstasy)	1000 NG/ML	500 NG/ML
Methadone	300 NG/ML	300 NG/ML
Opiates (Codeine, Heroin, Morphine, Hydrocodone, Hydromorphone)	300 NG/ML	300 NG/ML
Oxycodone	100 NG/ML	100 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML
Propoxyphene	300 NG/ML	300 NG/ML

**Alcohol testing and controlled substances testing of drivers of commercial motor vehicles****Definitions**

**Alcohol use.** The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Controlled substances.** Including, but not limited to, marijuana, cocaine, opiates, amphetamines, barbiturates, phencyclidine (PCP), methadone, morphine, MDMA (ecstasy), LSD, and propoxyphene.

**Driver.** Any person who operates a commercial motor vehicle as defined in Section 382.107 of Title 49 of the Code of Federal Regulations.

**Safety sensitive functions.** The on-duty functions of (1) waiting to be dispatched, (2) inspecting, servicing or conditioning vehicles or equipment, (3) driving, (4) duties other than driving performed in vehicles, (5) unloading or supervising vehicles, (6) duties required after an accident, and (7) repairing, obtaining assistance, or supervising disabled vehicles.

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

**Testing company.** The independent private company selected by the District to provide assistance in complying with the Omnibus Transportation Employee Testing Act of 1991.

**Prohibited conduct**

A driver who engages in prohibited conduct cannot perform safety-sensitive functions and will be subject to the provisions of the District's policy on alcohol and controlled substances testing, as well as other consequences prescribed by any other policy, law, or regulation. The following are prohibited:

1. Use or possession of alcohol while on the job;
2. Use of alcohol for four hours prior to performing a safety-sensitive function;
3. An alcohol concentration of .04 or greater while performing a safety-sensitive function;
4. Use of alcohol for eight hours following an accident or prior to taking a post-accident alcohol test, whichever occurs first;
5. Reporting for or remaining on duty after using controlled substances unless it was prescribed by a physician who advised the driver that it would not adversely affect his/her ability to perform safety-sensitive functions and the driver notified the District of its use;
6. Refusing to submit to a test required by the District's policy on alcohol and controlled substances testing.

**Consequences of prohibited conduct**

A driver shall cease performing safety-sensitive functions if the District determines that he or she engaged in prohibited conduct as defined in this policy.

The District shall provide the driver with names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

A driver cannot return to duty after engaging in prohibited conduct until the driver:

1. Is evaluated by a substance abuse professional to determine what assistance, if any, the driver needs to resolve a problem;

2. Takes an alcohol test and shows a concentration of less than .02 if the driver violated an alcohol prohibition; or passes a controlled substances test if the driver violated a controlled substances prohibition; and
3. Is evaluated by a substance abuse professional to determine if he or she has properly followed any prescribed rehabilitation programs.

The driver shall be subject to follow-up testing after returning to duty.

### **Consequences of other conduct**

If the District determines a driver has an alcohol concentration of .02 or greater but less than .04, the driver shall not perform safety-sensitive functions until the start of his or her next regularly scheduled duty period, but not less than 24 hours after the administration of the test.

### **When a test will occur**

Employees will be tested for the presence of drugs in the urine and/or alcohol on the breath under any and/or all of the conditions outlined below.

### **Required tests**

**Pre-employment testing.** Either during the hiring process or prior to initially performing a safety-sensitive function, drivers must pass a controlled substances test.

1. The District may, at its discretion, choose not to administer a pre-employment controlled substances test if (1) the driver participated in a drug testing program that meets the requirements of the rules within the previous 30 days, (2) the driver was tested for controlled substances within the previous six months or participated in a random controlled substances testing program for the previous 12 months, and (3) the District ensures that no known prior employer has records of a controlled substances violation within the previous six months.
2. If the District chooses not to perform pre-employment testing, it shall, with the driver's written permission, contact the testing programs that the driver participated in and obtain (1) names and addresses of the programs, (2) verification that the driver participated in the programs, (3) verification that the programs conformed to the rules, (4) verification that the driver passed the tests and did not refuse to be tested, (5) the last date the driver was tested for controlled substances, and (6) the results of tests taken within the previous six months and any violations.
3. If the District contracts with a private company to provide drivers, more than once a year, the District shall assure itself once every six months that the drivers participate in a controlled substances testing program that meets the rules.

**Post-accident testing.** As soon as practicable following an accident, the District shall test for alcohol and controlled substances who either (1) performed a safety-sensitive function with respect to the vehicle if the accident involved the loss of human life or (2) received a citation under state or local law for a traffic violation arising from the accident.

1. Drivers shall be instructed on post-accident procedures prior to performing safety-sensitive duties.
2. If an alcohol test is not administered within two hours following an accident, the District shall prepare and maintain a record stating the reasons the test was not promptly administered.
3. If an alcohol test is not administered within eight hours following an accident, the District shall cease attempts to administer it and prepare and maintain a record stating the reasons the test was not promptly administered.
4. If a controlled substances test is not administered within 32 hours following an accident, the District shall cease attempts to administer it and prepare and maintain a record stating the reasons the test was not promptly administered.
5. Alcohol or controlled substances tests administered by law enforcement officers or other government officials with the requisite authority will satisfy this rule, so long as the District obtains the results.
6. Drivers who do not remain readily available for testing will be deemed to have refused to submit to testing.

**Random testing.** The District shall randomly select drivers at various times throughout the year for unannounced alcohol and controlled substances testing.

1. The selection of drivers shall be by a scientifically valid method in which each driver has an equal chance of being tested each time selections are made.
2. The number of drivers to be randomly tested shall be determined by the testing company.
3. Drivers selected for random testing shall proceed to the test site immediately.
4. Drivers performing safety-sensitive functions at the time of notification shall cease and proceed to the test site immediately.
5. The District shall randomly test drivers for alcohol only if they are performing, about to perform, or have just ceased performing a safety-sensitive function.

**Reasonable suspicion testing.** The District shall test a driver for alcohol or controlled substances if it has reasonable suspicion that the driver is engaging in prohibited conduct as defined in this policy. Reasonable suspicion testing does not require certainty, but mere “hunches” are not sufficient to justify testing. To prevent this, all administrators and supervisors will be trained to recognize drug and alcohol signs and symptoms. Testing may be for drugs or alcohol, or both. This includes all substitute or temporary employees.

1. Reasonable suspicion observations shall be based on specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or body odor of a driver.
2. A pattern of abnormal conduct or erratic behavior.
3. Arrest or conviction for a drug-related offense, or identification of an employee as a focus of a criminal investigation into illegal drug possession, use or trafficking. The employee is responsible for notification of the District, within five (5) working days, of any drug-related conviction.
4. Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use.
5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.
6. Reasonable suspicion observations shall be made only by a District supervisor or official who has received at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of alcohol misuse and an additional 60 minutes on controlled substances use.
7. The person making the determination that reasonable suspicion exists shall not conduct the test.
8. Controlled substances
  - a. Reasonable suspicion observations leading to a controlled substances test shall be recorded and signed by the person who made the observations within 24 hours of the observations or before the results of the test are released, whichever occurs first.
  - b. If it is determined that reasonable suspicion exists for controlled substances testing, the driver shall not perform safety-sensitive functions until he/she passes a controlled substances test.
9. Alcohol
  - a. If it is determined that reasonable suspicion exists for alcohol testing, the driver shall not perform safety-sensitive functions until (1) a test is administered and results in a concentration of less than .02 or (2) 24 hours have elapsed following the reasonable suspicion determination.
  - b. Alcohol testing is authorized only if the observations are made during, just preceding, or just after the period of the work day that the driver is performing a safety-sensitive function.
  - c. If an alcohol test is not administered within two hours following the observations, the District shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
  - d. If an alcohol test is not administered within eight hours following the observations, the District shall cease attempts to administer the test and prepare and maintain on file a record stating the reasons the test was not promptly administered.

**Post-accident testing.** Post-accident testing will be conducted whenever an accident occurs, regardless of whether there's an injury. The District considers an accident as an unplanned, unexpected, or unintended event that occurs on property, during business, or working hours, or which involves one or more motor vehicles that are used to conduct District business, or is within the scope of employment, and which may result in any of the following:

1. A fatality of anyone involved in the accident;

2. Bodily injury to the employee and/or another person that requires off-site medical attention away from the District's place of employment;
3. Vehicular damage requiring towing of any vehicle involved in incident; or
4. Vehicle accident resulting in non-vehicular damage.

When such an accident results in one (1) or more of the situations above, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

**Drug and/or alcohol testing after an accident.** Urine specimen collection (for drugs) or breath/saliva (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a urine specimen be collected after thirty-two (32) hours from the time of an employment-related accident. Breath or saliva alcohol testing will be performed as quickly as possible, but no later than eight (8) hours after the incident, or it will be documented, but not performed. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee grants the District the right to request medical personnel obtain appropriate specimens (breath, urine, and/or blood) for the purpose of conducting alcohol and/or drug testing. A signed consent to testing form is considered a condition of employment. Administration reserves the right to determine who may have caused or contributed to a work-related accident and may choose not to test after minor accidents if there is no violation of a safety or work rule, minor damage and/or injuries and no reasonable suspicion.

**Return to duty testing.** A driver who violates an alcohol or controlled substances prohibition shall not perform safety-sensitive functions until he or she undergoes an alcohol test and shows a result indicating a concentration of less than .02 or passes a controlled substances test. The driver must also complete the other requirements set forth in this policy prior to returning to duty.

**Follow-up testing.** If a substance abuse professional determines a driver needs assistance in resolving an alcohol or controlled substances problem, the District shall subject the driver to unannounced follow-up tests as directed by the substance abuse professional. A negative return-to-work test is required before the employee will be allowed to return to work. If the employee fails this test, this will lead to termination of employment. Once an employee passes the drug and/or alcohol test and returns to work, administration may choose to do additional unannounced tests for as long as may be deemed necessary. Any employee with a second positive test result will be terminated. Follow-up tests will be unannounced and may occur at any time for a time period that administration considers reasonable. The intent is to deter any subsequent usage that would result in a violation of our policy and result in termination of employment.

1. Follow-up testing shall consist of at least six tests in the first 12 months following return to duty and continue for at least 12 months but no longer than 60 months.
2. Follow-up alcohol testing shall be administered only when the driver is performing, about to perform, or has just ceased performing a safety-sensitive function.

### **Testing procedures**

Alcohol and split sample controlled substances testing shall be conducted by the testing company.

### **Substance to be tested for and methods of testing**

1. The procedure that we are relying on is called systems presence testing. This is how qualified testing professionals identify the presence of one (1) or more of prohibited controlled substances or alcohol that may be present in the employee. There is an initial screening test. If it is negative, then a negative test is declared. If the initial test is positive (comes in at a higher than cut-off level), a second test called a "confirmatory" test is done. This is a different test and is considered 100% accurate by experts and in court. Cut-off levels are standards that have been established for each of the tested drugs after years of research. These levels will be used to interpret all drug screens/tests, whether for a pre-employment examination, reasonable suspicion test, post-accident test, or follow-up test.
2. Breath alcohol testing will be conducted by an independent testing service that uses only certified equipment and personnel. Breath alcohol concentrations exceeding .04 will be considered a verified

positive result in the event of an accident where an employee has "whole blood" alcohol drawn at a medical treatment facility. A result equal to or greater than .04 shall be considered to be a verified positive result. An Evidentiary Breath Test (EBT) will typically be used to confirm any initial positive test results. The District also reserves the right to add or delete substances on the list above, especially if mandated by changes in existing Federal, State, or local regulations or laws.

3. An employee who adulterates, attempts to adulterate, or substitutes a specimen or otherwise manipulates the testing process will be terminated. A refusal to produce/provide a specimen is considered a positive test unless there is a verifiable medical reason that the specimen could not be produced.

### **Specimen Collection Procedure**

Urine specimens and breath testing will be conducted by trained collection personnel who meet the standards for urine collection and breath alcohol testing. Confidentiality is required from our collection sites and labs. Employees are permitted to provide urine specimens in private, but subject to scrutiny by collection personnel so as to avoid any alteration or substitution of the specimen. Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases, there will only be one (1) individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancelation of an offer of employment. An observed voiding will only occur if there is grounds or suspecting manipulation of the testing process.

### **Positive test results**

Employees who are found to have a confirmed positive drug or alcohol test will be immediately removed from safety-sensitive duties and are subject to discipline up to and including termination. If the employee is not terminated, they will sign a Last Chance Agreement indicating a treatment plan and random alcohol and drug testing for a specified period of time.

### **Employee's rights when there's a positive test result**

An employee who tests positive under this policy will be given an opportunity to explain the findings to the independent testing laboratory prior to the issuance of a positive test result to the District. Upon receipt of a confirmed positive finding, the independent testing company can request recent medical history and any medications taken within the last thirty (30) days by the employee. The employee may be asked to provide documentary evidence to support the employee's position (treating physician, prescription bottles with original label, etc.)

### **Reporting of results**

All test results will be reported to the independent testing company prior to the tests being released to the District. The independent testing company will receive a detailed report of the findings of the analysis from the testing laboratory. Each substance tested for will be listed along with the results of the testing. The District will receive a summary report, and this report will indicate that the employee passed or failed the test. All of these procedures are intended to be consistent with the most current guidelines published by the Federal Department of Health and Human Services. HIPPA requirements shall remain in full force and effect.

The District shall prepare and maintain a calendar year summary containing information on positive controlled substances test results, alcohol test results indicating concentrations of .02 or greater, and other violations of prohibitions if requested to do so by the Secretary of Transportation, any Department of Transportation agency, or any State or local officials with the requisite regulatory authority.

If a calendar year summary is not requested, the District reserves the right to prepare and maintain one for its own use if it chooses to do so.

**Handling of test results and records**

The District shall not release a driver's test results or records to third persons or subsequent employers without the driver's written permission unless required to do so by regulation or law.

The District shall maintain a written, confidential record of each past employer contacted with regard to a driver's test results or records.

Notwithstanding the above, test results and records shall be given to Federal, State, or local officials with regulatory authority upon request.

**Retention of test results and records**

The independent private company in possession of the contract shall maintain all records and documents related to the District's policy on alcohol and controlled substances testing.

All records of drug/alcohol testing will be stored separately and apart from the employee's general personnel documents. These records should be maintained under lock and key at all times. Access is limited to designated District officials. The information contained in these files shall be utilized only to properly administer this policy and to provide to certifying agencies for review as required by law. Designated District officials that shall have access to these records are charged with the responsibility of maintaining the confidentiality of these records. Any breach of confidentiality with regard to these records may be an offense resulting in termination of employment. Any employees tested under this policy have the right to review and/or receive a copy of their own test results. An employee may request from Human Resources, in writing, presenting a duly notarized Employee Request for Release of Drug Tests Results form, requesting that a copy of the test be provided. The District will use its best efforts to promptly comply with this request and will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

**Alcohol misuse and controlled substances**

The District shall provide its drivers with educational materials that explain the District's policy on alcohol and controlled substances testing and the requirements herein.

Each driver shall sign a statement certifying that he or she received a copy of these materials.

**Other disciplinary action**

Nothing in the District's policy on alcohol and controlled substances testing shall limit the right of the District, at its discretion, to terminate or otherwise discipline any driver for violating a provision of this policy.

In those cases where substance testing results in the termination of employment, all termination notices will list "misconduct" as the reason. Termination shall be deemed "for cause."

**Tobacco-free schools**

The use of tobacco products including, but not limited to, cigarettes, cigars, pipes, electronic cigarettes, vaporizers, smokeless tobacco or snuff is prohibited by Horry County Schools on its property and at the events, programs, and activities sponsored by the District, its departments, or its schools. In the event of a violation, appropriate action will be taken.

A smoking violation in any District building may result in a civil penalty of up to \$1,000 for each violation. Each day that a violation continues constitutes a separate violation. Those persons who cause a fine to be levied on the District will be required to reimburse the District, and employees may be subject to disciplinary action.

## Tobacco industry marketing or sponsorship

The district will not knowingly accept any contributions or gifts, money or materials from the tobacco industry. The district will not knowingly participate in any type of services that are funded by the tobacco industry. In addition, any gear, paraphernalia, clothing, etc., that advertises tobacco use or tobacco products will not be allowed on district grounds or in the possession of faculty, staff or students at district-sponsored events.

### *Legal references.*

#### *Federal statutes.*

*Drug-Free Workplace Act 102 Stat. 4305-4308.*

*Controlled Substances Act (21 U.S.C. 812) – Schedules I through V of Section 202.*

*Pro-Children Act of 1994, 20 U.S.C. 6081 et seq.*

#### *Federal regulations.*

*54 F.R. 4946 (1/31/89) – Relating to the Drug-Free Workplace Act.*

*21 CFR 1300.11 through 1300.15 -- Defining controlled substances.*

#### *State.*

*S.C. Code § 44-53-110 et seq – Lists of illicit drugs.*

*S.C. Code § 44-53-370 – Unlawful for any person to possess scheduled drug unless obtained by valid prescription.*

*S.C. Code § 44-53-440 – Persons over 18 years of age who distribute a controlled substance to persons under 18 years of age shall be guilty of felony and sentenced to no more than 20 years with no suspension or probation.*

*S.C. Code § 44-95-10 et seq – S.C. Clean Indoor Air Act of 1990.*

#### *Horry County Board of Education.*

*Coherent Governance Policies (adopted 6-4-07) – Operational Expectations OE-11, Discipline – the superintendent may not permit the use of tobacco products by students and adults on school property and at school-sponsored events (effective December 2007).*

*Revised: 7-1-04; 8-25-05; 10-12-07 for implementation as of 12-1-07; 7-1-08; 7-1-09; 2-17-11; 7-1-14.*

## Equal Employment Opportunity

The District provides equal employment opportunities to otherwise qualified individuals without regard to race, sex, color, religion, national origin, age, disability, military status, immigrant status, English-speaking status, or any other characteristic protected by applicable federal or S.C. law.

The District will make reasonable accommodations for an individual with a disability who is otherwise qualified for a position unless the accommodation would impose an undue hardship upon the District.

The District will employ only U.S. citizens and aliens lawfully authorized to work in the U.S.

