

Agenda

1. MEETING CALL TO ORDER
Speaker(s): CHR. RICHTERS
 1. Reading Public Meeting Notice
 2. Open Meetings Act
 3. Roll Call
 4. Board Statement
Speaker(s): CHR. RICHTERS
 5. Introduction of Guests; Invite Comments
2. OLD BUSINESS
3. NEW BUSINESS
Speaker(s): CHR. RICHTERS
 1. CONSIDER APPROVAL OF POLICIES INCLUDING 3056 GUEST SPEAKERS AND 4062 LOCKER ROOM SUPERVISION
Speaker(s): Mr. Bargaen
 2. REVIEW AND CONSIDER REVISING POLICIES 5001 COMPULSORY ATTENDANCE AND EXCESSIVE ABSENTEEISM AND 5054 STUDENT BULLYING
Speaker(s): Mr. Bargaen
 3. CONSIDER APPROVAL OF POLICY REVISIONS INCLUDING: 2002 ORGANIZATION OF THE BOARD, BOARD OFFICERS, AND CHECK SIGNING; 3039 THREAT ASSESSMENT AND RESPONSE; 3046 ANIMALS AT SCHOOL; 4003 DRUG TESTING OF DRIVERS; 5016 STUDENT RECORDS; 5035 STUDENT DISCIPLINE; 6020 MULTICULTURAL EDUCATION; 6021 DISTRICT CRITERIA FOR SELECTING EVALUATORS TO BE USED FOR SPECIAL EDUCATION EVALUATION; AND 6033 RESTRAINT AND SECLUSION AND TO DELETE POLICY 3034 DISBURSEMENTS
Speaker(s): Mr. Bargaen
 4. DISCUSS, CONSIDER, AND TAKE ALL NECESSARY ACTION RE COVID-19 REOPENING CONSIDERATIONS RESOLUTION
Speaker(s): Mr. Bargaen
 5. CONSIDER, TAKE ACTION ON NEW CONTRACT WITH COLT'S CORRAL
Speaker(s): Mr. Bargaen
 6. ADMINISTRATOR REPORTS
Speaker(s): Mr. Bargaen, Mr. Booth and Mrs. Stoll
 7. Discuss, consider, and take action to ratify board president placing superintendent on administrative leave
Speaker(s): CHR. RICHTERS

8. Discuss, consider, and take action to issue notice of the possible cancellation of the superintendent's employment contract
Speaker(s): CHR. RICHTERS
 9. Discuss, consider, and take action on employee resignations
Speaker(s): CHR. RICHTERS
 10. Discuss, consider, and take action on employment settlement agreement
Speaker(s): CHR. RICHTERS
 11. Discuss, consider, and take action to direct district legal counsel to investigate allegations against superintendent
Speaker(s): CHR. RICHTERS
 12. Review, consider, and discuss possible job duties and contract for interim superintendent
Speaker(s): CHR. RICHTERS
4. ADJOURN
Speaker(s): CHR. RICHTERS

3056 Guest Speakers

The school board recognizes that guest speakers with demonstrated expertise in areas of interest to the school district and its students may enrich the students' educational experiences. The school district has adopted this policy to ensure that the messages provided by outside speakers do not conflict with school district policies, the fundamental values of a public school education, or the legal limitations placed on public school districts. Individuals who wish to invite a guest speaker must follow the procedures outlined below.

Classroom or School-Sponsored Activity Guest Speakers. Teachers or activity sponsors who desire to invite a guest speaker to address his or her class or activity members must:

1. Research the guest speaker, have a clear understanding of the guest speaker's purpose and message, and determine that the speaker's message complies with the school district's policies and fundamental values.
2. Complete a Guest Speaker Request Form and submit it to the building principal at least **14** days prior to the proposed appearance.
3. Notify the main office of name, time, and date of the guest speaker's appearance (if the request is approved).
4. Notify parents of the name, time, date, and topic and summary of the presentation at least **3** days before the presentation (if the request is approved).
5. Require the guest speaker to submit a copy of any visual or written materials to the employee at least 24 hours prior to any presentation. The employee shall submit the materials to the principal upon receipt.
6. Prepare students in advance for the experience.
7. Inform the guest speaker that students or employees may ask challenging questions or offer differing viewpoints.
8. Terminate the presentation if the speaker fails to limit his or her remarks to the subject on which he or she has been invited to speak.
9. Remain with the speaker and students to facilitate and monitor the discussion.