### *Legal references.*

#### *Federal.*

*Title VII of Civil Rights Act of 1964, as amended – Prohibits discrimination in employment on basis of race, color, national origin, religion, or sex.*

*Section 504 of the Rehabilitation Act of 1973 – Prohibits recipients of Federal assistance from discriminating in employment of handicapped.*

*Title IX of the Education Amendments of 1972, 20 USC 1681, et seq – Prohibits discrimination on the basis of sex.*

*Americans with Disabilities Act, July 26, 1990.*

*Revised: 7-26-05; 2-17-06.*

## Professional Staff Recruitment and Hiring

The District recruits and hires professional personnel on the basis of qualifications and merit. Personnel recruitment is the responsibility of Human Resources. District administrators, principals, other supervisors, and other appropriate personnel will assist as needed. District policies and practices



regarding equal opportunity employment apply to all levels and phases of personnel administration. These include recruitment or recruitment advertising.

The Superintendent will make recommendations to the Board for the employment of professional staff. The Superintendent or his/her designee will nominate for employment persons who meet the qualifications set out for the particular position. District administrators, principals, and other supervisors will assist in this process, as feasible.

The District will notify all certificated personnel, excluding the Superintendent or other multi-year contract employees, of their contract status by April 15 of each year.

The Board will make the final decision regarding employment of professional personnel. The Superintendent may use a "Letter of Intent" to assure a prospective professional employee of a recommendation to be hired.

Should a vacancy occur during the school year in a professional position, the Superintendent may fill the vacancy consistent with District procedures for the remainder of the fiscal year in which the vacancy occurs pursuant to a letter of agreement, when appropriate. The Superintendent or his/her designee may determine whether advertisement of the vacancy is necessary or whether the position may be filled through other appropriate means.

The Superintendent is authorized to hire retired employees to work in the District on an "as needed" basis when their employment would serve the best interests of the District as set forth below under "Hiring of Retirees."

The compensation of professional teaching personnel is based on the State salary schedule as well as any local supplements, if approved by the Board. The compensation of administrators is based on a separate salary schedule, as adopted by the Board.

*Revised: 7-26-05; 8-16-05; 7-1-06.*

## **Recruitment**

The District will maintain an effective recruitment program designed to attract, secure, and maintain the highest qualified persons for all positions.

Human Resources will analyze each job vacancy prior to initiating the recruitment process in order to determine which recruitment strategies will be the most effective for the specific job vacancy. Human Resources will write and publish the job vacancy announcement/advertisement within the confines of the District's recruitment and/or employment policies and procedures.

The District generally will advertise all job vacancies for supervisory positions beginning with assistant principal and above at least within the District unless otherwise determined by the Superintendent or his/her designee

The District will maintain a list of available teaching positions in Human Resources and on the District's website and may further advertise available teaching positions as appropriate.

## **Hiring**

### **Application process**

An individual seeking employment requiring teacher certification must apply in writing to the District or complete an application through the S.C. Teacher Application System's web page, [www.winthrop.edu/scteach/](http://www.winthrop.edu/scteach/). In addition, applicants must submit the following documents in order for the application to be considered complete:

1. Proof of eligibility for a S.C. teaching credential,

2. College transcripts, and
3. Three professional references.

The District will accept applications for employment postmarked up to and including the date of the deadline. Any misrepresentation, omission, or misleading statement(s) on an application, if discovered any time after hiring, may result in immediate discharge of the offending employee.

The District will not recommend any candidate for employment without a personal interview.

### **State Law Enforcement Division (SLED) Federal Criminal Background Checks**

The District will obtain a name-based criminal record history check on all new employees from the State Law Enforcement Division (SLED) and/or contracted background check vendor prior to their initial employment. The costs for the background checks for new employees will be paid by the State and/or the District.

The District will consider the results of all criminal record history checks on an individual basis and will determine how the information obtained impacts the individual's ability to be an effective employee. When determining the appropriateness of offering employment to an individual, the administration will give consideration to such things as severity of offense, age of the individual, direct impact of the offense on children, length of time since conviction or plea, restitution, conduct or remedial actions during probation, and participation in pre-trial intervention and/or expungement.

At a minimum, the District will not employ individuals who have been convicted of or plead guilty to a violent crime as defined in S.C. Code Ann. § 16-1-60. Additionally, when making employment decisions, the District will carefully consider information that could result in the revocation or suspension of a professional certificate "for-cause" as defined in S.C. Code Ann § 59-25-160.

*Adopted: 7-1-10; 7-1-14.*

### **National Sex Offender Registry Checks**

The District will perform a background check on the National Sex Offender Registry, which may be accessed online at no charge, on all new employees, whether employed on a full-time, part-time, regular, interim or temporary basis, and all volunteers, including coaches, mentors, chaperones, and those serving in any other capacity resulting in direct interaction or contact with students.

Individuals whose names appear on the National Sex Offender Registry will not be permitted to serve in the District in any capacity. Additionally, the District will not employ individuals or allow individuals to volunteer in any capacity, who have been required to register as sex offenders pursuant to S.C. Code Ann. § 23-3-430. Should an individual whose name appears on the National Sex Offender Registry wish to provide additional information relevant to his/her designation on said registry, the District will consider the matter on a case by case basis.

*Adopted: 7-1-10.*

### **Evaluation for tuberculosis**

The District will not initially hire any person until the person has been appropriately evaluated for tuberculosis according to S.C. law and the guidelines promulgated by the S.C. Department of Health and Environmental Control ("DHEC"). Therefore, before beginning employment, an applicant shall provide the District with DHEC Form 1420 signed by a licensed physician certifying that the person does not have tuberculosis in an active stage.

In lieu of a current evaluation, the District will accept a copy of DHEC Form 1420 directly from a previous employer so long as:

- the previous employer attaches a notarized statement certifying that the copy is a true copy of the original document maintained by the employer, and
- the applicant furnishes documentation that he/she has not had a break in service with a public school, a private school, a kindergarten, nursery, or day care center for infants and children since the date of the DHEC Form 1420 submitted to the District.

Re-evaluation is not required in consecutive years unless otherwise indicated by the guidelines.

### **Selection of professional personnel**

Human Resources will receive all applications for professional job vacancies and will perform the initial screening.

Human Resources and Learning Services have the authority to decide when and how structured interview techniques may be used, who will conduct the interview, and who may assist/participate in the interview process. In making the decision, Human Resources may consider such factors as the level and/or impact of the position, areas of responsibility, and the relationship of the position to other positions on the organizational chart.

The general procedures and requirements for recruiting and selecting individuals for District-level and school-level positions will be similar.

If so directed by Human Resources, the principal/director or designee will continue the screening process. The steps will include verification and evaluation of references and credentials. The applicant's "credentials" are defined as, but not limited to, college or university transcripts, teaching credentials, professional experience, professional examination scores, and verification of an appropriate DHEC Form 1420.

Principals must consult with their supervising executive director before beginning the interview process for assistant principals and instructional coaches. The principal and supervising executive director or his/her designee is responsible for reviewing the references and credentials of the applicants, as well as other application data. Utilizing the information gained during this phase of the selection process, the principal and the supervising executive director or his/her designee will work together to make a determination as to who will be invited to participate in the interview process. The principal will schedule and conduct the interview. The supervising executive director or his/her designee must be in attendance during the interview process.

Human Resources may or may not accept the recommendation of the principal/director or designee. Human Resources will confer with the Superintendent. The Superintendent may accept or reject the principal's/director's or designee's recommendation and/or the recommendation of Human Resources.

Information concerning the results of the interview process or the selection of a candidate to be recommended shall not be released publicly, to the candidates, or to any other personnel without a specific District need to know without the authorization of the Superintendent or his/her designee.

The Superintendent will present his/her recommendations to the Board. The final decision regarding professional employment in the District will be made by the Board with the exception of retired employees, as set forth below under "Hiring of Retirees."

#### *Legal references.*

##### *State.*

##### *S.C. Code, 1976, as amended:*

1. *Section 16-1-60 – Violent crimes defined*
2. *Section 23-3-130 – Determination of information to be supplied and methods of evaluation and dissemination; promulgation of rules and regulations*
3. *Section 23-3-115 – Fees for criminal record searches conducted for charitable organizations*
4. *Section 23-3-430 – Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration*
5. *Section 59-19-117 – Background checks*
6. *Section 59-25-160 – Revocation or suspension of certificate; "just cause" defined.*

*Revised: 7-1-02; 7-26-05; 7-1-06; 7-1-10; 8-8-12.*

## **Classified Staff Employment**

Any misrepresentation, omission, or misleading statement(s) on an application for employment, if discovered any time after hiring, may result in immediate discharge of the offending employee. Persons employed must meet the qualifications established for the particular positions. The District's interview and selection procedure will provide the principal or supervisor with an opportunity to aid in the selection of an employee. The Superintendent, however, will make or approve the final selection. The District will set compensation according to the responsibility of the position, the services rendered, the provisions of the District's operational budget, and any applicable S.C. and federal laws.

The Superintendent, through the staff, will consider candidates for classified staff positions based on the needs of the District, as well as on their merits and qualifications. The District will make reasonable accommodation to known physical or mental limitations of otherwise qualified disabled persons where such accommodation will not impose an undue hardship on the operation of District programs.

The District will obtain a criminal record history check on classified staff during the employment process or at any time after employment at the District's discretion. District policies "State Law Enforcement Division (SLED) Background Checks" and "National Sex Offender Registry Checks" under "Professional Staff Recruitment and Hiring" also apply to the employment of classified staff. The District will not recommend any candidate for employment without a personal interview.

Prior to the end of the school year, the District will notify classified personnel of their employment status for the following work year.

Should a vacancy occur in a classified position during the school year, the Superintendent may fill the vacancy consistent with District procedures for the remainder of the fiscal year in which the vacancy occurs pursuant to a letter of agreement, when appropriate. The Superintendent or his/her designee may determine whether advertisement of the vacancy is necessary or whether the position may be filled through other appropriate means.

The Superintendent is authorized to hire retired employees to work in the District on an "as needed" basis when their employment would serve the best interests of the District as set forth below under "Hiring of Retirees."

### **Evaluation for tuberculosis**

See above under "Professional Staff Recruitment and Hiring."

*Revised: 7-26-05; 8-16-05; 7-1-06; 7-1-10.*

## **Hiring of Retirees**

**Hiring.** The Superintendent is authorized to employ retirees to work in the District on an "as needed" basis when their employment would serve the best interest of the District. Such persons will receive a letter of agreement indicating that if the person accepts the terms of employment, he/she will be an at-will employee. The agreement may be terminated by either party upon written notice to the other party. The continued employment of such persons shall be at the discretion of the Superintendent, who will make such decisions in the best interest of the District. The decision to employ or not to employ retirees will not be subject to the District's grievance procedures.

**Sick/personal leave.** Such employees will earn sick leave consistent with S.C. law (see "Accrual of sick leave" and "Advancement of sick leave"). Personal leave may be accumulated up to four days consistent with District policy (see "Personal leave").

**Annual leave.** Such employees in positions eligible for annual leave will earn annual leave consistent with District policy (see “Annual leave”).

See, also: “Retirement of Professional and Classified Staff” and “Professional and Support Staff Leaves and Absences.”

*Adopted: 7-1-06. Revised: 7-1-07.*

## **Salaries**

### **Salary schedules**

Employees are paid according to the District salary schedule for the position held, not necessarily for the training of the person holding a position. For example, an R.N. may apply, be considered, and be employed for an L.P.N. position; however, unless agreed otherwise, the R.N. would be paid according to the salary schedule for the L.P.N. position. In addition, the fact the R.N. becomes an employee is not a guarantee that he/she will be transferred to an R.N. position if one becomes available.

*Adopted: 7-1-04.*

### **Deductions from wages**

At its discretion, the District may deduct from an employee's wages any of his/her debts owed to the District such as, but not limited to: (1) documented overpayment of wages; (2) unreimbursed insurance premiums paid on behalf of the employee; and/or (3) leave used in excess of the employee's available leave balance.

*Legal reference.*

*State.*

*S.C. Code § 41-10-30 – Notification to employees of wages and hours agreed upon . . . .*

*Adopted: 7-1-04.*

### **Returning teachers**

Returning teachers will be paid based on certification and years of experience as determined by the Office of Teacher Certification, S.C. Department of Education, to become effective with the beginning of the school year.

### **New teachers – initial certification in S.C.**

1. A teacher new to the District who does not have a valid teaching certificate will be paid on the basis of no experience and on the basis of the highest degree he/she has earned (as documented by transcripts submitted with his/her application) until a valid S.C. teaching certificate or a S.C. Department of Education Statement of Qualification is received. Upon receipt of a valid S.C. teaching certificate or a S.C. Department of Education Statement of Qualification, the salary will be adjusted based on the certification/experience listed on the teaching certificate or S.C. Department of Education Statement of Qualification and will become effective on the first day of employment.
2. A teacher new to the District who does not have a valid S.C. teaching certificate but has a valid certificate from another state will be paid on the basis of the highest degree earned, to be documented by transcripts submitted with his/her application, and public school experience not to exceed five years, as listed on his/her application until a valid S.C. teaching certificate or a S.C. Department of Education Statement of Qualification is received. Upon receipt of a valid S.C. teaching certificate or a S.C. Department of Education Statement of Qualification, the salary will be adjusted based on the certification/experience listed on the teaching certificate or a S.C. Department of Education Statement of Qualification and will become effective on the first day of employment.

**All teachers – revised class of certificate**

If a teacher becomes eligible for a revised class of credential due to earning an advanced degree, the salary will be adjusted accordingly and will become effective with the effective date of the new certificate. The effective date of the new certificate will be based on S.C. Department of Education regulations regarding the valid period of teaching certificates.

**Method of payment of salaries, supplements, extra duties, and reimbursement.**

Salaries, supplements, payments for extra duties, payments for special assignments, and reimbursements shall be paid through and by Fiscal Services. No payments are to be made directly to employees by the local school administration, booster club, or other community organizations. See, also: "Payroll Procedures."

Volunteers who are ineligible to receive any form of compensation from the District may receive payment from a booster club as long as the payment is made through and by Fiscal Services.

Coaches who do not have a contract of employment with the School District are eligible for supplement pay only – they are not to be paid for extra days.

Staff members and volunteers involved with athletics shall abide by the requirements of the S.C. High School League. In addition, only the person actually performing a service shall be paid or reimbursed by the District. Persons who conspire to divert payment (or reimbursement) or to wrongfully accept payment (or reimbursement) shall be subject to disciplinary action, up to and including termination if the person is an employee. Fiscal Services shall monitor a reasonable sampling of the payments annually to determine compliance with the above.

*Revised: 7-31-05.*

**Reporting leave time for midday bus drivers**

Bus supervisors are required to determine the exact driving hours and midday hours for midday bus drivers. Leave time for bus drivers will be reported in the manner listed below:

- When a midday bus driver does not drive the a.m. route, he/she will not be allowed to work his/her midday hours. The driver will be deducted actual a.m. driving time and actual midday time.
- When a midday bus driver drives the a.m. and p.m. route but does not work his/her scheduled midday job, the driver will be charged actual hours that have been allocated as midday time.
- When a midday bus driver drives the a.m. route and completes the scheduled midday time but does not drive his/her p.m. route, the actual p.m. driving time will be charged.

*Adopted: 7-1-06.*

**Mismatches Between Names and Social Security Numbers**

Employees are responsible for resolving mismatches between their names and social security numbers. When a mismatch is discovered, the District shall notify the employee in writing that he/she has 45 calendar days to clear up the discrepancy with the Social Security Administration and to allow Employee Benefit Services to view the corrected social security card. Employees who fail to comply after receiving notice of a mismatch may be subject to termination of employment.

*Adopted: 7-1-04.*

## Nonschool Employment of Professional Staff

The District prohibits a professional staff member from engaging in any employment that would:

1. Impair the individual's effectiveness as an employee in the District,
2. Make time and/or energy demands upon the individual which could interfere with his/her effectiveness in performing District duties,
3. Result in a disruptive effect on the school or District,
4. Conflict with assigned duties in any way, and/or
5. Cause poor public relations within the community.

An employee shall not engage in any other employment or in any private business during the hours necessary to fulfill District duties.

### Tutoring for pay

A teacher may enter into an agreement with parents for tutoring children for a fee. Except as otherwise approved by the appropriate executive director, this practice must be limited to children other than those for whom the teacher is currently exercising teaching, administrative, or supervisory responsibility. A teacher may not tutor any student for pay during his/her regular working hours or on school premises. These restrictions are to assure all students reasonable assistance without charge from their own teachers, as well as to avoid placing a teacher in a position where he/she may have a conflict of interest.

*Legal reference.*

*State.*

*S.C. Code § 8-13-700 – Use of facilities for private gain.*

*Revised: 7-1-06.*

## Nonschool Employment of Classified Staff

The District will allow classified staff to receive compensation for nonschool employment as long as these activities do not interfere with the proper discharge of their assigned duties or do not cause poor public relations within the community. The District expects the employee to carry on any outside activity in a businesslike and ethical manner.

An employee must not engage in any other employment or in any private business during the hours necessary to fulfill District-assigned duties.

*Revised: 7-1-04.*

## Discipline, Suspension, and Dismissal of Professional Staff

It is the responsibility of the school administration to operate District schools in a manner that will maintain a broad community confidence in and support of the schools. In the absence of such support, the District cannot maintain a strong, effective educational program.

Therefore, it is the policy of the Superintendent to recommend to the Board the removal from employment of any teacher (or administrator) who shall fail, or who may be incompetent, to give instruction (or provide appropriate administration of a school or a program) in accordance with the directions of the Superintendent or who shall otherwise manifest an evident unfitness for teaching (or administration), as determined by the Superintendent.

Evident unfitness for teaching or administration is manifested by conduct including, but not limited to, the following: persistent neglect of duty; willful violation of the policies, rules, regulations, or procedures of the District; drunkenness; conviction of a violation of the law of this State or the United States; gross immorality; dishonesty; and illegal use, sale, or possession of drugs or narcotics.

The dismissal or non-renewal of certified employees who hold induction or annual contracts shall be carried out in accordance with S.C. Code § 59-26-40.

The dismissal or non-renewal of certified employees who hold continuing contracts shall be carried out in accordance with the S.C. Employment and Dismissal of Teachers Act, S.C. Code § 59-25-410, et seq.

The dismissal of retired professional employees is addressed above in the section titled "Hiring of Retirees."

### **Reporting terminations and resignations of certified educators**

The Superintendent will report to the S.C. Board of Education the name and certificate number of any certified educator who is dismissed, resigns, or is otherwise separated from employment with the District based on allegations of misconduct including, but not limited to: misconduct involving drugs, sexual misconduct, the commission of a crime, immorality, dishonesty, or other conduct that the Superintendent reasonably believes would constitute grounds for revocation or suspension of the employee's professional certificate.

Whenever a principal or other school administrator charged with the supervision of a teacher finds it necessary to reprimand a teacher for a reason that he/she believes may lead to dismissal or cause the teacher not be re-employed, he/she shall generally take the following steps in consultation with his/her executive director or an appropriate representative from Human Resources or the District's staff attorney.

### **Performance concerns**

Except for outrageously unacceptable behavior on the part of a staff member, concern about the staff member's performance will be addressed generally in the following manner:

1. If the issue involves a performance problem, the principal or other administrator shall discuss the concern(s) with the professional staff member and provide him/her with an opportunity to respond to the concerns. The principal or other administrator should, where appropriate, follow up such a conference in writing.
2. If an informal discussion does not resolve the matter, the principal or other administrator shall again meet with the teacher and bring the concern(s), in writing, to the attention of the staff member involved. The administrator shall make a reasonable effort to assist him/her to correct whatever appears to be the cause of potential dismissal or failure to be re-employed. Such efforts may include formally evaluating the staff member, placing him/her on an improvement plan, and/or some other acceptable means of notice and assistance. Except in those cases warranting immediate suspension and recommendation for termination, the principal or other administrator should allow reasonable time for improvement.
3. If the performance problem is serious or repetitive, the principal or other administrator shall send a copy of his/her memoranda, etc., to the employee's District personnel file, with such action clearly indicated on the correspondence. Cases involving egregious behavior may lead to a recommendation for termination of employment.

### **Misconduct concerns**

If the issue involves misconduct, the principal or designated school administrator shall immediately confer with the Executive Director of Human Resources and/or other appropriate District administrator. The District administration, after consultation with the Board's legal counsel (if approved by the Superintendent), shall advise the principal regarding appropriate actions to take.

Any decision to recommend the termination or non-renewal of an employee's contract shall be done in accordance with S.C. Code § 59-26-40 for induction and annual contract teachers, and in accordance with § 59-25-410 et seq for continuing contract teachers.



*Legal references.**State.**S.C. Code § 59-25-410 et seq – Teacher Employment and Dismissal Act.**S.C. Code § 59-26-10 et seq – Training, Certification and Evaluation of Public Educators.**State Board of Education Regulation R 43-58.1 – Reporting terminations of certain school district employees.**Revised: 8-25-05; 7-1-06.*

## **Classified Staff Separation**

The District will discipline, suspend or dismiss classified employees whenever good and sufficient reasons for doing so present themselves. With respect to dismissal, such action shall be based on the recommendation of the principal, supervisor, and/or appropriate executive officer and following a pre-termination opportunity before the Superintendent or his/her designee for the employee to present reasons why the recommendation of dismissal should not be accepted. The administration has established appropriate procedures for a classified employee to appeal his/her termination.

The principal, supervisor, and/or appropriate executive officer may recommend to the Superintendent that a classified employee be dismissed. The recommendation should be made in writing and should state the reason(s) for the recommendation. Any supporting documentation should be attached to the dismissal recommendation. The recommendation should be sent to the Executive Director of Human Resources or his/her designee. If the Executive Director of Human Resources or his/her designee determines that the recommendation appears to be properly documented and/or appropriate, he/she shall have an appropriate person meet with and advise the employee that a recommendation of dismissal is being considered, the basis for the recommendation, and provide the employee with an opportunity to offer reasons why he/she should not be dismissed. If the Executive Director of Human Resources or his/her designee is not persuaded that the recommendation be withdrawn at that point, he/she shall place the employee on administrative leave, with full pay and benefits, and notify the employee in writing of the administrative leave and that a recommendation of dismissal is being made to the Superintendent. The letter should also include the grounds upon which the recommendation is being made.

The Executive Director of Human Resources or his/her designee shall forward all documentation and copies of correspondence regarding the suspension and recommendation of dismissal to the Superintendent. The Superintendent shall review the documentation and, if necessary, discuss the recommendation with the Executive Director of Human Resources or his/her designee and/or the principal, supervisor, and/or appropriate executive officer. The Superintendent shall notify the employee of his/her decision regarding the recommendation in writing.

The employee shall also be notified that, in case of a dismissal, he/she has the right to appeal the dismissal by requesting a hearing before the Board. Such a request should be made in writing to the Superintendent and should include the basis upon which the employee believes the dismissal decision to have been improper or unjustified. At the next regularly-scheduled Board meeting, the Superintendent shall present the employee's request to the Board, along with any documentation and correspondence related to the dismissal recommendation. The Board shall decide whether or not to grant the employee's request for a hearing and the employee shall be notified of the Board's decision within five workdays.

If a Board hearing is conducted, the hearing shall be informal and non-adversarial. The hearing shall be held in a meeting closed to the public, and the employee shall be notified of the place and time for the hearing, as well as the format to be followed. The Board's decision following the hearing shall be communicated to the employee in writing.

The dismissal of retired classified employees is addressed above in the section titled "Hiring of Retirees."

*Revised: 12-18-03; 7-1-06.*

## Evaluation of Instructional and Administrative Staff

Copies of the "evaluation of instructional and administrative staff" procedures established by the administration shall be maintained in Human Resources as well at each school at a location determined by the principal.

Original evaluation results shall be maintained in each instructional and administrative staff employee's District personnel file; however, employees shall be provided with a copy of his/her written evaluation results.

### Instructional staff

Appropriate personnel will evaluate the performance of instructional employees fairly and on a periodic basis. The Superintendent, through the administrative staff, will establish procedures necessary for conducting an efficient, effective program of performance evaluation consistent with S.C. law and S.C. Department of Education regulations. See the *Personnel Handbook* for information concerning evaluation and types of teacher contracts.

### Administrative staff

#### Principals

The appropriate personnel will evaluate the performance of principals on an annual basis. The Superintendent, through the administrative staff, will establish the procedures necessary for conducting an efficient, effective program of principal evaluation.

The elements of the performance evaluation program are as follows:

1. Every principal is informed of the criteria by which his/her performance is evaluated;
2. Every principal has the right to receive the results of his/her performance evaluation in writing.

The District will use statewide standards to evaluate principals annually. In addition, the District will establish a professional development plan based on the principal's strengths and weaknesses and will take into consideration factors such as, but not limited to, the school's strategic plan, school test scores, and other performance goals.

#### District-level administrators (executive directors and above)

District-level administrators in the positions of executive director and above are evaluated annually. The evaluations will be linked to the job accountabilities agreed upon each school year.

### Individual professional development plans

All school administrators shall develop an on-going individual professional development plan with annual updates which is appropriate for their role or position. This plan shall support both their individual growth and organizational needs. Organizational needs must be defined by the District's strategic plans or school renewal plans. Individuals completing the assessment for instructional leadership will develop their professional development plan on the basis of that assessment.

#### *Legal references.*

##### *State.*

- S.C. Code § 59-24-30 – Individual professional development plans.*
- S.C. Code § 59-24-40 – Development and adoption of statewide performance standards for principals; annual evaluation of principals; training program for principals receiving unsatisfactory rating.*
- S.C. Code § 59-26-10 through § 59-26-40 – A system for the training, certification, initial employment, evaluation and continuous professional development of teachers.*
- S.C. Acts and Joint Resolutions: South Carolina Education Improvement Act, 1984 (512) 687, Division II, Subdivision C, Subpart 4, Section 4 – Teacher evaluation system to be fully implemented by 1984-85.*

*S.C. Board of Education Regulation R 43-205.1 – Assisting, Developing, and Evaluating Professional Teaching.*  
*Revised: 8-25-05.*

## **Classified Staff Evaluations**

Supervisors are expected to evaluate the performance of classified employees annually in an effort to improve the quality of work performance. The employee's principal, director, immediate supervisor, or designee has the responsibility for evaluating employees under his/her supervision. Supervisors will complete the evaluations on District-approved forms, and the evaluation report will be discussed with the employee. The employee will receive a signed copy of the evaluation report and a copy will be included in the employee's personnel file.

If an employee is assigned an overall rating of *needs improvement* on their performance expectations, a performance improvement plan will be developed that includes clear steps and performance targets the employee must achieve in order to continue employment.

*Revised: 7-1-04; 8-8-12; 7-1-13.*

## **Professional Staff Extra Duty and Staff Development**

### **Extra duty**

The District expects teachers to assume reasonable duties over and above their regular teaching responsibilities in order to provide students with comprehensive programs. Professional staff members will assist in the supervision of students as part of their regular duties during the school day. This includes, but is not necessarily limited to, bus, lunchroom, and hall duty. The District expects all teachers to attend functions of their respective schools and, when requested, to assist the principal/director. The District also expects teachers to attend the appropriate parent-teacher meetings of their schools.

The District may or may not consider activities and services that make major demands on a teacher's extra time as an extra duty, compensated assignment. The District may compensate such assignments in accordance with the District's supplementary pay schedule.

### **Staff development**

The District encourages all professional staff members to pursue activities which will help them better meet the demands of their positions.

The District recognizes that the key to a successful educational program is a well-trained, competent staff dedicated to professional growth. Therefore, the administration will include in its budget a request for funds for providing approved in-service activities and staff development programs.

## **Gifts, Solicitations, and Distribution of Promotional Materials**

### **Selling items for personal profit**

In the course of their employment, employees are not to sell on District property products of any kind for personal profit.

### **Soliciting of staff**

No organization, except the United Way, may solicit funds from staff members nor may they distribute flyers or other materials related to fund drives without the prior approval, as appropriate, of the principal or district-level division head. Staff members will not be made responsible or assume responsibility for the collection of any money or distribution of any fund-drive literature without such activity having the

approval, as appropriate, of the principal or district-level division head. Such activities will be kept to a minimum.

### **Gifts from staff members to staff members**

Employees should generally refrain from giving gifts to staff members who exercise any administrative or supervisory jurisdiction over them, either directly or indirectly. The District discourages collection of money for group gifts except in special circumstances such as bereavement, serious illness, or for mementos at retirement.

### **Gifts to staff members**

Staff members are to be ethical in their relationships with students, parents, other school personnel, and all companies with whom the District does business. Staff members may accept no personal gifts, bonuses, offers for free travel, or gratuities – consistent with guidelines issued by the S.C. Ethics Commission – from companies which do business with the District, whether or not companies give such gifts in the hope of increasing the sale of a product or to influence school personnel. Gifts received as the result of the District's business, financial, or operational affairs will accrue to the District. Exceptions to this policy are the acceptance of minor items which are generally distributed by companies or organizations through their public relations programs.

The District discourages the giving of gifts to staff members by students, as well as the exchange of gifts at holiday parties.

### **Distribution of promotional materials**

Students and staff members may not be used in any manner for advertising, promoting, or distributing information for any business or non-school agency or organization without the approval, as appropriate, of the principal or District-level division head. Approved materials must meet the following criteria:

1. Appropriate materials from non-profit organizations may be approved providing the information being communicated provides a service to students, parents, and/or staff members;
2. Approved information directed toward staff members from individuals, businesses and commercial organizations may be placed in appropriate areas where staff members may pick up the materials if they so desire;
3. Approved information directed towards students and/or parents from businesses and commercial organizations may be placed in appropriate areas where students and/or parents may pick up the materials if they so desire.

Staff members may not use the District's interoffice mail system, employee mailboxes, or e-mail system for the distribution of advertisements and other commercial uses.

See, also: "Internal mail system."

#### *Legal references.*

##### *State.*

*S.C. Code § 8-13-100 et seq – Ethics, government accountability and campaign reform.*

*S.C. Code § 8-15-10 et seq – Local or local and state officers and employees generally.*

*S.C. Code § 16-17-420 – Prohibits activities that disturb school.*

*Revised: 7-1-04; 7-1-06; 7-1-08.*

## **Complaints and Grievances**

The District encourages all employees to discuss their concerns or complaints associated with their employment informally with their supervisors. Often, the cause of a problem or concern is merely a misunderstanding among the individuals involved. Under normal circumstances, an employee should

utilize the grievance procedure only after reasonable informal efforts have failed to produce a satisfactory result. If after reasonable and appropriate informal efforts have failed or for good reasons are inappropriate, an employee feels that a "formal" mechanism for raising his/her concern or problem is needed, he/she should follow the procedure below. Employees who utilize the grievance procedures have the right to do so with complete freedom from reprisal.

With respect to formal grievances, the District recognizes the need to provide an orderly means for the efficient and expeditious resolution of disputes concerning the application of any of the provisions of the District's policies, rules, regulations and/or unsafe or unhealthy working conditions as they affect the activity of employees. Ideally, employees should secure an equitable solution of grievances at the most immediate administrative level possible.

### **Definition of a grievance**

A grievance is a claim by an employee of a violation, misinterpretation, or misapplication of a provision of District policies, procedures, or rules and regulations as they directly affect the employment or working conditions of the employee filing the grievance. District policies, procedures, or rules and regulations are established by the Superintendent pursuant to Board Governance Policies; therefore, a grievance as defined herein cannot be based on a claimed violation of a Board Governance Policy.

The District does not consider actions which are subject to the Teacher Employment and Dismissal Act, S.C. Code § 59-25-410 et seq, § 59-26-40; employment decisions implemented under the District's reduction-in-force policy; or classified employee terminations to be grievances under this procedure.

### **Joint grievances**

Employees may be allowed to present a joint grievance where each grievant alleges essentially the same facts or circumstances and requests the same relief. Joint grievances must bear the signature of each grievant. The District reserves the right to consolidate individual grievances and the right to hear joint grievances on a separate basis.

### **Definition of supervisor**

The term "supervisor" means any person having the authority to recommend employment, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline an employee, or any person having the responsibility for directing or reviewing the work of an employee.

### **Definition of day**

A "day" is any day on which the district office is open, excluding any days the district office is open during the winter break or spring break.

### **Grievance procedures**

An employee who wishes to file a grievance must complete the prescribed grievance form (available from the Executive Director of Human Resources) and present it to his/her direct supervisor within 15 days following either the event giving rise to the grievance or the time when the employee reasonably should have gained knowledge of its occurrence. The completed form must include a brief statement as to the nature of the grievance; identify the policy, rule or regulation violated; or with reasonable specificity the circumstances or situation, which is the subject of the grievance. Again, identify with reasonable specificity the relief the employee is requesting by filing the grievance.

Should the employee believe that resolution of the grievance requires a decision beyond the supervisor's level or area of authority, the employee will so state such belief on the grievance form and submit the form to the Executive Director of Human Resources. In such a case, the Executive Director of Human Resources and/or the Superintendent shall refer the grievance to the proper party for disposition. In no case, with the exception of persons reporting directly to the Superintendent, shall a grievance be filed first with the Board or copied to the Board without first being handled by the administration.

1. The appropriate supervisor will hold a first-level (level one) meeting with the employee within 10 days of receipt of the grievance. The supervisor will provide the employee with a written response to the grievance within 10 days after the meeting. The response will include the name of the District-level administrator to whom the grievance may be appealed. In the event an appeal is desired, such appeal must be presented in writing within 15 days of receipt of the response.
2. If the grievant is not satisfied with the response from the supervisor in level one above, the grievant may appeal the grievance to the appropriate District-level administrator (level two) identified in the supervisor's response. In the appeal, the employee shall specify in writing his/her specific grounds for the appeal and objections to the supervisor's response to the grievance. Such administrator shall notify the employee promptly of the receipt of the grievance and schedule a time and place to hear the grievance. This grievance conference should be held as promptly as practicable and within 15 days of receipt of the grievance. The original grievance and the level one supervisor's written response will serve as the basis for the second-level grievance determination. The District-level administrator will provide the employee with a written response to the grievance appeal within 10 days after the level two conference.
3. If the employee is not satisfied with the response of the District-level administrator following the grievance meeting, the employee may appeal the decision to the Board. This appeal must be made in writing to the Superintendent within 15 days of the District-level administrator's response to the grievance and shall include the specific grounds for the appeal.

Normally, an appeal to the Board shall be limited to the written record established at the previous levels. If, however, the grievant desires to supplement the record developed in the administrative stage of the grievance proceedings, the grievant may submit additional relevant written materials to the Superintendent, along with the written appeal, and provide a satisfactory explanation as to why such materials were not previously presented. The administration shall have 10 days to respond in writing to the grievant, if necessary, regarding the information submitted by the grievant. Once the administration has responded, the Superintendent will, at the next regularly scheduled Board meeting, present the written appeal to the Board along with a brief grievance summary and copies of all relevant correspondence and responses from the lower administrative levels. Included in these materials shall be the notice of appeal and supporting documentation submitted by the grievant, as well as the administration's response. The Board will normally consider appeals based solely on the written information submitted by the employee and the administration, without the grievant appearing before the Board. The Board will notify the employee of its decision within 15 days of its consideration of the appeal.

4. Nothing shall prevent the Superintendent or his/her representative from participating in the disposition of a grievance at the supervisory and/or District Office level.
5. After the grievance is filed, time requirements under this procedure may be extended at any step with the mutual agreement of the two parties except that neither party will unreasonably refuse an extension or unreasonably delay the proceeding. Failure to adhere to procedural or agreed-upon timelines shall be grounds for ending the grievance process or moving the grievance to the next level.
6. A grievant may not, unless authorized by the Superintendent, bring an attorney to the initial grievance meeting before his/her supervisor. However, a grievant may, at his/her expense, bring an attorney to a hearing before the District-level administrator if he/she chooses provided that sufficient notice is given to the District-level administrator so that he/she can bring an attorney if he/she chooses.

See, also: "Deductions from salary."

**Title VI, Title IX, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act**

The grievance procedures set forth above are to be used to process employee complaints based on alleged violations of Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of

1972; Section 504 of the Rehabilitation Act of 1973; and Titles I and II of the Americans with Disabilities Act of 1990 referred to as "civil rights grievances."

In the event that an employee files a grievance alleging violation of one of the above-referenced laws, the grievance shall be considered to be a grievance for purposes of these procedures. An employee may instead choose to file a complaint with the United States Department of Education, Office of Civil Rights, when appropriate.