10. Provide appropriate follow-up activities and education.

Assembly Speakers. Employees who desire to invite a guest speaker to address staff or students at an assembly must follow the identical procedures outlined above. In addition, the employee must submit the Guest Speaker Request Form to the superintendent at least 30 days prior to the proposed appearance and the speaker submitted materials upon receipt.

Request Consideration. The administrator(s) must research the guest speaker and determine that the speaker's message complies with the school district's policies and fundamental values. If it does not comply, the administrator will reject the request. If it does comply, the administrator shall then consider the following factors when approving or denying the request:

1. The guest speaker's ability to appropriately and adequately address the topic with the students based upon the speaker's education, training, expertise, or other qualifications.
2. The materials submitted by the guest speaker.
3. The educational value to students of the presentation.
4. The relevance of the presentation to the class, activity, or school's educational mission.
5. Whether the topic of the presentation is appropriate for the students' ages and level of maturity.
6. Whether the speaker has a history of providing factual information in a fair and balanced manner or if he or she has previously advocated for a particular position or espoused personal opinion, bias, or partisanship.
7. Whether the speaker's proposed presentation is consistent with the fundamental values of a public school education and/or encourages the fundamental values, habits, or manners of civility.
8. Whether the speaker's proposed presentation will satisfy the Nebraska Department of Education's accreditation, curriculum, or standards requirements or recommendations.

The administrator shall notify the employee of his or her decision.

Controversial Issues. If the employee or administrator determine that the guest speaker's topic or presentation is partisan or controversial but will still be of benefit to the students, (1) the employee and administrator will work

with the guest speaker to develop a plan that will allow the issue to be presented in an objective and unbiased manner and/or (2) the employee and administrator will develop a plan that will allow opposing viewpoints to be presented. The employee will notify students and their parents at least 10 days in advance of the nature of the presentation. If a student does not wish to attend a controversial presentation, the employee will either excuse the student from attending or provide an alternative assignment.

Other Requirements. The inviting employee or appropriate administrator may interrupt or stop the presentation if it violates this or any other school policy.

Adopted on: _____
Revised on: _____
Reviewed on: _____

4062 Locker Room Supervision

Staff members, coaches, sponsors, and students must comply with the requirements of this policy while using locker rooms at the school district or at other locations.

Staff members, coaches, and sponsors must appropriately supervise students in locker rooms and other locations where students dress, change, or engage in similar activities. This supervision must occur at all times during curricular and extracurricular activities and includes, but is not limited to, the following:

- Entering and walking through the entire locker room at regular and irregular intervals to provide direct supervision and to assess student behavior.
- Maintaining an orderly locker room free from “horseplay” and other prohibited conduct.
- Maintaining a visual presence.
- Adequately addressing any misbehaviors.
- Escorting students to and from the locker room and the activity or instructional area.
- Unlocking the locker room so that students may enter, and locking the locker room after all students have exited the locker room.
- Searching the locker room to determine that all students have exited the locker room before locking it.
- Ensuring that the locker room remains locked during any activity.

If a student is found missing during an activity, the staff member, coach, or sponsor or adult designee shall check the locker room for the missing student.

The locker room must be locked at all times when unsupervised.

Only students whose team or activity is currently playing or are in-season or who are involved in a school-sponsored activity that requires or allows presence in the locker room are allowed access to the locker room before or after the regular school day.

Students are not allowed to enter or reenter the locker room without appropriate supervision.

If the staff member, coach, or sponsor is the opposite sex of the students, he or she may designate another adult of the same sex as the students to provide the required locker room supervision. This delegation does not remove ultimate responsibility from the staff member, coach, or sponsor who is subject to the obligations under this policy to ensure that such obligations are

met. By allowing their students to participate in an activity with a cross-gender coach, parents/guardians consent to the entry of the staff member or his or her designee into the locker room at any time as necessary to maintain student safety and order.

Staff members, coaches, and sponsors must remain with students until they are picked up by the parent, guardian, or other authorized person or the student leaves in his or her own transportation. Students must never be left unattended after a game, practice, or other school-sponsored activity. In other words, the staff member, coach, or sponsor should be the first one to arrive at the activity and the last one to leave.