With respect to alleged violations of Title VI, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the employee, the grievant may appeal in writing to the District's Civil Rights Coordinator. With respect to alleged violations of Section 504 or the Americans with Disabilities Act, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the employee, the grievant may appeal in writing to the District's Director of Special Education. With respect to alleged violations of Title IX, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the employee, the grievant may appeal in writing to the District's Title IX Coordinator.

If the grievant fails to appeal within 15 days of receipt of the written response from the District-level administrator, the right to appeal is waived. If an appeal is made to any of the above-referenced Coordinators, the Coordinator may conduct further investigation, if necessary. The Coordinator shall hold a hearing with the grievant within 15 days of receipt of the grievance, or within 15 days of completing any further investigation, if necessary. The Coordinator shall then render a decision on the matter in writing within 15 days after the hearing is conducted.

If the employee is not satisfied with the response of the Coordinator, the employee may appeal the decision to the Board. This appeal must be made in writing to the Superintendent within 15 days of the Coordinator's response to the grievance. Any such appeal will be handled as set forth above in number "3" above.

Employees who file a complaint or grievance will not be subject to retaliation or reprisal in any form.

*Revised: 7-26-05; 1-31-14.*

## **Sexual Harassment of Employees**

Sexual harassment of employees of the District is prohibited. All employees, including supervisory level employees and third parties associated with schools, must avoid any action or conduct which could be viewed as sexual harassment. Teachers and school administrators are expected to use judgment and common sense, which are important elements of a proper response to a particular allegation of sexual harassment or inappropriate conduct of a sexual nature.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either expressly or impliedly a condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes he/she has been subjected to sexual harassment is encouraged to file a complaint in accordance with the District's procedures. All allegations will be investigated promptly and confidentially. Employees who file a complaint of sexual harassment will not be subject to retaliation or reprisal in any form. An employee, including a supervisory level employee or a third party associated with the District, who is found to have engaged in sexual harassment or inappropriate conduct of a sexual nature will be subject to appropriate action, up to and including termination of employment in the case of an employee, and all other appropriate steps will be taken to correct or rectify the situation.

The following procedures are intended to:

1. Discourage employees and third parties associated with schools from subjecting employees or students of the District to sexual harassment and inappropriate conduct of a sexual nature;
2. Promote a harassment-free work and/or learning environment;
3. Effectively and appropriately address all sexual harassment and inappropriate conduct of a sexual nature found to have occurred or be occurring;
4. Establish on-going education and awareness of the problem of sexual harassment and inappropriate conduct of a sexual nature; and
5. Provide information about how to report allegations of sexual harassment and inappropriate conduct of a sexual nature.

### **Types of behavior which constitute sexual harassment of employees**

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which:

1. Is made an employment condition, so that submission to such conduct is a term or condition of employment;
2. Has an employment consequence, so that submission to or rejection of such conduct is used as a basis for employment decisions affecting an individual employee; or
3. Is an offensive job interference, so that such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include, but is not limited to: verbal harassment, including epithets, sexually offensive comments or slurs; physical harassment; physical interference with movement or work; or visual harassment, such as sexually offensive cartoons, drawings, or posters. Sexual harassment is prohibited against members of the same sex, as well as against members of the opposite sex.

### **Behavior prohibited of administrators/supervisors**

1. No administrator or supervisor may condition any offer of employment, employee benefit, or continued employment on an employee's acquiescence to any of the sexual behavior defined above.
2. No administrator or supervisor may retaliate against any employee because that employee has opposed a practice prohibited by Title VII of the Civil Rights Act of 1964 and the South Carolina Human Affairs Law, or has filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted by an authorized agency.
3. No administrator or supervisor shall cause or tolerate the creation of a sexually hostile or offensive work environment by any subordinate employee or third party associated with schools who engages in sexual harassment.
4. No administrator or supervisor shall destroy evidence relevant to an investigation of sexual harassment.

### **Types of behavior which constitute inappropriate conduct of a sexual nature with students**

Inappropriate conduct of a sexual nature with students includes inappropriate sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature. Inappropriate conduct of a sexual nature may include, but is not limited to, the following.

1. Engaging or participating in any dates, sexual activity or other activity which contains a sexual or romantic overture;
2. Leering at a student's body;
3. Touching, grabbing and/or pinching;
4. Making comments, gestures or jokes of a sexual nature;
5. Manipulating clothing in a sexual manner;



6. Displaying sexual pictures or objects;
7. Spreading sexual rumors or commenting about sexual behavior;
8. Teasing and/or bullying in sexual terms;
9. Inflicting sexual assault or abuse; and
10. Any other behavior by an employee toward a student that would reasonably cause the student to feel uncomfortable or that would reasonably give the appearance of impropriety or unprofessional conduct, regardless of whether the behavior is overtly sexual and regardless of whether such behavior would constitute a crime.

Inappropriate conduct of a sexual nature is prohibited against students of the opposite sex as well as against students of the same sex. Additionally, students are prohibited from directing inappropriate conduct of a sexual nature toward employees, whether of the same sex or opposite sex.

### **Behavior prohibited of all employees**

1. No administrator, supervisor, or any other employee of this District and/or third party associated with schools will create a sexually hostile, offensive, or charged educational environment for any student by engaging in any sexual harassment or inappropriate conduct of a sexual nature with a student.
2. No administrator, supervisor, or any other employee of this District and/or third party associated with schools shall assist any individual in doing any act which constitutes sexual harassment against any employee.
3. No administrator, supervisor, or any other employee of this District will encourage or assist any individual in performing any act that constitutes sexual harassment or inappropriate conduct of a sexual nature against any employee or student.

### **Preventive action**

Periodically, the District shall ensure that:

1. The District policy on sexual harassment of employees and these procedures are fully referenced in the *Personnel Handbook* and employees are made aware of the website for accessing the *Personnel Handbook*. The policy and procedures shall also be available in Human Resources, from which a copy shall be made available, if requested.
2. All employees are informed about the nature of sexual harassment, the procedures for registering a complaint, and the possible redress which is available.
3. Designated administrators and designated sexual harassment contact persons are informed of the District's sexual harassment procedures and understand how to implement them. For example, they should be made aware of the kinds of acts that constitute sexual harassment or inappropriate conduct of a sexual nature, the District's commitment to eliminating and avoiding sexual harassment and inappropriate conduct of a sexual nature in the schools, the penalties for engaging in such conduct, the procedures for reporting such conduct, and the procedures for conducting an investigation of such conduct.
4. The District Office makes available information from the Equal Employment Opportunity Commission and the South Carolina Human Affairs Commission about filing claims of sexual harassment with these entities.

The District shall designate a Title IX Coordinator. The name, address, and business telephone number of the Coordinator shall be disseminated throughout the District and referenced in employee handbooks.

### **Reporting and response procedures**

1. Any employee who feels that he or she has been the object of sexual harassment is encouraged to file a complaint with his or her immediate supervisor or principal except for situations covered in item "2" immediately below. Complaint forms which may be used to file a complaint are available in the Office of Policy and Legal Issues.

2. Under no circumstances shall an employee be required to first report allegations of harassment to his or her immediate supervisor if that person is the individual who is accused of the harassment. In such cases, the employee shall file the complaint with the District Title IX Coordinator.
3. Administrators/supervisors shall initiate an investigation of any incident of alleged sexual harassment or inappropriate conduct of a sexual nature reported to them or observed by them, in consultation with the District's Title IX Coordinator. The District shall be responsible for ensuring that reasonable efforts are made to prevent public disclosure of the names of all parties involved in the sexual harassment allegation, except to the extent necessary to carry out an investigation and comply with statutory obligations.
4. Administrators/supervisors shall report the general results of any investigation of sexual harassment or inappropriate conduct of a sexual nature, including corrective or disciplinary action taken, to the Title IX Coordinator and/or Superintendent. The employee who brought the allegation of sexual harassment or inappropriate conduct of a sexual nature shall be informed that appropriate actions were taken and shall be advised as to how to report any subsequent problems.
5. If an employee is determined to have sexually harassed another employee or engaged in inappropriate conduct of a sexual nature with a student, the administrator/supervisor shall take whatever disciplinary action he/she determines is warranted, up to and including a recommendation of termination of employment.
6. Administrators/supervisors shall follow up periodically on any incident of sexual harassment or inappropriate conduct of a sexual nature they were involved in investigating to determine whether the employee has been subjected to any further sexual harassment or inappropriate conduct of a sexual nature since the corrective action was taken.
7. No administrator/supervisor shall retaliate in any way against an employee who has provided information as a witness to or victim of an incident of sexual harassment or inappropriate conduct of a sexual nature.

### **Additional obligations of employees**

1. Employees shall report to their immediate supervisor any conduct on the part of non-employees, such as sales representatives or service vendors, which is believed to constitute sexual harassment or inappropriate conduct of a sexual nature.
2. Employees shall cooperate with and maintain the confidentiality of any investigation of alleged acts of sexual harassment or inappropriate conduct of a sexual nature conducted by the District or by an appropriate state or federal agency. Failure to do so could result in disciplinary action against the individual who failed to cooperate or who violated the confidentiality of the matter.
3. No employee shall take any action to discourage any other employee from reporting alleged sexual harassment or inappropriate conduct of a sexual nature. However, any person who intentionally provides false information in connection with a report or investigation of sexual harassment or inappropriate conduct of a sexual nature may be subject to disciplinary action.
4. No employee shall retaliate in any way against another employee who has provided information regarding an incident of sexual harassment or inappropriate conduct of a sexual nature.

*Legal reference.*

*Federal.*

*Title VII of the Civil Rights Act of 1964.*

*Revised: 7-1-04; 1-31-14.*

## Racial Harassment

Racial harassment is incompatible with equal opportunity and will not be tolerated in the District. It is the responsibility of employees and students in the District to strive to create an environment free of racial harassment.

Employees and students are encouraged to express their opinions and feelings about any problem or complaint of racial harassment freely, responsibly, and in an orderly way. Any act by a District employee, agent, or a student of reprisal, interference, restraint, penalty, discrimination, coercion, or harassment against any person responsibly complaining of harassment under this policy interferes with free expression and is a violation of this policy.

Racial harassment consists of racially motivated conduct by an employee or student toward any employee or student. Examples of racially motivated conduct include, but are not limited to, (1) discrimination on the basis of race in the terms, conditions, working environment, or privileges of employment; (2) racially motivated conduct directed toward a specific person or persons which involves the threat or use of force; or (3) racially motivated actions undertaken with reckless disregard of the likely effect of inflicting severe mental or emotional distress.

Any employee or student who believes he/she has been subjected to racial harassment is encouraged to file a complaint in accordance with the District's procedures. All allegations will be investigated promptly and confidentially. Employees or students who file a complaint of racial harassment will not be subject to retaliation or reprisal in any form. Any employee who is found to have engaged in racial harassment will be subject to disciplinary action up to and including termination of employment. Any student who is found to have engaged in racial harassment will be subject to the provisions of the student behavior code.

*Revised: 7-1-04.*

## Service Animals

Horry County Schools will comply with all state and federal laws, regulations and rules regarding the use of service animals by staff members with disabilities under appropriate circumstances. The policy applies to any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability. Use of service animals by a staff member with a disability is subject to procedures and requirements. Staff members must submit a request for the use of a service animal to the Executive Director of Human Resources for processing.

*Adopted: 8-8-12.*

## Protective Eye Devices

Industrial quality eye protective devices must be worn by every student, teacher, and other person participating in or observing any school or course activity involving use of or exposure to eye-threatening chemicals, liquids, or objects such as, but not limited to:

- Hot liquids or solids, including hot molten metals;
- Milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
- Heat treatment, tempering, or kiln firing of any metal or other materials;
- Gas or electric arc welding;
- Repair or servicing of any vehicle;
- Caustic or explosive materials;
- Projectiles such as, but not limited to, rockets.

Schools shall purchase and cause such plano protective eye devices to be placed in such classrooms and laboratories. Any person desiring protective-corrective lenses instead of plano protective devices supplied by the school shall at his/her own expense procure and equip himself/herself with industrial quality eye protective devices secured from legally authorized dispensers.

The phrase "industrial quality eye protective devices" means devices meeting the standards of the American Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

*Legal reference:*

*State.*

*S.C. Code § 59-1-390 – Courses necessitating wearing of protective eye devices ....*

*Adopted: 7-1-04. Revised: 6-15-05.*

## **Hazardous Substances**

Staff members using hazardous substances are not to leave them unattended and accessible to others, especially students. Hazardous substances must be stored in a secure place. Medicine cabinets and storage areas containing hazardous substances must be locked when unattended.

Staff members are to read, understand, and follow the instructions provided on products used in association with District activities.

Hazardous substances may include, but are not limited to, laboratory chemicals, acids, alkalis, oxidizers, reducers, reactives, flammables, solvents, herbicides, mildicides, fungicides, paint thinners, paints with heavy metal pigments, cleaning agents, caustic compounds, pesticides, window cleaners, waxes, polishes, duplicator fluids, bleaches, and medical supplies (including, but not limited to, peroxide, alcohol, Zephiran, and other medications).

Waste, surplus, or expired hazardous substances shall be disposed of in a safe manner according to state and federal regulations.

## **Staff Health**

### **Physical and mental health**

If the District has questions or concerns regarding the physical or mental capability of an employee, the District **is authorized to take appropriate action including but not limited to may requiring an appropriate examination by one or more licensed physicians or utilizing personal sick leave while any necessary inquiry is conducted.**

### **Communicable diseases**

The District defines a chronic communicable disease as a persistent or recurring infection that may be transmitted to a susceptible person by contact with an infected individual. The National Centers for Disease Control will be the definitive authority on the identification and transmission of chronic communicable diseases.

The District will attempt to protect the health of members of the community by implementing a program of education, prevention, and reporting with respect to chronic communicable diseases in cooperation with State and local public health agencies.

The District will attempt to provide a safe and secure environment for students and employees. Under certain circumstances, the presence of communicable diseases in the school environment may pose a threat to the health and safety of students and employees. In an effort to maintain a balance between the need to educate all eligible students, to protect student and employee rights, and to control communicable diseases, decisions regarding the employment status of employees with communicable diseases shall be made on a case-by-case basis.

Concerns about communicable diseases should be addressed to the school nurse, who will consult with the Director of Health and Safety Services as needed.

### **Bloodborne pathogens**

The District has an exposure-control plan for employees. The plan includes appropriate training for employees as well as universal precautions that employees must follow when dealing with blood and other bodily fluids. A copy of the plan is on file in the District's Department of Health and Safety Services and in the nurse's office of each school.

### **Communicable diseases – employees**

Employees with communicable diseases, including AIDS or HIV infection shall be permitted to work in schools in accordance with these procedures.

Except where otherwise provided by law, employees must inform their principal/department head or the Superintendent when they are suffering from a communicable disease. The Superintendent shall ensure that a committee consisting of the employee's supervisor, the employee's personal physician, appropriate public health professionals, and appropriate school District personnel is formed to monitor and/or evaluate the employee's health status.

In cases involving AIDS or HIV infection, the committee periodically will monitor the health status of the employee. Evaluation of the employee's potential for transmitting the HIV should be made by the health professionals evaluating the employee's status. Information shared during the monitoring process is strictly confidential.

With respect to other reported communicable diseases, the committee shall review each case individually to determine the means of transmittal, how long the employee will be infectious, to what degree the employee's presence poses a risk to other staff and to students, and the probability of transmittal.

Generally, employees with AIDS/HIV infection should be permitted to attend school and school activities without restriction, provided their health status allows. If it is determined, based on sound, medical evidence and in accordance with these procedures that any employee with any communicable disease poses a significant risk to the health and safety of other persons while the employee is in his or her current position, and the risk cannot be eliminated by any reasonable measure, including placement in alternative employment, attendance by the employee may be prohibited or restricted. If the employee's disease constitutes a disability, and the employee is otherwise qualified to perform his or her job, a specific determination will be made as to whether reasonable accommodation can be made. Any prohibition or restriction on attendance will continue, subject to periodic reevaluation, unless and until the risk to others has been abated. The District reserves the right to require a satisfactory certificate from one or more licensed physicians that the employee's attendance is no longer a risk to others.

Information regarding the medical condition of employees is confidential and should be disseminated strictly on a need-to-know basis. Accordingly, information should be provided only to those who need the information to protect the health and safety of the employee, students and staff and only to the extent necessary to accomplish that end. All personnel informed of the condition of the employee are to be instructed that this information is to be held in the strictest confidence.

To prevent the spread of communicable disease, DHEC or the Centers for Disease Control guidelines for necessary health and safety precautions, including handling of blood and bodily fluids, shall be distributed by the administration from time to time and should be followed by all school employees.

#### *Legal references.*

##### *State.*

*S.C. Code § 44-29-200 – Attendance of teachers or pupils with contagious or infectious disease may be prohibited.*

*S.C. Department of Health and Environmental Control Regulation R61-20 – Communicable diseases.*

*S.C. Department of Health and Environmental Control Regulation R61-21 – Sexually transmitted diseases.*

*Revised: 7-1-04; 6-19-06; 7-1-14.*

## First Aid and Emergency Care

The school nurse or principal's designee(s) will be responsible for providing first aid or emergency care in case of injury to, or sudden illness of, a student or staff member.

Principals or their designees must see that an Emergency Information Card is completed and signed on each student at the time of registration. In extreme emergencies, the principal may make arrangements for the immediate **transport and** hospitalization of injured or ill students, contacting the parent or guardian in advance if at all possible.

At each school, written procedures for the proper handling of medical emergencies shall be disseminated to staff members. A list of school personnel trained in first aid shall be kept in the main office ~~of each building and in the health room of each building.~~

*Revised: 7-1-14.*

## Professional and Support Staff Leaves and Absences

The continuous presence of employees promotes excellence in the instructional program. Therefore, the District expects employees to come to work every scheduled workday. The District recognizes, however, that certain absences are unavoidable. At such times, employees should take leave in accordance with the procedures established by the administration, which shall be consistent with state and federal law. An employee's failure to comply with the leave procedures established by the administration may result in disciplinary action up to and including termination of employment.

The Board authorized the creation of a Sick Leave Bank for active duty employees who earn sick leave and who, because of catastrophic illnesses or accidents, require absences which exceed their accrued leave.