Cell phones and other devices with visual or auditory recording capability may not be used in the locker room at any time or for any reason.

Under no circumstance may a staff member, coach, or sponsor delegate any responsibility under this policy to a student or other minor.

School administrators or their designees may make random checks to assess policy compliance.

Adopted on: _____
Reviewed on: _____
Amended on: _____

5001 Compulsory Attendance and Excessive Absenteeism

Required Attendance

Every person residing in the school district who has legal or actual charge or control of any child who is of mandatory attendance age shall cause that child to attend a public or private school regularly unless the child has graduated from high school or has been allowed to disenroll pursuant to this policy.

Mandatory Attendance Age

All children who are or will turn six years old before January 1 of the current school year are of mandatory attendance age. Children who have not turned eighteen years of age are of mandatory attendance age.

Exceptions

This policy does not apply when attendance is made impossible or impracticable by severe weather conditions or by the temporary illness of the student or a child whom the student is parenting.

A child who will not reach age 7 before January 1 of the current school year may be excused from mandatory attendance if the child's parent or guardian completes an affidavit affirming that alternative educational arrangements have been made for the child. A copy of the required affidavit is attached to this policy.

Discontinuing Enrollment – 5 Year Old Students

The person seeking to discontinue the enrollment of a student who will not reach six years of age prior to January 1 of the current school year shall submit a signed, written request and to the superintendent using the form which is attached to this policy. The school district may request written verification or documentation that the person signing the form has legal or actual charge or control of the student. The school district shall discontinue the enrollment of any student who satisfies these requirements. Any student whose enrollment is discontinued under this subsection shall not be eligible to reenroll in this school district until the beginning of the following school year unless otherwise required by law.

Discontinuing Enrollment – 16 and 17 Year Old Students

Only children who are at least 16 years of age may be disenrolled from the district. The person seeking to discontinue the child's enrollment shall submit a signed, written request and submit it to the superintendent using the form which is attached to this policy. The district will follow the procedures outlined on the attached form in considering requests to disenroll.

Only children disenrolling to attend a non-accredited school may be exempt from this policy. The person with legal or actual charge or control of the child must provide the superintendent with a copy of the signed request submitted to the State Department of Education for attending non-accredited schools. The superintendent may confirm the validity of the submission with the State Department of Education.

Attendance Officer

Each building principal is designated as an attendance officer for the district. Each building principal, at his or her discretion, may delegate these responsibilities to any other qualified individual. The attendance officer is responsible for enforcing the provisions of state law relating to compulsory attendance. This responsibility includes but is not limited to filing a report with the county attorney of the county in which a student resides. Compensation for the duties of attendance officer is included in the salary for the superintendent or designee.

Excused Absences

The following absences will be considered excused if they are confirmed by communication to the school from the student's parent/guardian:

1. Physical or mental illness of the student (a physician's verification is required after four (4) consecutive days of absence for illness)
2. Severe weather
3. Medical appointments for the student
4. Death or serious illness of the student's family member

5. Attending a funeral, wedding or graduation
6. Appearance at court or for other legal matters
7. Observance of religious holidays of the student's own faith
8. College planning visits
9. Personal or family vacations

Excessive Absenteeism

When a student receives 5 unexcused absences or the hourly equivalent in any semester, the Attendance Officer will follow the attached procedure for addressing barriers to the student's attendance.

When a student is absent more than twenty days per year or the hourly equivalent and any portion of the absences is unexcused, the Attendance Officer may/must file a report with the county attorney of the county in which the student resides. For example, if the student accumulates 23 days of excused absences due to documented illness and is tardy one time, the Attendance Officer may file a report with the appropriate county attorney.

Adopted on: __7/10/2017_____

Revised on: _____

Reviewed on: _7/8/2019_____

5054 Student Bullying

Definition of Bullying. The Centers for Disease Control and Prevention defines bullying as “any unwanted aggressive behavior(s) by another youth or group of youths who are not siblings or current dating partners that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated.” Nebraska statute defines bullying as “an ongoing pattern of physical, verbal or electronic abuse.” The District’s administrators are authorized to use both of these definitions to determine whether any specific situation constitutes bullying. Both of these definitions include both in-person and cyberbullying behaviors.