### Sick leave

#### Accrual of sick leave

For the purpose of this policy, the term "full-time employees" means persons employed by the District who work a minimum of 30 hours per week. The term "active service" means days actually worked or earned sick leave days used. "Immediate family member" means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and the grandchildren. A son or daughter is a biological, adopted, or foster child, as well as a stepchild, legal ward, or a "child" of a person acting in loco parentis. A parent includes biological parents, but also includes a person who acted in the capacity of a parent to the employee when the employee was a child.

All **non-temporary** employees shall be granted paid sick leave. Persons who are employed less than full time shall be granted sick leave prorated on the basis of a full-time-equivalent position. All full-time employees of the District will accrue sick leave according to the sick leave accrual schedule approved by the Superintendent. An employee may accumulate up to a maximum of 150 days of sick leave **plus one year's advancement**, which is accrued but not used, provided that such employee does not violate his/her respective contract. ~~The District will calculate the accumulation on June 30 of each fiscal year.~~

*Revised: 8-8-12; 7-1-14.*

#### Advancement of sick leave

~~The District will advance sick leave days to employees who are eligible to receive sick leave. On the first day that an employee reports to work in a fiscal year, he/she will be eligible to use the sick leave which he/she is scheduled to earn for the year under the following conditions: Sick leave is advanced during the eligible employee's first pay period of the fiscal year. Sick leave is advanced under the following conditions:~~

1. Advanced sick leave days are not considered to be earned days.
2. ~~An advanced day cannot be contributed to the Sick Leave Bank. If a staff member's employment is terminated, an adjustment will be made for sick leave that may have been advanced and used but not earned leave will be prorated based on the length of service during the year of separation.~~

### **Use of sick leave for absences**

An employee may use sick leave for absences caused by personal illness or illness of an immediate family member (as defined above under "Accrual of sick leave"), which requires the employee to provide care. The Superintendent or his/her designee may grant leave for family illness for other members of an employee's family in unusual situations. A doctor's statement that the illness of a family member requires the presence of the employee must be submitted for absences greater than 10 days.

Employees may also use up to 30 days of accrued sick leave for the purpose of caring for an adoptive preschool child immediately after placement; the leave will be authorized only if the employee is the person who is primarily responsible for the care of the child. (See the policy concerning the Family and Medical Leave Act.)

An employee who anticipates requiring extended leave, 10 days or more, to provide care for a family member should submit a written request on the appropriate District form to his/her supervisor as far in advance as possible. The request for extended leave for this purpose must include a statement from a licensed medical doctor giving the expected time the employee will be needed to provide care for a family member. The request must be approved by the Superintendent or his/her designee. (See the policy concerning the Family and Medical Leave Act.)

When the employee makes a request in writing, the Superintendent may grant an employee leave without pay for personal illness following the exhaustion of all accrued sick leave. Leave with and without pay shall not usually exceed 151 work days, which includes 12 weeks of FMLA leave, in any school year and shall not usually extend beyond the immediate fiscal year.

The District will assign an employee who returns to work after leave without pay to the same or similar duties which he/she performed prior to going on leave, if such assignment is in the best interest of the District. If the administration does not consider it to be in the best interest of the District to assign the employee to the position he/she had prior to going on leave without pay, the District will offer the employee an equivalent position for which he/she is qualified. The District will place the employee on the payroll at his/her pre-leave salary status.

### **Procedures regarding absences**

When it is necessary to be absent, an employee will provide notification as early as practicable in accordance with procedures established by the principal or District-level department head. An absent employee must furnish a signed statement setting forth the reason(s) for his/her absence. The statement must be turned in to the employee's principal or immediate supervisor within two days after the employee returns to work.

When an employee knows that he/she will be absent for a period longer than ten days, he/she should file a request for extended leave under the Family and Medical Leave Act ("FMLA"), unless the illness does not qualify as a serious health condition under the FMLA. Then, upon written request, the Superintendent or his/her designee may grant the employee extended leave if the circumstances warrant. In either case, the employee is expected to utilize accrued sick leave, and upon exhaustion of accrued leave, the leave will continue without pay through the approved leave period.

An employee who anticipates taking an extended leave of absence should submit the request for leave to his/her principal or immediate supervisor at least 30 calendar days prior to the effective date of the leave. The leave request must include a statement from a licensed medical doctor giving the anticipated length of convalescence or if applicable, the expected delivery date.

An employee returning from an extended leave of absence may be required to present to his/her principal or immediate supervisor a statement from the attending physician certifying the employee's ability to return to normal duties.

#### **Verification and use of sick leave**

The use of sick leave is subject to verification. Specifically, an employee must submit a medical physician's statement verifying an illness, as well as a statement of diagnosis and prognosis, when the employee has been on sick leave for more than 10 consecutive workdays and/or is requesting extended leave as detailed above. The District also reserves the right to require an employee to submit a medical physician's statement verifying an illness when an employee's use of sick leave forms a pattern or abuse is suspected. The principal or the employee's immediate supervisor has the discretion to request such a statement. If an employee does not provide the required medical physician's statement within five workdays upon written request or after 10 workdays of consecutive sick leave, the District may move to terminate his/her employment.

Return to active employment must be accompanied upon request by the certification of a licensed physician that the employee is physically and emotionally fit to resume duties as prescribed by the District.

#### **Termination of employment for violation of leave provisions and procedures**

The District may terminate the employment of any employee who fails to comply with the requirements of sick leave procedures, who fails to request extended leave in accordance with the procedures, who fails to report to work at the expiration of authorized leave, or who fails to obtain an extension of previously approved leave.

An employee is subject to termination from employment with the District for misstatements of fact and/or misrepresentations of purpose for which leave of absence is desired or on the basis of which sick leave is obtained.

The District will not terminate an employee during a continuing sick leave of less than 91 workdays, provided none of the aforementioned grounds for termination are present.

In the event of termination of a contract before the end of the year, or separation from employment, sick leave will be prorated for that year, and the daily rate of compensation of the employee will be deducted from the final check for absences beyond the earned prorated amount of sick leave.

#### **Reinstatement of leave**

~~A person who leaves the employment of the District will have all accumulated sick, personal, and annual leave benefits reinstated provided he/she is reemployed within a 12-month period.~~

~~A person who is granted a sabbatical leave approved by the District will have all sick, personal, and annual leave benefits reinstated provided he/she returns to work immediately after the sabbatical leave.~~

~~An employee who is terminated due to a reduction of force will have all accumulated sick and personal leave benefits reinstated provided the return to work occurs within the two-year recall period.~~

#### **Transfer of sick leave**

Except as noted below, an employee of a S.C. state agency or school district transferring to the District may transfer and retain all statutorily eligible sick leave he/she accumulated at his/her former place of



employment.

### **Reimbursement of Unused Sick Leave**

Upon retiring from employment with the District, including entering the Teacher and Employee Retention Incentive ("TERI") retirement program, or upon separating from employment from the District for a reason other than retirement or entering the TERI retirement program, an eligible employee may be paid for unused sick leave in excess of 90 days, up to a maximum of 60 days, at the rate of \$20 per day. Once an employee receives payment for any unused sick leave, he/she will be unable to transfer those days to another state employer or use them if he/she should continue to be employed by the District in some capacity.

No employee will receive payment for more than a total of 60 days of accumulated sick leave from the District during his/her lifetime. For example, if an employee retires and enters the TERI retirement program, he/she will continue to accrue sick leave pursuant to District policy. However, an employee who has received payment for a total of 60 days of accumulated sick leave will receive no additional payment for sick leave not used during the employee's participation in the TERI retirement program. Similarly, if an employee who received payment for 60 days of accumulated sick leave returned to work for the District at a later date, the employee would receive no additional payment for sick leave not used during the employee's subsequent employment with the District.

#### *Legal references:*

##### *State.*

*S.C. Code § 8-11-46 – Transfer of accumulated leave upon transfer between state agency and school district.*

*S.C. Code § 59-1-400 – Sick leave for public school district employees.*

*Revised: 7-1-02; 7-1-04; 7-1-06; 7-1-07; 7-1-14.*

### **Personal leave**

Employees may use up to two days, cumulative to four days, annually of their sick leave for personal leave. This leave should be used for personal matters which cannot be attended to on non-school days or after school hours. A request for personal leave must be submitted for approval to the employee's principal or immediate supervisor using an Employee Leave Request Form available at each school and at the District Office. Employees will not be required to give a reason for use of personal leave. Personal leave requests should be presented at least 24 hours in advance. The principal or immediate supervisor may deny the request for personal leave if ten percent of the work staff at that location has already been approved for the same day off. This measure is implemented in order to minimize the possibility of creating a shortage of work staff on a particular date.

*Revised: 7-1-02; 7-26-05.*

### **Bereavement leave**

The District will allow an employee to use a maximum of 10 days of sick leave, personal leave, and/or annual leave per period of bereavement for a death in the immediate family. For the purposes of bereavement leave, immediate family is defined as the employee's spouse, child, foster child (as well as stepchild, legal ward, or "child" of the employee or spouse when acting in loco parentis), and the following relations to the employee or his/her spouse: mother, father, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, or legal guardian (as well as a person who acted in the capacity of a parent to the employee or spouse when the employee or spouse was a child).

*Revised: 7-1-04.*

### **Annual leave**

~~A 12-month employee, excluding a temporary employee~~ Employees scheduled to work two hundred and forty (240) or more days in a fiscal year shall earn annual leave at the rate of one day per calendar month

during his/her first 120 months of service in the District. When the employee has 120 months of service in the District, he/she shall earn annual leave at the rate of one and one-half days per calendar month. Annual leave must be earned before it can be used. No annual leave shall be provided temporary employees, those employed for less than 30 hours per week, or those employed on a less than 12-month basis. Employees entering the TERI retirement program will accrue annual leave if they are otherwise eligible under District policy.

~~Unused annual leave may be accumulated to a maximum of 45 days — the maximum accumulation shall be determined as of the end of the day on August 15 of each year. However, the District feels that for the good of both the employee and the District, annual leave should be taken each year. Annual leave can accrue up to 45 days plus one year's accrual (57 days if length of service is less than 120 months, 63 days if length of service is 120 or more months). Once the balance reaches 45 days plus one year's accrual, no time will be earned until the balance falls below the maximum limit.~~

~~Twelve-month employees~~ Employees whose length of employment is reduced to less than ~~twelve months~~ two hundred and forty days in a fiscal year may elect one of the following options:

1. Elect to carry forward all accumulated annual leave ~~for 12 months from the time of change. At the end of 12 months, any remaining leave balance will be paid at the employee's per diem rate of pay at the time of the schedule change.~~
2. Elect to be paid for all accumulated annual leave at the employee's per diem rate of pay at the time of the ~~contract~~ schedule change.
3. Elect a combination of options "1" and "2."

#### **Reimbursement of Unused Annual leave**

Upon retiring from employment with the District, exiting the TERI program, or separating from employment from the District for a reason other than retirement, an eligible employee may be paid his/her daily rate, calculated on the current year's salary schedule, for unused annual leave up to 45 days with the balance, if any, of his/her accumulated annual leave taken prior to the last day of employment. Once an employee receives payment for any unused annual leave, he/she will be unable to transfer those days to another state employer or use them if he/she should continue to be employed by the District in some capacity. No employee will receive payment for more than a total of 45 days of accumulated annual leave from the District during his/her lifetime.

#### **Reinstatement of leave**

A person who leaves the employment of the District will have all accumulated sick, personal, and annual leave benefits reinstated provided he/she is reemployed within a 12-month period.

A person who is granted a sabbatical leave approved by the District will have all sick, personal, and annual leave benefits reinstated provided he/she returns to work immediately after the sabbatical leave.

An employee who is terminated due to a reduction of force will have all accumulated sick and personal leave benefits reinstated provided the return to work occurs within the two-year recall period.

*Revised: 7-26-05; 8-16-05; 7-1-06; 7-1-07; 7-1-14.*

#### **Emergency leave**

For emergencies and unusual situations not covered by the leave policies of the District, an employee may request the Superintendent's authorization for use of sick leave days. The employee must submit the request in writing through his/her principal or supervisor to the Superintendent.

#### **Legal absence**

Employees should notify their principal or immediate supervisor as soon as they know they are being called for jury duty, subpoenaed, or involved in a court proceeding as a victim or a witness pursuant to the

proceeding (see Sections 16-3-1510 and 16-3-1550 of the S.C. Code – “victim” also includes any individual’s spouse, parent, child, or the lawful representative of a victim who is deceased, a minor, incompetent, or physically or psychologically incapacitated). The District will grant an employee leave without loss of pay when the employee is (1) summoned for jury duty, (2) subpoenaed in the line of duty to represent the District as a witness or defendant, or (3) involved in a court proceeding as a victim or witness as indicated in the preceding sentence. Any jury fee or travel payment shall be retained by the employee. An employee should submit a copy of a jury duty summons or subpoena to his/her principal or supervisor. If an employee must appear in court for any reason other than the above, the District will deduct full pay from his/her salary or, if eligible, annual or personal leave days. Whenever a prospective juror or a juror is dismissed before the end of the working day, he/she should return to his/her official duties.

The District encourages school employees selected for jury service during the school term to request that their service be postponed to a date that does not conflict with school responsibilities. Pursuant to state law, the court will likely grant the postponement.

*Legal references:*

*State.*

*S.C. Code § 16-3-1510 – Definitions.*

*S.C. Code § 16-3-1550 – Restrictions on employers of victims and witnesses . . .*

*Revised: 7-1-02; 7-1-04; 7-1-08.*

## **Military leave**

The District complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Code of Laws of S.C. in its handling of military leave and related matters – both of which take precedence over the District’s policy on military leave. Principals and District-level division heads must post a current copy of the notice to employees concerning their rights under USERRA as published by the U.S. Department of Labor.

For the purpose of this policy, the fiscal year (July 1 – June 30) will be used to determine if an employee has received fifteen days of military leave.

In all cases, an employee must provide a copy of orders to duty and/or amendments to the department of Human Resources.

### **Leave for Employees Reserve/National Guard Training Obligation 365 days or less**

Employees are authorized to take up to fifteen days military leave within a fiscal year without loss of pay, benefits, seniority, or efficiency rating consistent with District policy for one or more periods during which they are engaged in training or other duties ordered by an appropriate authority.

### **Leave for Employees Ordered Duty of more than 365 continuous days**

Those employees who are ordered to continuous duty in excess of 365 days will be granted a onetime benefit of an additional fifteen paid days of military leave. The employee must return to work and be actively working at the district for a minimum of six months before they are again eligible to receive this additional fifteen days of pay.

*The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires employers to provide certain reemployment and benefits rights to employees who serve or have served in the uniformed services.*

At the beginning of military leave (regardless of whether leave is paid or unpaid), an employee may continue or drop all of his health-related coverage and/or all of his life insurance coverage. For Leave Without Pay (LWOP) purposes, health-related coverage includes health, dental and vision; and life insurance coverage to include Optional Life and Dependent Life. All employees that are going into active

duty for more than fifteen days should meet with a member of the Benefits department prior to leaving for duty and immediately upon returning to district for employment.

If the employee chooses to continue coverage Horry County Schools will pay the employer share of the premiums for the first 31 days of unpaid military leave. After the first 31 days of unpaid military leave the employee will be required to pay the employer and employee portion of the premiums.

An employee on military leave is eligible for a total of 30 months of continued health, dental or vision coverage. If the employee elects to continue coverage, his LWOP continuation coverage will end after a maximum of 12 months. If the employee continues coverage for the entire 12 months, 18 months of COBRA coverage will be offered to the employee.

If the employee leaves for military service without explicit election to continue coverage and the premiums are not paid, coverage will be terminated and 18-month COBRA will be offered. Coverage may be reinstated upon discharge or release from active duty and return to work. Back premiums will not be required to reinstate health, dental and/or vision coverage.

*Legal references.*

*Federal.*

*Uniformed Services Employment and Reemployment Rights Act.*

*State.*

*S.C. Code § 8-7-90: Leaves of absence authorized for public officers and employees in National Guard or reserve military forces.*

*S.C. Code § 25-1-2250: Leaves of absence for public officers and employees.*

*Revised: 7-1-02; 9-3-03; 7-1-04; 7-26-05; 7-1-06; 8-8-12.*

## **Conferences and training workshops**

The District believes that it is desirable to provide professional leave for staff members in order to attract and retain personnel who will continue to grow professionally and enhance their service to the District's students.

The District may grant temporary leave to an employee for the purpose of attending activities designed to improve employee competency or to improve the instructional or service programs of the District. The District reserves the right to determine if the proposed activity meets District needs.

Professional leave shall be without pay deduction. The employee must apply for professional leave through his/her principal or immediate supervisor in accordance with guidelines established by the District.

## **Post-secondary courses and certification**

The District encourages staff members to continue their professional development education while employed by the District. However, employees are reminded that their most important obligation is to their instructional tasks, and education and certification activities should not be undertaken to the extent that they will detract from that primary obligation. Any schedule of such course work or other activities must be done so that they do not interfere with the employee's regular daily assigned duties with the District. An employee's written request to leave work early in order to attend a class or participate in certification activities will be considered on a case-by-case basis. In order for the employee to leave work early, the request must be approved by the employee's principal and by the appropriate executive director (requests from District-level employees must be approved by their department head and by the appropriate chief officer). Accrued personal leave, accrued annual leave, and/or leave without pay must be used by an employee who is given permission to leave work early.

College or post-secondary courses taught by employees must be scheduled so that they will not interfere with the employee's regular job duties.

*Revised: 7-1-04; 7-1-06.*

**Sabbaticals**

The District will grant sabbatical leave according to the conditions specified below.

1. Full-time administrative and teaching personnel will be eligible for consideration for one year of sabbatical leave after six consecutive years of employment with the District.
2. Leave will be granted without compensation.
3. The District will pay its portion of the employee's health insurance premium subject to the person's submitting his/her portion of the insurance premium to his/her benefits account manager in Human Resources no later than the first day of each month that the person is on sabbatical leave. If the employee does not return to employment with the District immediately after the sabbatical leave, the employee is responsible for reimbursing the District for the portion of the employee's health insurance premium paid by the District. Other benefits such as, but not limited to, accrual of leave and experience credit will not be granted.
4. No more than one percent of professional personnel will be granted leave at the same time.
5. In granting leave, consideration will be given by the District to the best interests of the District as well as to the employee.
6. The District guarantees the employee, upon his/her return to the District immediately after the leave of absence, a position equal to the one he/she held immediately prior to being granted sabbatical leave, but not necessarily the one he/she held.
7. The District will grant leave for advanced study, travel or other experiences which, in the opinion of the District, will enhance the worth of the employee to the District. As a condition for returning from sabbatical leave, the employee must furnish the District with documentation that the sabbatical leave accomplished the objective stated in the employee's Application for Sabbatical Leave.
8. The employee must file an application for leave with the Superintendent not later than March 1 for leave for the following school year. Applicants will be notified by April 1 of the decision of the District.
9. Employees on leave will notify the Superintendent by March 1 of their intention to return to the District the following school year. The District will provide employees on leave a contract for the following school year showing tentative assignment by April 15.