Bullying Prohibited. Students are prohibited from engaging in any form of bullying behavior.

Disciplinary Consequences. The disciplinary consequences for bullying behavior will depend on the frequency, duration, severity and effect of the behavior.

A student who engages in bullying behavior on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events may be subject to disciplinary consequences including but not limited to long-term suspension, expulsion, or mandatory reassignment.

Without limiting the foregoing, a student who engages in bullying behavior that materially and substantially interferes with or disrupts the educational environment, the district’s day-to-day operations, or the education process, regardless of where the student is at the time of engaging in the bullying behavior, may be subject to discipline to the extent permitted by law.

Bullying Based on Protected Class Status. Bullying based on protected class status is unique and may require additional investigation. The appropriate district staff member or coordinator will promptly investigate bullying complaints that violate the district’s antidiscrimination policies.

Support for Students Who Have Experienced Bullying. Regardless of where the bullying occurred, the district will consider whether victims of bullying are suffering an adverse educational impact and, if

appropriate, will refer those students to the district's student assistance team.

Bullying Prevention and Education. Students and parents are encouraged to inform teachers or administrators orally or in writing about bullying behavior or suspected bullying behavior. School employees are required to inform the administrator of all such reports. The appropriate administrator shall promptly investigate all such reports. Each building shall engage in activities which educate students about bullying, bullying prevention and digital citizenship.

Policy Review. The school district shall review this policy annually.

Adopted on: 7/10/2017

Revised on: 7/9/2018

Reviewed on: 7/8/2019

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Bullying Prohibited. Students are prohibited from engaging in any form of bullying behavior.

Reporting Bullying. Students who experience or observe bullying behavior must immediately report what happened to a teacher or administrator. **Students can use the district’s anonymous platform _____ to make this report.** Students may always confer with their parents or guardians about bullying they experience or witness, but the students must also ultimately report the situation to a teacher or administrator.

Bullying Investigations. School district staff will investigate allegations of bullying using the same practices and procedures that the district observes for student disciplinary matters. In no circumstance will school district staff be deliberately indifferent to allegations of bullying.

Disciplinary Consequences. The disciplinary consequences for bullying behavior will depend on the frequency, duration, severity and effect of the behavior.

A student who engages in bullying behavior on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events may be subject to disciplinary consequences including but not limited to long-term suspension, expulsion, or mandatory reassignment.

Without limiting the foregoing, a student who engages in bullying behavior that materially and substantially interferes with or disrupts the

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Policy Review. The school district shall review this policy annually.

Adopted on: _____

Revised on: _____

Reviewed on: _____

KAREN A. HAASE
STEVE WILLIAMS
BOBBY TRUHE



COADY H. PRUETT
JORDAN JOHNSON
SHARI RUSSELL, Paralegal

M E M O R A N D U M

To: KSB Policy Service Subscribers
FROM: KSB School Law
DATE: May 29, 2020
RE: Annual Policy Updates

Attached are the (first round) 2020 KSB School Law policy updates. We have also included changes to our standard forms and updates on some other laws which do not require changes to policies but do present new obligations or things to keep in mind as you enter the 2020-21 year. We have broken these down in 3 sections: "Policy Changes;" "Forms Changes;" and "Other Issues to Consider."

Unfortunately, due to COVID-19, we also know that there will be at least two additional rounds of policy updates over the next several months. We have added a section on that at the end of the memo, as well.

To assist subscribers in implementing these policy changes and the other considerations laid out in this Memo, **KSB will hold a webinar on Monday, June 1, 2020 at 10:00 a.m. Central Time.** In the webinar, we will give a brief overview of the changes and then answer questions from attendees regarding the policies and other considerations. We have included the link to the ZOOM conference in the cover e-mail that transmitted these updates. We will also record the webinar and will post it on the KSB School Law website in the Policy Updates section.

Please feel free to contact us if you have any additional questions or if you would like to have a policy customized or "tweaked" to meet your individual circumstances.

Policy Changes

REVISION OF POLICY 2002: Organization of the Board, Board Officers, Committees, and Check Signing

We have modified this policy in two ways, based on questions we continue to receive regarding who can serve in board officer positions and who can sign checks, warrants, and other instruments of the district. We have also renamed the policy to make it easier to find the different board officer duties and the board committees, including the new Committee on American Civics.

The president and vice president must be members of the board, but the secretary and treasurer, in most cases, do not need to be board members. Class III school boards may elect and appoint/employ a secretary and treasurer who are not board members, so long as it is permitted by law.

Section 79-564 lays out the simple requirements for choosing a president, vice president, and secretary:

At the first meeting of each school board or board of education elected in a Class III school district, and annually thereafter, the board shall elect from among its members a president and vice president. The board shall also elect a secretary who need not be a member of the board. If the secretary is a member of the board, an assistant secretary may be named and his or her duties and compensation set by the board.

Authority for appointing a non-board member treasurer is a bit more limited. Sections 79-589 and 79-590 state that the board may “employ” a non-board member to the treasurer position, outside of schools that fall into this exception:

In a Class III school district which lies outside of the corporate limits of any city or village or of which more than one-half is geographically within a city of the metropolitan class, *the board of education shall elect one of its members*, other than the secretary, as treasurer of the school district and the provisions of section 79-590 [that allow employment of a non-member] shall not apply to the selection of a treasurer of such a district.

You must elect a board member if your district lies outside the corporate limits of a city or village, and more than one-half of that city or village is geographically within a city of the metropolitan class.

Second, we added a section on signing checks, warrants, and other instruments, and we moved some other provisions into that section. The statutory default is that the secretary signs checks, and the president countersigns them:

The secretary of a school district shall draw and sign all orders upon the treasurer for all money to be disbursed by the district and all warrants upon the county treasurer for money raised for district purposes or apportioned to the district by the county treasurer and shall present the same to the president to be countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be issued until so countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be countersigned by the president until the amount for which it is drawn is written upon its face. *Facsimile signatures of board members may be used, and a person or persons delegated by the board may sign and validate all warrants, checks, and other instruments drawn upon bank depository funds of the district.*

The statute specifically authorizes the board to “delegate” another “person or persons” to sign and validate any warrants, checks, or other instruments. Under Mike Foley, the State Auditor’s position in several audit letters was that the president *must* countersign. We do not necessarily agree with that assessment. The statute says more than one person can be delegated to “sign and validate.” The safest process is to have the president countersign (or use a facsimile signature for the president), though we have not seen this exact issue pop up in school audit responses in several years.

This change is required to the extent you must align your practices to the policy.

DELETION OF POLICY 3034: DISBURSEMENTS
(NOW “INTENTIONALLY LEFT BLANK”)

By including the provisions for signing warrants, checks, and other instruments in policy 2002 along with other board duties, there is no longer a need for this policy. We have deleted it from the service, and number 3034 will read “Intentionally Left Blank” in complete policy service indexes.

This change is required.

REVISION OF POLICY 3039: Threat Assessment

When your board adopted policy 3039, you chose from three options (the team concept; the superintendent as primary investigator and decisionmaker; a school-district controlled law enforcement unit as the investigator). Regardless of the option your board selected, we have revised this policy based on the experiences several schools have had in responding to student threats over the past several years.

First, we have added a definition of what constitutes a “threat” and what we mean by “threat assessment.” We have had several districts struggle with explaining to parents how administrators distinguish between off-handed students comments which do not constitute an imminent threat from statements about harming others which need an immediate response. The new definitions are based in large part on research from the National Association of School Psychologists as well as recommendations from the Federal Commission on School Safety. Those definitions are then incorporated throughout the rest of the policy.

Second, we have made it clear that the process of threat assessment is a separate thing from student discipline and special education. The purpose of threat assessment is to predict and prevent acts of school violence. While school districts will also need to address student discipline and special education as appropriate, the revisions to this policy make it clear that those are different processes. We reiterate that distinction at the end of the section titled “Threat Assessment Investigation and Response.”

Third, schools have struggled to explain to their communities the difference between a threat which requires an immediate and urgent call to law enforcement from threats which, although serious, are appropriate to be managed in a more deliberate manner. The new paragraph under “Threat Assessment Investigation and Response” makes that distinction clear.