See, also: "Reinstatement of leave."

*Revised: 7-1-04; 7-1-06; 7-1-07.*

**Family and Medical Leave Act (FMLA)**

The District will provide leave to eligible employees consistent with the FMLA. Eligible employees are entitled up to 12 workweeks of unpaid family and medical leave in any 12-month period. The District will continue to pay the District's share of the employee's health benefits during the leave. In addition, the District will restore the employee to the same or a similar position after the termination of the leave in accordance with District policy.

The following guidelines will be used to provide a fair and systematic procedure by which eligible employees may take unpaid leaves of absence for family and medical reasons.

**Eligibility requirements**

To qualify for leave under this policy, an employee must have been employed by the District for at least 12 months as of the date on which the requested leave will commence. In addition, the employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

**Leave entitlement**

An eligible employee is entitled to a total of 12 workweeks of unpaid leave during any fiscal year (July 1 through June 30):

1. For the birth of a son or daughter of the employee;
2. For the placement of a child with the employee for adoption or foster care ("foster care" is 24-hour care for children in substitution for and away from, their parents or guardian, by or with the agreement of the state or pursuant to a judicial determination);
3. To care for a spouse, son, daughter, or parent of the employee if such spouse, son, daughter, or parent has a serious health condition; "son or daughter" means a biological, adopted, or foster child, stepchild, legal ward, or "child" of an employee standing in loco parentis when the child is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability (persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of a parent, a person who had such responsibility for the employee when the employee was a child); and/or
4. Because of a serious health condition of the employee that renders the employee unable to perform the essential functions of the position.

An eligible employee who is the spouse, son, daughter, parent or next of kin of a "member of the Armed forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness" may be permitted to take up to 26 workweeks of leave to care for this individual.

An eligible employee who desires to take leave under this policy will request such leave from his/her immediate supervisor, who will then notify the Superintendent or his/her designee of the request. Requests will be responded to in a timely manner.

The entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after the date of such birth or placement. If circumstances require, an employee may take family leave prior to the birth or placement of a child for prenatal care or to prepare for placement, e.g., to attend counseling sessions or appear in court.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or
2. Continuing treatment by a health care provider.

A serious health condition involving "continuing treatment by a health care provider" includes one or more of the following:

1. A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:

- a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or
  - b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;
2. Any period of incapacity due to pregnancy or for prenatal care;
3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition; a chronic serious health condition is one which:
  - a. Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;
  - b. Continues over an extended period of time (including recurring episodes of a single underlying condition);
  - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective – the employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (examples include Alzheimer's, a severe stroke, or the terminal stages of a disease); and
5. Any period of absence to receive multiple treatments by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, kidney disease.

A "health care provider" is:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;
2. A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (limited to treatment of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist), authorized to practice in the state and performing within the scope of his/her practice as defined under state law;
3. A nurse practitioner or nurse midwife who is authorized to practice under state law and who is performing within the scope of his/her practice as defined under state law; and
4. A Christian science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.

#### **Intermittent or reduced schedule leave**

1. "Intermittent leave" is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave periods from one hour or more to several weeks.
2. A "reduced schedule leave" is a leave schedule that reduces an employee's usual number of working hours per workweek, hours per work day, or days per workweek.

3. Leave for the birth or placement of a child will not be taken intermittently or on a reduced schedule without the written consent of the Superintendent or his/her designee, who will consult with the employee's immediate supervisor before granting such consent.
4. Leave to care for a seriously ill spouse, son, daughter, or parent, or for the employee's own serious health condition may be taken intermittently or on a reduced schedule only when medically necessary.
5. If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the Superintendent or his/her designee may require such employee to transfer temporarily to an available alternative position for which the employee is qualified that (1) has equivalent pay and benefits and (2) better accommodates recurring periods of leave, or family leave (see below: "Intermittent or Reduced Schedule Leave for Instructional Employees").

**Substitution of paid leave**

Except as may be otherwise determined by the District when an employee is eligible by workers' compensation, the District requires an employee to use accrued paid annual, sick and/or personal leave time for any unpaid portion of FMLA leave. Such accrued leave will be substituted by the District for part or all of an employee's FMLA leave without limitation. Thus, the District requires an employee to use any accrued paid leave before taking unpaid leave, and the District counts both towards fulfillment of the 12-week FMLA total.

**Foreseeable leave/notice required**

1. When the necessity for leave for the birth or placement of a child is foreseeable based on an expected birth or placement, the employee must provide at least 30 days written notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave. The failure to provide such notice with no reasonable excuse for the delay may result in the denial of a request for leave until 30 days after the employee provides notice.
2. If the date of the birth or placement requires leave to begin in less than 30 days, the employee must provide as much notice as is practicable.
3. When leave to care for a seriously ill spouse, child, or parent, or for an employee's own serious health condition, is foreseeable based on planned medical treatment, the employee:
  - a. Must make a reasonable effort to schedule the treatment so as not to disrupt unduly the District's operations, subject to the approval of the health care provider;
  - b. Must provide at least 30 days written notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave, except that if the date of treatment requires leave to begin in less than 30 days, the employee must provide as much notice as practicable.

**Spouses employed by the District**

If a husband and wife entitled to leave are employed by the District and both take leave for the birth or placement of a child or to care for a seriously ill parent, the aggregate number of workweeks of leave to which both may be entitled may not exceed 12 workweeks during any 12-month period.

**Certification**

1. A request for leave to care for a seriously ill spouse, child, or parent, or for the employee's own serious health condition must be supported by a certification issued by the health care provider of the employee or family member. The District has forms available which an employee may use for this purpose.
2. The certification must contain the following information:



- a. The date on which the serious health condition commenced;
  - b. The probable duration of the condition;
  - c. The appropriate medical facts regarding the condition;
  - d. For leave taken to care for a seriously ill spouse, child, or parent, a statement that the employee is needed to care for the spouse, child, or parent and an estimate of the amount of time the employee will be needed for that purpose;
  - e. For leave taken due to an employee's serious health condition, a statement that the employee is unable to perform the essential functions of the position;
  - f. For intermittent or reduced schedule leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;
  - g. For intermittent or reduced schedule leave for an employee's serious health condition, the statement of the medical necessity for the intermittent or reduced schedule leave and the expected duration of such leave;
  - h. For intermittent or reduced schedule leave to care for a seriously ill spouse, child, or parent, a statement (1) that the employee's intermittent or reduced schedule is necessary for the care of the spouse, child, or parent or will assist in their recovery and (2) concerning the expected duration and schedule of the intermittent or reduced schedule leave.
3. If the Superintendent or his/her designee or the employee's immediate supervisor has reason to doubt the validity of a certification, he/she may require, at the District's expense, the employee obtain the opinion of a second health care provider designated or approved by the Superintendent or his/her designee.
4. A health care provider designated or approved by the Superintendent or his/her designee will not be one who is employed on a regular basis by the District.
5. If the first and second opinions of the health care providers are conflicting, the Superintendent or his/her designee may require the employee to obtain a third opinion at the District's expense. The employee and the Superintendent or his/her designee must jointly select the third health care provider from a health care provider other than a Christian Science practitioner.
6. The Superintendent or his/her designee may require subsequent recertification on a reasonable basis, but no more often than every 30 days unless:
  - a. The employee requests an extension of leave;
  - b. The circumstances described by the original certification have changed significantly; or
  - c. The Superintendent or his/her designee receives information which casts doubt on the continuing validity of the prior certification.

**Employment and benefits protections**

1. Restoration to position.
  - a. Any employee who takes leave for the intended purpose of the leave will be entitled on return from leave to be restored to the position of employment held by the employee when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

- b. The taking of leave will not result in the loss of employment benefits accrued prior to the date on which leave commenced.
  - c. A restored employee is not entitled to the accrual of seniority or employment benefits during the period of leave or to any right, benefit, or position of employment other than that to which the employee would have been entitled had the leave not been taken.
  - d. As a condition of restoration for an employee who has taken leave due to his/her own serious health condition, the employee must provide a certification from the health care provider stating that the employee is able to resume work. Until such a certification is provided, reinstatement will be denied.
  - e. An employee on leave must report periodically to his or her immediate supervisor on his or her status and intention to return to work.
2. Exemption of certain highly compensated employees.
- a. The Superintendent or his/her designee may deny restoration to a salaried employee who is among the highest paid ten percent of District employees if:
    - (1) Such denial is necessary to prevent substantial and grievous economic injury to the operations of the District;
    - (2) The Superintendent or his/her designee notifies the employee of the intent to deny restoration at the time he/she determines such injury would occur; and
    - (3) If leave has commenced, the employee decides not to return to work.
  - b. If the Superintendent or his/her designee believes that reinstatement may be denied to a key employee, the Superintendent or his/her designee must give written notice to the employee at the time leave is requested that he or she qualifies as a key employee. In addition, the employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if it is determined that substantial and grievous economic injury will result from the employee's reinstatement.
  - c. As soon as the Superintendent or his/her designee determines that such an injury will result from reinstatement, he/she must again notify the employee in writing of this determination, and advise the employee that the District cannot deny leave but that it intends to deny restoration to employment on completion of the leave. This notice must be delivered in person or by certified mail. It also must explain the basis for the finding that substantial and grievous economic injury will result and must provide the employee a reasonable time in which to return to work.
  - d. If the employee elects to remain on leave, the District will continue to maintain his/her health benefits until the employee gives notice that he or she no longer wishes to return to work or until reinstatement is actually denied at the conclusion of the leave.
  - e. Once the key employee's leave has expired, he/she is entitled to request reinstatement. The Superintendent or his/her designee must then determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that such an injury will result, the Superintendent or his/her designee shall notify the employee in writing of the denial of restoration. This notice must be delivered in person or by certified mail.
3. Maintenance of health benefits.
- a. During an employee's leave, the District will maintain coverage under any group health plan at the level and under the conditions that would have been provided if the employee had continued in employment continuously for the duration of the leave.
  - b. The employee must continue to pay his/her portion of all insurance premiums to maintain coverage. If an employee's premium payment is more than 30 days late, the District may

discontinue coverage of the employee under the policy. The District will provide 15 days advance notice before cancellation of coverage.

- c. If coverage lapses because an employee has not made premium payments, upon the employee's return from leave, the District will restore the employee to coverage and benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed.
- d. If the District continues coverage under the policy by paying the employee's portion of the premiums, the District is entitled to recover all such payments. Further, the District may recover from an employee its share of health plan premiums paid during a period of leave under this policy if the employee fails to return to work at the expiration of the leave, unless the reason for the employee's failure to return is due to the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. If an employee fails to return because of the continuation, recurrence, or onset of a serious health condition, the employee must provide a certification of the employee's or family member's serious health condition. The District also will not seek recovery for its share of premiums for any portion of paid leave substituted or used by an employee.

#### **Intermittent or reduced schedule leave for instructional employees**

If an eligible staff member employed principally in an instructional capacity requests leave to care for a seriously ill spouse, child, or parent, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the Superintendent or his/her designee, in consultation with the principal, will require that the employee elect either:

1. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatments or
2. To transfer temporarily to an available alternative position for which the employee is qualified that has equivalent pay and benefits and which better accommodates recurring periods of leave.

#### **Rules applicable to periods near the conclusion of an academic term for employees employed principally in an instructional capacity**

1. If an eligible staff member employed principally in an instructional capacity begins leave more than five weeks prior to the end of an academic semester, the Superintendent or his/her designee, in consultation with the principal, may require the employee to continue taking leave until the end of the semester if:
  - a. The leave is of at least three weeks duration and
  - b. The return would occur during the three-week period before the end of the term.
2. If an eligible staff member employed principally in an instructional capacity begins leave for the birth or placement of a child or to care for a seriously ill child, spouse, or parent during the period that commences five weeks prior to the end of an academic semester, the Superintendent or his/her designee, in consultation with the principal, may require the employee to remain on leave until the end of the semester if:
  - a. The leave is greater than two weeks and
  - b. The return to employment would occur during the two-week period before the end of the term.
3. If an eligible staff member employed principally in an instructional capacity begins leave for the birth or placement of a child or to care for a seriously ill spouse, child, or parent during the period that commences three weeks prior to the end of an academic semester and the duration of the leave is

greater than five working days, the Superintendent or his/her designee, in consultation with the school principal, may require the employee to continue taking leave until the end of the term.

4. If the District requires an employee to remain on leave until the end of an academic term and this results in the employee taking more leave than is necessary to resolve the condition which necessitated the leave, the additional leave time required to be taken will not be deducted from the employee's total available FMLA leave. The employee, however, will continue during this time to be entitled to the maintenance of health benefits and job restoration in accordance with this administrative rule.

*Legal references:*

*Federal.*

*United States Code P.L. 103-3 and 29 CFR Part 825 – The Family and Medical Leave Act of 1993.*

*State.*

*S.C. Code § 8-7-20 – Requires granting of military leave, without pay up to five years.*

*S.C. Code Section 8-7-90 – Requires 15 days per year of leave with pay for members of National Guard and Reserve Units of the various Armed Forces. Also grants and additional 30 days of leave with pay in emergency situations.*

*S.C. Code § 14-1-190 – Compensation received for jury duty deemed to be expense money.*

*S.C. Code § 14-7-845 – Relating to optional postponement of jury service for students and employees.*

*S.C. Code § 25-1-2250 – Employees entitled to leave with pay when serving in National Guard.*

*S.C. Code § 59-1-400 – Sick leave for public school district employees.*

*Revised: 7-1-04; 7-26-05; 7-1-09.*

## **Sick Leave Bank**

The District has established a Sick Leave Bank ("Bank") for active duty employees who earn sick leave. The purpose of the Bank is to provide leave for employees who experience catastrophic illnesses or accidents that require absences which exceed their accrued leave but do not activate long-term disability insurance provisions. The Bank Board year will be from July 1 through June 30 each year.

The Bank Board will receive requests for use of days from the Bank and will decide on these requests and on any appeals arising from their decisions according to the regulations contained in these procedures. All information concerning a request will be considered confidential. The Bank Board may make suggestions for improving the operation of the Bank; however, any changes to these procedures must be approved by the Superintendent.

The Bank Board will issue an annual report to the Superintendent as well as provide any updates as requested by the Superintendent.

## **Rules**

### **Definitions**

1. For the purpose of this policy, catastrophic or prolonged illnesses or accidents will include illnesses or accidents so severe which necessitate absences in excess of 30 days and will exclude elective surgery and normal pregnancy and delivery. For the purposes of this policy, the Bank Board will determine whether the illness or accident is catastrophic based on the information presented.
2. Intermittent catastrophic illness is defined as a catastrophic illness that may be an "ongoing" illness to the employee that would require the member to use sick leave at intermittent times due to the type of illness or accident. The employee/member may be able to return to work for a period of time but must again take sick leave due to special therapy or treatment. In an intermittent catastrophic illness, the Bank procedures are not dependent upon the employee/member being out of work for at least 30 workdays. Rather, an accumulation of 30 absences due to illness would be required before approaching the Bank for additional leave.
3. Earned sick leave day means a day actually earned in active service through working and does not include days advanced by the District.

4. New members are defined as employees joining the Bank for the first time or employees who are rejoining the Bank.
5. Employees who are approved will receive the equivalent of two-thirds of their daily pay rate for each day approved by the Bank Board.

### Eligibility

1. All employees who earn sick leave and have accrued one day of earned sick leave are eligible to join the Bank. Participation is voluntary. To become a member, an employee must complete a membership application and contribute one day of earned sick leave during the open enrollment period, or in the case of a new employee, the employee may enroll within 31 ~~work~~ calendar days of reporting to work. Additional contributions, as needed, will be automatically transferred to the Bank according to Bank procedures. (See below: "Procedures and regulations for membership.")
2. New employees, who fail to enroll during their first opportunity, may enroll during a subsequent open enrollment period; however, when such employees join the Bank, they will have a one-year waiting period before becoming eligible to submit an application for use of Bank days.
3. Persons continuing employment with the District in a new fiscal year, who are not members of the Bank, may join the Bank within an open enrollment period; however, such employees will have a one-year waiting period before becoming eligible to submit an application for use of Bank days.
4. Members utilizing sick leave days from the Bank without a break in service will constitute eligibility for continued coverage provided all other requirements for Bank benefits are met.

### Procedures and regulations for membership

1. An open enrollment period will occur in October of each school year or within the first 31 ~~work~~ calendar days on the job for new hires. Additional open enrollment periods may be declared at the direction of the Bank Board.
2. The Bank Board reserves the right to make additional assessments as deemed necessary to maintain the solvency of the Bank. If a special assessment becomes necessary and a member has exhausted all of his/her sick leave, the Bank will assess the individual as sick leave days are earned. At that time, the number of days assessed shall include the deferred and, if applicable, current assessment.
3. Employees who initially choose not to participate in the Bank may enroll during subsequent open enrollment periods after a one-year waiting period as specified above under "Eligibility," numbers "2" and "3." However, the employee must contribute a number of days (maximum of 4 days) equal to those he/she would have contributed had he/she been a member since the initial enrollment opportunity at hiring or at the initial open enrollment period.
4. Employees wishing to be a participating member of the Bank shall complete a "Sick Leave Bank Membership Application" that authorizes the deduction of one day of sick leave for the Bank. The deduction will automatically be transferred to the Bank ~~during each subsequent enrollment period until the employee gives notification in writing that he/she no longer wishes to be a member of the Bank~~ within 30 days of each subsequent enrollment period.
5. All contributions to the Bank remain the property of the Bank and under no circumstances can a member withdraw his/her accumulated days from the Bank. A member may cancel his/her membership during the open enrollment period by written notification to the Bank Board.