Finally, we have revised the section of the policy that describes the threat assessment investigation process. These edits align the policy more closely to the procedures recommended by the Nebraska Department of Education. Additionally, we have added a provision requiring the threat assessment team, school superintendent or law enforcement unit to confer with a staff member who has expertise in the IDEA and/or Section 504 of the Rehabilitation Act. Students with disabilities make up a large proportion of students who make threats of school violence. We believe that this additional provision will protect the district from inadvertent violations of those laws as part of the threat assessment process.

This change is recommended.

REVISION OF POLICY 3046: Animals at Schools

We have added a provision to this policy addressing the procedure for handling requests for service animals. When a request to be accompanied by a service animal is submitted by, or on behalf of, a student who has an Individualized Education Program (IEP) and/or a Section 504 Plan, then the request shall be promptly referred to the student's respective IEP Team and/or 504 Team for its consideration and/or input. This addition is recommended so that a decision on whether to grant (or deny) a request for a service animal is considered by the IEP/504 Team, its input is provided, and (where appropriate) the IEP Team has the opportunity to decide whether the allowance of a service animal is required in order for the student to receive a Free and Appropriate Public Education (FAPE).

As before, the District has a choice as to whether it will allow therapy animals to be brought to school grounds. If the District has decided to allow such therapy animals, then these updates provide a similar provision so that requests for therapy animals made by, or on behalf of, a student with an IEP or a 504 plan are referred to the appropriate team for consideration.

This change is recommended.

NEW POLICY 3055: School Resource Officers

On and after January 1, 2021, school must have a memorandum of understanding in effect with any law enforcement agency that provides school resource officers and any security agency which provides security guards to schools in a school district. Each MOU must include policies that address:

- Required minimum training for SROs, security guards, and school district administrators.
- Maintenance of prosecution referral records.
- Notice to parents of when they will be notified or present when their student is questioned by a school official or by a school resource officer or security guard operating in conjunction with a school official.
- Under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated.

- When a student will be referred for criminal prosecution and when a student's actions will be resolved as a disciplinary matter by school officials.
- A complaint process.

We have developed this policy to ensure that every policy provision required by the new SRO statutes exists and can be incorporated into any MOU.

This new policy is required IF you have an SRO or security guard.

NEW POLICY 3056: Guest Speakers

Several school districts had rather unpleasant experiences with guest speakers during the 2019-20 school year and, at times, found themselves receiving unwarranted criticism and unwanted attention. These experiences arose, at least in part, due to a lack of procedure for vetting potential guest speakers. We drafted this policy to ensure that a process and procedure exists to research guest speakers so that everyone involved has a clear understanding of the guest speaker's purpose and message. This will help the school determine if the proposed message complies with school district policies and its fundamental values and to avoid unwanted surprises for everyone involved. New accompanying forms have also been created.

This new policy is not required but is recommended if you use or plan to use guest speakers.

REVISION OF POLICY 4003: Drug Testing of Drivers

We updated this policy to address concerns raised by the Department of Transportation's Federal Motor Carrier Safety Administration, when they have been conducting audits of school districts in Nebraska this spring. Under 49 CFR § 382.601, school districts must provide drivers with specific information regarding the district's drug and alcohol testing program and procedures for drivers. Until now, we know that most of our schools were providing the drivers this information in packets of informational materials, often upon hire. While this practice is entirely permissible under the regulatory language, the DOT has taken the position that this information must now be included *in the policy itself*. Lately, the DOT has begun to enforce their interpretation by issuing notice of violation to schools that did not incorporate that information into their policy. While we disagree with the DOT's position on this issue, the DOT itself will ultimately be enforcing the relevant regulations and it is most prudent to avoid the time and expense of responding to a violation by amending this policy.

This policy now discusses each category of information required by the regulations. You should review the updated language carefully, and revise it as necessary to ensure it is consistent with the terms and procedures of your district's driver drug and alcohol testing program. We know that some school districts may contract with drivers and administer testing protocols directly, while others may contract with a third party to provide one or both of those services. If you contract with a third party for either of these services, you should carefully review this policy with your provider to ensure its terms are consistent with your testing programs and protocols. You may also wish to designate an individual with that third party provider as the contact person for the drug and alcohol testing policy and program, as appropriate. As a reminder, you must also ensure you receive a signed, written statement from all drivers that they received this policy and any related materials.