### Regulations for uses of the Bank

1. In order to make application to receive days from the Bank, an employee must meet the criteria specified below.
  - a. The employee must be a current member of the Bank.

- b. The employee must have been out of work for ~~30~~ 20 or more workdays due to a catastrophic or prolonged illness or accident. An exception may be made for intermittent catastrophic illness as defined above.
  - c. There will be no reimbursement from the Bank for the first 30 workdays of absences due to catastrophic or prolonged illness or accident. If the Bank Board approves the application, the first allowable day for use of Bank days would be the thirty-first workday of absence or whenever all accrued ~~sick~~ leave including sick, personal and annual leave is exhausted, whichever is later.
  - d. The employee will use all of his/her cumulative ~~sick~~ leave including sick, personal and annual leave for reasons indicated in District policy. The Bank Board may review an employee's attendance records, and the Bank Board may deny a request for leave from the Bank if the Bank Board determines abuse.
2. A member of the Bank who meets eligibility criteria as described in this regulation may apply to draw upon the Bank by completing an "Application for Use of Sick Leave Bank" form. This application must be accompanied by a "Physician's Confirmation" form confirming the nature and expected duration of the disabling condition.

The employee is encouraged to submit an "Application for Long-Term Disability/Disability Retirement Benefits" when the "Application for Use of Sick Leave Bank" is submitted or at the earliest possible date that the employee's physician indicates that there is a possibility that the illness could last for more than 90 calendar days.

The employee approved for days from the Bank should submit an "Application for Long-Term Disability/Disability Retirement Benefits" after the employee has received the equivalent of 35 days from the Bank per fiscal year or per illness. If the employee fails to submit the application within the first 40 days received from the Bank, the employee will not receive any days beyond 40 days until the application is completed and submitted.

In case the member is incapacitated, his/her application to draw upon the Bank may be submitted to the Bank Board by a member of his/her immediate family or other person deemed to be appropriate by the Bank Board.

Members utilizing sick leave from the Bank shall furnish or have furnished to the Bank Board a medical report every 30 calendar days, and the report shall include a statement signed by a licensed physician describing the illness and a prognosis for a date to return to work. The physician's original statement must be sent directly to the Human Resources/Payroll Clerk (a fax will not be accepted). If this statement is not received within 30 calendar days, the member will cease receiving days from the Bank. The member will begin to receive days effective the day the Bank Board accepts the new statement.

At the option of the Bank Board, a member will be required to submit, at the member's expense, a medical review for a second opinion by at least one physician. The medical review must be sent directly to ~~the Human Resources/Payroll Clerk (a fax will not be accepted).~~

3. An application for Bank days should be submitted to the Director of Human Resources–Employee Services who will schedule meetings of the Bank Board.
4. All members applying for days from the Bank will be notified in writing of the decision of the Bank Board.
  - a. All approved applications will be forwarded to ~~the~~ Human Resources and Payroll ~~Clerk~~ for processing. When a day or more is granted, payment will be made in accordance with the District's payroll procedures.
  - b. All denied applicants will be notified in writing by the Bank Board. Members may appeal a rejected application once by reapplying and submitting additional documentation and/or a second physician's opinion on the "Physician's Confirmation" form.
  - c. The Bank Board will respond to all appeals in writing.

- d. Initial decisions and appeal decisions will be made by a majority vote of the Bank Board quorum, which will consist of a majority of the voting members appointed by the ex-officio members. Bank Board decisions concerning appeals are final and shall not be the subject of a grievance.
5. An employee may not use more than 70 days from the Bank in a fiscal year, July 1 through June 30. The employee will be allowed to make special provisions through Employee Benefit Services to assure that the employee will not lose his/her insurance coverage while ~~incapacitated using days approved by the Bank Board~~.
6. The maximum number of days that may be drawn from the Bank for any single catastrophic or prolonged illness or accident is 70 days. Employees will receive the equivalent of two-thirds of their daily pay rate for each day approved by the Bank Board.
7. Leave from the Bank will not be granted retroactively to the previous fiscal year.
8. Members who have been approved for workers' compensation due to a job-related injury, or who have received disability benefits, will not be eligible to apply for Bank days.
9. Bank days cannot be granted for illness or hospitalization due to normal pregnancy except in extreme complications of pregnancy, e.g., extrauterine pregnancy, complications requiring intro-abdominal surgery, toxemia with convulsions, etc.
10. Members shall not be entitled to earn ~~any leave including annual, sick and personal~~ while drawing leave from the Bank.
11. A member's right to use the benefits of the Bank will be canceled for the following reasons:
  - a. Termination of employment with the District;
  - b. Cancellation of Bank participation by the member which is effective only at the close of the member's work year or the end of the fiscal year, whichever comes first;
  - c. Being gainfully employed while using Bank days;
  - d. ~~Refusal to make the required sick leave day contributions as contained in these procedures;~~
  - e. Falsifying or causing to have falsified, supporting documents used by the Bank Board in making decisions; and/or
  - f. Receiving payment under a disability plan such as the S.C. Long-Term Disability Program.
12. Forms to be used by employees for membership application, application for sick leave days from the Bank, and physician confirmation are available from Employee Benefit Services.
13. No appeals or grievances regarding the Bank will be entertained by the District administration or the Horry County Board of Education. Decisions made by the Bank Board are final.

#### Membership of the Sick Leave Bank Board

NOTE: Voting members of the Bank Board must be members of the Bank. ~~Board Members will serve 3 year terms. There will be eleven voting members of the Board.~~ The Bank Board will determine the most effective method to fill any Bank Board vacancies which may occur.

~~President of Horry County Association of Education Office Professionals, if extant, or a Bank member as designee if named by the organization.~~

~~President of Horry County Education Association, if extant, or a Bank member as designee if named by the organization.~~

~~President of Horry County School Foodservice Association, if extant, or a Bank member as designee if named by the organization.~~

~~President of Horry County Palmetto State Teachers Association, if extant, or a Bank member as designee if named by the organization.~~

Members appointed by ex-officio members:

- 1 Principal Representative
- 2 Teacher Representatives
- 1 Teacher Representing Horry County Palmetto State Teachers Association, if exant
- 1 Food Service Representative
- 1 Secretary Representative
- 1 Custodian Representative
- 1 Aide Representative
- 1 District Office Administrative Representative
- 1 District Office Support Staff Representative
- 1 Maintenance Department Representative.

Ex-officio members (non-voting):

Director of Human Resources–Employee Services, Chairperson  
 Director of Health and Safety Services, Vice-chairperson  
 Human Resources/~~Payroll Clerk~~, Secretary  
 Special Education Coordinator/Supervisor of Psychological Services.

Note: The Board will be transitioning to term membership during the next three school years. The Board will appoint four new members each year and four existing members will rotate off the Board. During the third year of each cycle, three new members will be appointed to the Board and three members will rotate off the Board. During the transition period, the following members of the Board will rotate off the Board on June 30 of the indicated school year:

#### 2014-15

- 1 Teacher Representative
- 1 Teacher Representing Horry County Palmetto State Teachers Association, if exant
- 1 Secretary Representative
- 1 Aide Representative
- 1 District Office Administrative Representative

#### 2015-16

- 1 Principal Representative
- 1 Food Service Representative
- 1 Teacher Representative
- 1 District Office Administrative Representative

#### 2016-17

- 1 District Office Support Staff Representative
- 1 Maintenance Department Representative
- 1 Custodian Representative

Revised: 7-1-02, 12-19-03, 7-1-04; 7-1-06; 7-1-07; 7-1-14.

### Deductions from salary

The District makes deductions from salary when an employee is absent from work under the following conditions:

1. The employee is absent from work but does not have appropriate leave to use consistent with the reason for the leave;
2. The person is absent from work without sufficient reason for not providing advance notification;



3. The employee has not sought permission to use personal leave or annual leave or has sought permission which was denied;
4. The employee makes appropriate arrangements to use leave without pay; or
5. The employee has been suspended without pay according to District policy and/or the Code of Laws of S.C., as amended.

Improper deductions are not permitted by the District. Any employee who believes that a deduction has been improperly made may discuss the matter informally with his/her supervisor and the Payroll Department. If the matter is not resolved to the satisfaction of the employee, he/she may attempt to resolve the matter through the District's grievance procedure for employees. If a decision is made in favor of the employee, he/she will be reimbursed for improper deductions.

See, also: "Complaints and Grievances."

*Legal references:*

*Federal.*

*U.S. Code: Fair Labor Standards Act.*

*State.*

*S.C. Code § 59-25-450 – Suspension of teachers.*

*S.C. Code § 59-26-40 – Induction contracts; annual contracts; provisional contracts; evaluations; continuing contracts; termination of employment for annual contract teacher; hearing.*

*Adopted: 7-1-04.*

## Workday

Teachers, counselors, media center specialists, assistant principals, principals, and District-level administrators are exempt from the provisions of the Fair Labor Standards Act; therefore, the principals and the District administration are authorized to establish work hours for such employees that support the instructional program and extra-curricular activities in addition to providing for the proper supervision of students. However, as required by the S.C. Department of Education, the workday for a full-time teacher cannot be less than seven hours.

The number of hours per workday for employees who are covered by the Fair Labor Standards Act ("FLSA") is established through the District's budget process and made a part of the notice of employment received by them. ~~However, the principal has the authority to establish reasonable daily time schedules consistent with District requirements and the FLSA.~~

~~The Principal or Chief Officer has the authority to establish a reasonable start time and end time based on the needs of the department. The start time and end time for FLSA non-exempt employees, excluding an unencumbered lunch, must not exceed the employees regularly scheduled hours.~~

Exceptions to the published workdays are at the discretion of the District and must have the written approval of the Superintendent or his/her designee.

A substitute's workday coincides with the workday of the person for whom he/she is substituting unless approved otherwise by the principal or his/her designee. The principal or his/her designee may assign a substitute teacher to other duties during the planning period for the absent teacher (the absent teacher should have already planned for instruction).

Disputes concerning daily time schedules are not grievable unless there is an alleged violation of the Fair Labor Standards Act (see "Classified Staff Supplementary Pay and Overtime").

*Legal reference.*

*State.*

*S.C. Board of Education Regulation R 43-57.1 – Computing the experience of teachers.*

*Adopted: 7-1-04. Revised: 7-26-05; 7-1-14.*

## Classified Staff Supplementary Pay and Overtime

The District is subject to, and complies with, the provisions of the Fair Labor Standards Act ("FLSA"). This Act includes provisions applicable to minimum wage and overtime pay for non-exempt employees. Nonexempt employees are employees such as bus drivers, cafeteria workers, custodial workers, day-care teachers and workers, licensed practical nurses, maintenance workers, ~~SASI-workers~~, secretarial support workers, and security personnel.

The District recognizes that while its goal is not to have any employee work overtime, it may occasionally be necessary for nonexempt persons to work more than 40 hours during a given workweek. Those nonexempt employees at work more than 40 hours in a workweek will be paid time and a half (in money or in compensatory time off) for each hour worked above 40 hours in a given workweek. No overtime, as defined by the FLSA, will be suffered or permitted without prior authorization, in writing, from the principal or district office division head, who is responsible for making sure that the employee is appropriately paid and/or given appropriate compensatory time off.

Employees who are subject to the provisions of the FLSA are required to complete such records as may be required by Fiscal Services. Failure to maintain such records, or falsification of such records, may be grounds for disciplinary action.

The administration will maintain records and establish procedures which are consistent with District policy and the requirements of the FLSA.

*Revised: 7-26-05; 7-1-14.*

### Minimum wage

The minimum wage paid on an hourly basis to District employees, either full- or part-time, permanent or temporary, will be no less than the established federal minimum wage.

### Workweek

A workweek will be a continuous period of 168 hours in the form of seven consecutive 24-hour periods. The District workweek begins at 12:01 a.m. each Saturday and runs for seven consecutive days. Each workweek stands alone for the purpose of determining overtime pay for non-exempt employees.

*Revised: 7-1-04.*

### Hours worked

Hours worked means all hours during which the individual is required to be on duty -- generally from the required starting time to normal stopping time. Meal periods do not count as hours worked unless the individual is required to perform work duties during the meal period. Break periods of 20 minutes or longer do not count as work time.

1. Travel. Ordinary travel time from home to a base location or vice versa is not work time. Official travel that occurs during an individual's regular working hours will be considered hours worked.
2. Leave. Time taken for annual leave, vacation leave, sick leave, leave without pay, or other leave taken for the purpose of jury duty, military assignment, or because of death in the family, shall not be counted as time worked and, therefore, is not counted as compensable time for the purpose of determining overtime pay.
3. Part-time in different capacity. If individuals are employed by the District in one capacity, but voluntarily work part-time in a different capacity on an occasional or sporadic basis, the hours logged in the second capacity will not be counted as hours worked for overtime purposes.

4. Substitution in same capacity. Employees, at their own option but with the approval of the District, may substitute during scheduled hours for other employees employed in the same capacity. Such substitution must be undertaken voluntarily without direct or implied coercion by the District. In the case of such substitution, the hours involved will not be credited to the substitute employee in the calculation of hours for which the employee is entitled to overtime compensation. The District shall maintain a record that the substitution has taken place.

### Overtime hours

Overtime hours for all employees in the District will be held to a minimum consistent with the needs and requirements of efficient and orderly administration. All hours worked by nonexempt employees must be scheduled and duly authorized by the employee's immediate supervisor. Overtime hours worked over 40 hours during the workweek must be authorized in writing prior to the time that the work is to be performed. Unauthorized overtime will not be tolerated.

Where an employee in a single workweek works at two or more different types of work for which different hourly rates have been established, the employee's regular rate for that week ~~is the weighted average of such rates. In determining a weighted average of rates, the earning from all such rates are added together, and this total is then divided by the total number of hours worked at all jobs is the highest rate of pay between the jobs.~~

With respect to the payment of overtime in money or in comp time, the District shall have the discretion to determine which method of payment to choose.

1. Compensatory time. Nonexempt employees who work more than 40 hours during any workweek may be awarded compensatory time off ("comp time"). Comp time will be awarded at the rate of one-and-a-half hours for each hour of overtime worked during any given workweek.
  - a. Comp time may be accrued up until 240 hours (160 overtime hours) and must be used within the fiscal year in which it is earned (the fiscal year is July 1 through June 30). Overtime work beyond this maximum accrual will be monetarily compensated at the rate of one-and-a-half times the individual's normal hourly rate of pay.
  - b. Every effort will be made to permit the use of comp time at a time mutually agreed upon by the employee and his/her immediate supervisor. However, where the individual's absence would unduly disrupt the operation of the District, the District retains the right to postpone or reschedule comp time usage. Comp time will generally be required to be used when school is not in session.
  - c. The District reserves the right to require employees taking comp time to schedule comp time in a minimal increment of time, which will be subject to change by the District upon written notification to affected employees.
  - d. Time off later for working on an official District holiday will not be considered compensatory time off but a delayed holiday. Employees who are required to work on an announced holiday will be given equal time off within the same fiscal year.
2. Monetary compensation. Nonexempt employees who work in excess of 40 hours per workweek may be paid at one-and-a-half times their "regular rate," in the event that the District has not designated comp time rather than monetary compensation.
3. Termination of employment. An individual with unused comp time whose employment is terminated or who terminates his/her employment will be monetarily paid at his/her final hourly regular rate of pay for unused comp time, which may include regular hours and overtime hours at time-and-one-half.

*Revised: 7-1-14.*

### Volunteers

A volunteer is defined as an individual who receives no compensation or who is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered, and such services are not the same type of services which the individual is employed to perform for the

District. District employees who work as volunteers will not be compensated for the time spent performing volunteer work.

### **Career and Technology Education Students**

Career and technology education (CATE) students performing work as part of a curriculum are students and not workers. Students helping in office capacities for short periods of time are volunteers and not employees.

*Revised: 7-1-09.*

### **Record keeping**

The Fair Labor Standards Act requires the District to keep certain records.

#### **1. Non-Exempt Employees.**

The following records must be kept for each non-exempt employee working in the District.

- a. Name and Social Security Number
- b. Home address
- c. Sex and occupation in which employed
- d. Time and day on which his/her work week or work period begins, and length of work period
- e. Regular rate of pay for any work week or work period
- f. Hours worked each day and each work week or work period
- g. Total daily, weekly or work period straight time earnings
- h. Overtime excess compensation
- i. Total additions to or deductions from wages paid each pay period
- j. Total wages paid each pay period
- k. Date of payment and the pay period covered by the payment.

#### **2. Retention of Records.**

- a. Records to be preserved three years:

- (1) Payroll records
- (2) Certificates, agreements, plans, notices, etc.
- (3) Sales and purchase records.

- b. Records to be preserved two years:

- (1) Supplementary basic records:
  - (a) basic employment and earnings records
  - (b) wage rate tables
  - (c) work time schedules
- (2) Order, shipping and billing records
- (3) Records of additions to or deductions from wages paid
- (4) Records which explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment.

*Revised: 7-1-04; 7-1-07.*

## **Staff Participation in Political Activities**

### **Employee candidacy**

Employees have the same fundamental civic responsibilities and privileges as other citizens. Among these are campaigning for an elective public office or holding an elective or appointive public office to the extent that neither activity conflicts with the employee's duties in the District.

~~At the earliest possible moment,~~ An employee who wishes to offer for an elective or appointive position on a governing Board or agency should verify in writing to the Superintendent **in advance of officially becoming a candidate** that such position will not conflict with State or federal law and/or regulations concerning the employee's right to serve, i.e., dual office holding, conflict of interest, etc. The employee must also notify the Superintendent in writing of the position sought and the employee's intention as to the possibility of continued employment and the conditions of the employment.

In connection with campaigning and/or holding public office, an employee must not do the following:

1. Use school system facilities, equipment, or supplies;
2. Discuss his/her campaign with school personnel, students, or citizens during the workday;
3. Use any time during the workday for campaigning purposes, either through his/her own activities or through the activities of a colleague.

Any employee who fails to comply with this policy may be subject to disciplinary actions.

### Political activities in schools

The District firmly believes in the democratic process and in those principles which are a part of the heritage of our nation. The District also believes in the exposure of mature students to persons of political prominence as a means through which students are made aware of current events in their community, state, nation, and world along with the effects of these events upon their individual lives.

However, the District opposes actions which transform the schools into arenas for political activity, including advocating any political party or any candidate for public office. **District employees shall not solicit support for or opposition to any political candidate or political ballot question during work hours on district property, as expanded below:** ~~Such activity can and does create friction within the school and is thus disruptive to the educational processes and programs of the school.~~

1. No one may distribute or post flyers, cards, pamphlets, brochures, signs, pins, badges, or any other political paraphernalia espousing any political party or candidate on school property; **except for personal vehicles in staff parking areas which may have visible political signage that is no larger than the vehicle's door.**
2. **District email and telephones may not be used at any time for political purposes.**
3. No one may collect or solicit funds for political use or solicit for campaign workers on school property.

During the school day, on school property, or at a school-sponsored event, or in the course of his/her employment, no employee will (1) influence or attempt to influence any student, teacher, parent, or other person to vote for or against any candidate; (2) contact any student, teacher, parent, or other person for the purpose of espousing any candidate or political party; (3) use any District property for the purpose of espousing any candidate or political party; or (4) wear clothing or other campaign items espousing any candidate or political party.

In the course of their employment, District employees are not to assist in the preparation or distribution of campaign materials or to provide any other type of assistance associated with a campaign for public office.

No school publication will advertise or accept for advertisement any material promoting any political party or any candidate for public office. **This restriction also applies to advertisements sold for placement on any District property.**

The District interoffice mail and courier services may not be used to distribute political materials. However, mail received through the U.S. Postal Service, Federal Express, United Parcel Service, etc., will be placed in the addressee's mailbox without regard to its political nature.

A political candidate visiting a school may not:

1. Wear clothing of any kind that reflects his/her candidacy;
2. Wear buttons or stickers of any kind that reflect candidacy;
3. Park vehicles with signs bigger than the vehicle door and/or flags about the candidate (exception: short visits to a school to drop off or pick up a student or students);
4. Introduce himself/herself as a candidate for office;
5. Ask individuals or groups of individuals to vote for him/her;
6. Distribute campaign materials of any kind, including literature or any other promotional item;
7. Engage in conversation about political ventures and political candidacy;
8. Utilize school facilities during school hours for political events of any kind;
9. Utilize school facilities after school hours for political events unless the event is scheduled through a rental agreement (see "Community Use of School Facilities");
10. Utilize any form of written, electronic or visual communication medium of the District to promote his/her candidate; or
11. Interfere with the regular operations of a school.

Nothing in this policy is to be construed as precluding mock elections, debates, conventions, or other simulated political activities where the activity is primarily intended as an educational experience.

~~Except for~~ Political activities which are scheduled outside school hours through a rental agreement are covered elsewhere in policy (see "Community Use of School Facilities").

#### Legal references.

##### Federal.

*Hatch Act may apply to employees paid with Federal funds or working in activities supported by Federal funds. To obtain scope of coverage and permissible activities, contact General Counsel, U.S. Civil Service Commission, Washington, D.C. or Atlanta Regional Office (Reference: S.C. Attorney General's Opinion, 1973-74, No. 3749, p. 117).*

##### State.

*S.C. Code § 2-1-120 - A South Carolina teacher elected to the General Assembly is exempted from requirements of recertification and returns his/her teaching certificate while serving in the legislature.*

*S.C. Code § 8-13-10 et seq - Ethics, Conduct, Campaign Practices and Disclosures.*

*Revised: 4-10-02, 7-1-02, 7-1-04; 7-1-06; 7-1-14.*

## Professional Staff Reduction in Force

Recognizing that the District has the responsibility to maintain appropriate public elementary and secondary schools, the District must give primary consideration to the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the District. Further recognizing, however, that it may become necessary for the District to eliminate certificated staff positions due to decreases in student enrollment, changes in curriculum, District reorganization, financial exigency, or other circumstances, the administration has established procedures necessary for its implementation.

### Procedure

Once the Superintendent has determined that elimination of certificated staff positions is desirable or necessary, the Superintendent shall determine what position(s) must be eliminated and what individual(s) are to be terminated and shall present his/her recommendations to the Board of Education for approval.

Prior to commencing action to terminate certificated staff members under this policy, due consideration shall be given to the ability to achieve position elimination and/or reduction in staff by voluntary retirement or resignation, transfer, voluntary leaves of absence, and part-time employment.

In the event termination of certificated staff is required, the following guidelines shall be adhered to:

1. Reduction-in-force terminations will be on a District-wide basis; therefore, the Superintendent shall not be limited to considering only those employees in the particular school, area, or program in which the loss of enrollment, curriculum change, or financial exigency has occurred.
2. The recommendation concerning specific employees to be terminated under this policy shall be based upon the following considerations:
  - Area(s) of certification;
  - Education level;
  - Performance evaluation;
  - Attendance record;
  - Experience in other areas of certification;
  - Principal's or supervisor's recommendation;
  - Type of contract;
  - Extra-curricular needs of the schools;
  - Length of service among employees considered by the administration to be equally competent in their performance;
  - Professional experience; and
  - Other factors considered appropriate by the Superintendent.

The Superintendent may determine the appropriate weight to give to these factors depending upon the needs and circumstances of the District.

### **Notice to individual employee**

The Superintendent or his/her designee shall meet with the employee whose employment will be terminated as a result of the reduction in force. Written notice of District action to terminate pursuant to this policy shall also be sent to the affected employee(s) by certified mail, return receipt requested. The notice shall include a statement of the conditions requiring termination of employment and a general description of the procedures followed in making the decision.

### **Review of individual termination**

Within ten working days after receiving a notice of termination under this policy, an employee may request a hearing on the matter before the Board of Education. Any such request shall be in writing and addressed to the Chairman of the Board of Education. The request for review will specify the grounds on which it is contended that the decision to terminate was arbitrary, discriminatory or otherwise improper and must include a short, plain statement of facts that the employee believes supports his/her contention. The hearing will be held within 30 calendar days after the request is received.

The hearing shall be conducted in an informal manner as determined by the Board. The employee may be accompanied by legal counsel and shall be required to satisfy the Board by clear and convincing evidence that the decision to terminate was arbitrary, discriminatory or otherwise improper. The employee shall be notified within ten working days following the hearing of the Board's decision.

### **Obligation with respect to re-employment**

For two years after the effective date of a termination pursuant to the provisions of this policy, the Board shall not replace the teacher whose employment has been terminated without first giving due consideration towards the re-employment of the terminated employee. The Board will make the offer by certified mail, return receipt requested, and regular U.S. mail. The Board will notify the professional staff

member that he/she must submit written acceptance within 15 calendar days of the date of the letter. Failure to make written acceptance within 15 calendar days or rejection of the position eliminates all re-employment rights of the professional staff member.

An employee who has been terminated under this procedure, but who is recalled to employment within two years shall have restored to him/her all of the sick and personal leave accrued but not used on the effective date of termination.

*Revised: 4-9-03; 2-12-09.*

## **Classified Staff Reduction in Force**

Recognizing that the District has the responsibility to maintain appropriate public elementary and secondary schools, the District must give primary consideration to the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the District. Further recognizing, however, that it may become necessary for the District to eliminate staff positions due to decreases in student enrollment, District reorganization, financial exigency, or other circumstances, the administration has developed procedures necessary for its implementation.

### **Procedure**

Once the Superintendent has determined that elimination of classified staff positions is desirable or necessary, the Superintendent shall determine what position(s) must be eliminated and what individual(s) are to be terminated and shall present his/her recommendations to the Board of Education for approval.

Prior to commencing action to terminate classified staff members under this policy, due consideration shall be given to the ability to achieve position elimination and/or reduction in staff by voluntary retirement or resignation, transfer, voluntary leaves of absence, and part-time employment.

In the event termination of classified staff is required, the following guidelines shall be adhered to:

1. Reduction-in-force terminations will be on a District-wide basis; therefore, the Superintendent shall not be limited to considering only those employees in the particular school, area, or program.
2. The recommendation concerning specific employees to be terminated under this policy shall be based upon the following considerations:
  - Experience;
  - Area(s) of expertise;
  - Experience in other areas of expertise;
  - Number of days worked;
  - Support needs of the schools and District;
  - Length of service in the District;
  - Safety, maintenance, and operational needs of the schools and District;
  - Education level;
  - Performance evaluation;
  - Attendance record;
  - Principal's or supervisor's recommendation; and
  - Other factors considered appropriate by the Superintendent.

The Superintendent may determine the appropriate weight to give to these factors depending upon the needs and circumstances of the District.

### **Notice to individual employee**



The Superintendent or his/her designee shall meet with the employee whose employment will be terminated as a result of the reduction in force. Written notice of District action to terminate pursuant to this policy shall be sent to the affected employee(s) by certified mail, return receipt requested. The notice shall include a statement of the conditions requiring termination of employment and a general description of the procedures followed in making the decision.

### **Review of individual termination**

Within ten working days after receiving a notice of termination under this policy, an employee may request a hearing on the matter before the Board of Education. Any such request shall be in writing and addressed to the Chairman of the Board of Education. The request for review will specify the grounds on which it is contended that the decision to terminate was arbitrary, discriminatory or otherwise improper and must include a short, plain statement of facts that the employee believes supports his/her contention. The hearing will be held within 30 calendar days after the request is received.

The hearing shall be conducted in an informal manner as determined by the Board. The employee may be accompanied by legal counsel and shall be required to satisfy the Board by clear and convincing evidence that the decision to terminate was arbitrary, discriminatory or otherwise improper. The employee shall be notified within ten working days following the hearing of the Board's decision.

*Revised: 2-12-09.*

## **Resignation of Professional Staff**

The resignation of any professional employee wishing to cancel or terminate a contract shall normally be presented in writing to his/her principal or immediate supervisor with a copy to the Superintendent at least 30 days prior to the date upon which that person desires the resignation to be effective or the contract to be terminated. The Board authorizes the Superintendent to accept resignations on its behalf. For such resignation to be effective, it must be accepted in writing by the Superintendent or his/her designee.

Approval will generally not be given to release a person to accept a similar position 30 days prior to the beginning of school or until a suitable replacement is found.

The Board shall be formally advised of all resignations.

When the Superintendent does not accept a resignation and the employee fails to continue to perform his/her contractual duties, the Superintendent may report such breach to the Board. The Board, if appropriate, may make a formal complaint to the S.C. Board of Education and request that appropriate action be taken against the employee for unprofessional conduct. State law and State Board of Education regulation provide for the suspension or revocation of a professional certificate for a period of up to one calendar year under such circumstances.

#### *Legal references.*

##### *Federal.*

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

##### *State.*

*S.C. Code § 59-25-150 – State Board of Education may revoke/suspend certificate for just cause.*

*S.C. Code § 59-25-160 – "Just cause" for revocation/suspension of certificate by State Board.*

*S.C. Code § 59-25-530 – Teacher failing to comply with provisions of contract without written consent of school board deemed guilty of unprofessional conduct and subject to revocation/suspension of certificate for up to one calendar year. Contract with any other district in South Carolina during same employment period, without consent of first board, is void.*

*State Board of Education Regulation R-43-206 – Professional personnel resignation.*

## Resignation of Classified Staff

A classified staff member who wishes to terminate his/her employment with the District may submit a letter of resignation to his/her supervisor. The supervisor will forward the request to the Superintendent. The staff member must generally submit this letter two weeks before the desired termination date.

The Board authorizes the Superintendent to accept and to approve or disapprove classified staff resignations. The Superintendent will acknowledge and accept all such resignations in writing.

The Superintendent will provide the Board with a list of resignations he/she has accepted.

*Revised: 7-1-04.*

## Retirement of Professional and Classified Staff

Any District employee who is a member of the S.C. Retirement Systems may retire if the member has ~~reached~~ met the eligibility requirements established by the S.C. Public Employee Benefit Authority. Retirement eligibility information is located at [www.peba.sc.gov](http://www.peba.sc.gov) ~~the age of 65 or has 28 or more years of creditable service. Any member who has reached age 60 may retire with reduced benefits. Also, the member who has reached the age of 55 and who has at least 25 years of creditable service may elect early retirement with reduced benefits from the retirement system; however, he/she will not be eligible for cost-of-living adjustments for a period of time.~~

The employee should notify his/her principal/supervisor and Human Resources in writing of his/her intent to retire as soon as possible, but not later than March 15 of the year in which he/she plans to retire.

## Teacher and Employee Retention Incentive ("TERI") program participants

The decision to enter or exit the TERI program is one that employees must make on an individual basis, but they may wish to consult with their own accountants, legal representatives and the S.C. Retirement Systems. The District and its representatives will not advise employees to take a specific course of action concerning retirement options.

When issuing contracts or notices of employment, the District will offer TERI employees working under TERI agreements that will expire during the ensuing school year the same type of contract or notice of employment the participant had the previous year. The document will specifically contain notice that it expires on the date designated in the employee's TERI agreement, will specifically reiterate said expiration date, and will provide notice that employment after the expiration date is at the sole discretion of the District.

### *Legal references.*

#### *Federal.*

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

#### *State.*

*S.C. Code § 9-1-10 – Teachers are members of the state retirement system.*

*S.C. Code § 9-1-1510 – Members may retire at age 60 or after 30 years of creditable service.*

*S.C. Code § 9-1-1515 – Early retirement.*

*S.C. Code § 9-1-1550 – Service retirement allowances.*

*Revised: 7-1-02; 1-11-05; 7-26-05; 8-16-05; 7-1-06; 7-1-14.*

## Assignments, Reassignments, and Transfer Requests

In order to ensure the highest quality of instruction, the Superintendent is responsible for the placement of employees within the District. It is the policy of the District to assign, reassign or transfer personnel to positions based on the needs of the instructional program and the District, the qualifications of staff members, and, when possible, the expressed preferences of personnel. The Superintendent may delegate the placement process to other administrators; however, he/she ultimately retains responsibility

for staff assignments, reassignments, and transfers since personnel are employed by the District and not by a particular school or department. Placement of personnel at the school level is within the discretion of the principal as long as placement is consistent with job descriptions and the qualifications of personnel, as long as salary status is not changed without authorization from the District, and as long as appropriate District staff are notified of the changes.

*Legal reference.*

*State.*

*S.C. Code § 59-24-15 – Certified education personnel.*

*Revised: 7-1-06.*

## **Reassignment**

If, in the opinion of the Superintendent, reassignment would be in the best interest of the District, the following procedure will be used.

1. The Superintendent or his/her designee will discuss the need for the reassignment with the employee's current principal (if in a school) or with the District-level department head and with the principal of the school or head of the District-level department to which reassignment is being contemplated.
2. The Superintendent or his/her designee will then discuss with the employee to be reassigned the reasons why the reassignment is being considered. Once the Superintendent determines that the reassignment will go forward, the employee will be notified in writing. Refusal by the employee to comply with the reassignment may be grounds for dismissal.

## **Transfer requests**

Procedures for staff transfers are established by Human Resources. The procedures, which are subject to change at the discretion of Human Resources, are available through the District's "FOR STAFF" webpage and also from Human Resources. Decisions concerning transfer requests are not grievable.

*Revised: 7-1-02; 3-14-04; 7-1-04; 7-26-05; 7-1-07.*

## **Personnel Files**

The District will maintain a personnel file on each employee that includes all records and documents collected, established, and maintained by Human Resources concerning the employee. Information included in an employee's personnel file may include, but is not limited to, the following records:

1. Application data;
2. Pre-employment references;
3. Teaching credentials;
4. Transcripts;
5. Performance evaluations;
6. Written suggestions for improvement made by the administration;
7. Commendations for, and/or complaints against, the employee made by the administration and/or others; and
8. Electronic records.

Health and medical records are currently filed separately to protect the privacy of employees.

## **Confidentiality and access to personnel files**

The District will maintain the confidentiality of personnel files and will provide access to the files only as necessary and appropriate. Each employee has the right to review the contents of his/her personnel file. The employee must contact Human Resources in advance for an appointment to review his/her file. An

employee does not have the right, however, to review personal references and recommendations provided to the District on a confidential basis.

### **Responsibility for personnel files**

The Superintendent or his/her designee shall have the overall responsibility for maintaining and preserving the confidentiality of personnel files and for granting or denying access to such files in accordance with District policy and administrative practice.

### **Required immigration form**

The District will comply with the provisions of the Immigration Reform and Control Act. All newly hired employees must complete the required form(s) pursuant to federal law. The District will maintain "Employment Eligibility Verification" forms (I-9s) in a separate file to protect the privacy of employees.

*Legal references.*

*United States Federal Regulations.*

*Final regulations issued by the INS in accordance with the Immigration Reform and Control Act of 1986.*

*State.*

*S.C. Code § 30-4-10 et seq - Freedom of Information Act.*

*Revised: 7-1-04; 7-1-07.*

## **Corporal Punishment**

District employees are not permitted to use corporal punishment on students. See, also: "Responsibilities, Ethics, and Conflict of Interest."

*Revised: 7-1-04.*

## **Physical Force**

Each school principal will immediately investigate any reported use of physical force on a student by a District employee and make a written report regarding his/her findings to the Superintendent or his/her designee. The investigation by the administration will include the extent to which the employee needed:

1. to quell a disturbance which threatens physical injury to persons, including those students involved, or which threatens serious damage to property;
2. to obtain possession of weapons or other dangerous objects upon the person or within the control of a student;
3. to defend one's self; and/or
4. to remove a student from a classroom or other school property when the student's continued presence poses a threat of danger to other persons or property.

If the Superintendent or his/her designee determines that the physical force used was not reasonable and/or necessary under the circumstances, the employee will be subject to disciplinary action, up to and including termination of employment.

*Legal reference.*

*State law.*

*S.C. Code § 59-63-260 – Corporal punishment.*

*Revised: 7-1-02.*

## **Information Gathering by Administrators**

Administrators who seek to gather information from groups such as students, community members, and/or employees in an effort to determine opinions on school-related issues, should be considerate of concerns that an individual might have with respect to providing information on highly sensitive issues.

Administrators should explain why the information is needed, how it will be used, and whether it will be advisory or binding in nature.

In gathering information which appears to be sensitive or intrusive in nature, administrators should use a process that provides:

1. Complete anonymity for the respondents and
2. Accuracy of results, which should include announcing the plans for the tabulation of the data and the reporting of the results.

Of course, it is appropriate for administrators to gather information which is less sensitive or intrusive in nature by other means. Common sense should prevail.

*Added to District Policies: 2-6-02.*