This change is required.

NEW POLICY 4062: Locker Room Supervision

We have been stressing the importance of supervising locker rooms for many years at our school district presentations and inservices. Many hazing and bullying incidents occur in unsupervised or poorly supervised locker rooms. Some incidents are serious enough to result in litigation. This policy was created in response to a school's request for policy guidance in this area. It is important that the school's practice matches its policy, so this policy should be modified to fit your practice in the event you choose to adopt it.

This new policy is not required.

REVISION OF POLICY 5016: Student Records

We have updated this policy to more broadly define "school officials", ensuring the district maintains the discretion to share records with any agent, contractor, consultant, or volunteer that serves an institutional function and has a legitimate educational interest in the records.

This change is required.

REVISION OF POLICY 5035: Student Discipline

In 2019, the Unicameral amended the Student Discipline Act to add referrals to restorative justice practices or services to the list of actions that administrators and teachers may take in addition to student suspensions, expulsions, and alternative assignments. We also updated this policy to reflect the ability of the school to provide consequences to students who knowingly make a false statement or knowingly submit false information during the Title IX grievance process or any other school investigation.

This change is required.

REVISION OF POLICY 5054: Student Bullying

We have made three revisions to this policy. First, we have edited the definition of bullying slightly to make it clear that school administrators may consider both the definition contained in Nebraska law as well as the definition from the Centers for Disease Control when determining whether particular conduct constitutes bullying.

Second, we have added a section which requires students to report all bullying that they experience and/or observe. There have been lawsuits in other states where families claimed that a student suffered terribly from bullying but did not inform the school district about the situation. This makes it clear that a student is obligated to tell a teacher or administrator about bullying so that the district can take responsive action. We have also had situations where parents want to be the intermediary between a bullying victim and the administration. The revisions to the policy require that student to speak directly to a teacher or administrator. Many school districts have adopted anonymous reporting systems to report threatening or bullying behavior. If your district has such a platform, insert it into the policy where indicated. If you do not have such a system, just delete the highlighted sentence.

The third revision states that the school district does not have a special bullying investigation process, but that the staff will follow the same steps that they follow with any other student investigation. Courts that have held school districts financially liable for bullying have stated that schools may not be deliberately indifferent to student bullying. This revision adopts that standard, which is also consistent with the standard you will be required to adopt in your new Title IX policy later this summer.

This change is recommended.

REVISION OF POLICY 6020: Multicultural Education

The multicultural education section of Rule 10 requires the district to have:

- A statement of philosophy or mission;
- Local program goals;
- Curriculum guides, frameworks, or standards that incorporate multicultural education;
- A process for selecting appropriate instructional materials;
- A process for provision of staff development; and
- A process for periodic assessment of the program.

None of these items is required to be included in any school district policy. However, NDE auditors have been looking for these items in your school policy when conducting Rule 10 audits. In order to proactively address this issue, we have amended the policy to include and address each of these areas.

This revision is not required by is highly recommended.

REVISION OF POLICY 6021: 6021 District Criteria for Selecting Evaluators to be Used for Special Education Evaluation

This policy was updated to clarify that any geographic restriction on an evaluation is to be measured by miles that would be traveled by a vehicle on a road traveling from the student's school building to the evaluator. You must be mindful in setting a distance that the district cannot impose any requirements that are more restrictive than those it would impose upon itself. Consequently, you should make clear if any specific evaluations or categories of evaluations would require a larger geographical radius apply. In doing so, you should confer with your special education staff and service providers, such as your regional ESU, to determine whether any of the evaluations you would seek would require an exception to the general geographical boundary. For instance, many schools seek certain visual or related evaluations from NCBVI, which may be outside of the geographical radius that would apply to other evaluations that could be conducted by your local ESU or specialists.

We have also updated this policy to heighten the standards required for independent educational evaluations. Lately, we've seen more and more parents seeking specific evaluations from professionals whose practices or

assessments do not align with commonly accepted educational best practices. We've also seen more parents seeking evaluations from professionals that do not fully consider the student's performance in the educational setting, or collaborate with the school district to appropriately determine the student's special education and related services needs. In response, we want to make explicit many of the requirements you've long imposed upon your own evaluations and evaluators; specifically, the evaluations must consider information about the student's performance and needs from the district, must be provided to the district, and must be conducted by a professional willing to cooperate with the relevant student teams. Further, the policy will require that evaluations be sufficiently comprehensive as to be helpful to the team, and conducted in conformance with accepted standards for reliability. Finally, the policy caps reimbursement for an evaluation at the rate charged by the school district's contracted providers for the same or substantially similar violation.

This change is required.

REVISION OF POLICY 6033: Restraint and Seclusion

In light of the recent emphasis and guidance on the use of restraint and seclusion, we've overhauled our restraint and seclusion policy. This updated policy first incorporates the definitions for physical restraint, mechanical restraint, chemical restraint, and seclusion provided by the Office for Civil Rights in relation to its Civil Rights DATA Collection (CRDC). Overall, we believe these definitions are a useful and fair representation of what schools in Nebraska already recognize. This approach also provides the added benefit of easing your data collection and reporting.

The policy provides several options so that it can be modified to accurately reflect your district's practices. Option A is the most aggressive approach, which recognizes that Nebraska law permits administrative and teaching personnel to take actions reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process, including the use of restraint and seclusion. While this approach is wholly lawful under state and federal law, it is inconsistent with best practices guidance from the state and federal departments of education, and may garner pushback from those agencies if they review your policy. Option B offers a slightly more conservative approach, limiting the circumstances in which physical restraint, mechanical restraint, or seclusion may be used to instances reasonably necessary to prevent physical harm to self, others, *and* property, in addition to therapeutic or medical uses. Option C offers the most conservative approach that trends closely to state and federal guidance. Notably, Option C limits the use of physical restraint and seclusion

to situations where a student’s behavior risks causing physical harm to self or others, but does not consider harm to *property*. If you wish to revise any of these options to better fit your district’s needs, we’ll be happy to help and discuss the nuances of this area of the law.

Next, this policy now provides specific procedures regarding the use of restraint and seclusion techniques. These procedures satisfy the expectations of the state and federal departments of education, and provide additional evidence that the district was not negligent in implementing these techniques. These procedures recognize that a student’s pattern of behavior necessitating the use of restraint or seclusion should be referred to the appropriate student team for consideration. The policy also calls for instances of restraint and seclusion to be recorded in some manner, so that the district can meet its reporting obligations.

Finally, this policy calls for all staff members to be provided notice of this policy and trained on its contents. Staff members identified as likely to implement the restraint or seclusion interventions authorized by the policy are to receive additional training as appropriate. This is another important piece of evidence to demonstrate that the school district met its standard of care in implementing the restraint and seclusion policy, and is a focal point of relevant guidance.

This change is required.

Forms Changes

Collaborative Plan Addressing Barriers to Attendance

Section 79-209 requires schools to hold one or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal or actual charge or control of the child, and the child, when appropriate, to attempt to address the barriers to attendance. The result of the meeting or meetings is to develop a collaborative plan to reduce barriers identified to improve regular attendance. Section 79-209 was amended to require the plan to consider referrals to restorative justice practices or services. This form has been amended to add this requirement.

This form is required.

Guest Speaker Request Forms

Two guest speaker request forms have been created. One is for classroom or activity guest speakers. The other is for multi-grade assembly guest speakers.

This form is not required by is highly recommended if you adopt new Policy 3056.

Other Issues To Consider

Title VII and Transgender Staff and Student Cases

In the chaos of COVID-19 and new Title IX sexual harassment regulations, it has been easy to forget that the U.S. Supreme Court will likely decide some or all of the legal issues regarding the rights of LGBTQ+ individuals under Title VII (for employees) and Title IX (for employees and students). The Supreme Court combined three cases that will be decided in the next few weeks, involving two homosexual individuals and one transgender individual suing their former employer for sex discrimination based on their LGBTQ+ status.

Courts have always looked to Title VII's prohibition against discrimination "based on sex" when interpreting Title IX's prohibition against discrimination "on the basis of sex." It was clear from the transcripts of the arguments that the Justices see the impact these employment cases will have on public schools. The Justices pointedly noted that the Court's decision in these cases will be used by individuals and advocates when addressing Title IX issues in schools--no matter which way they decide it. They focused on the fact that if the Court decides it is discriminatory to fire or take other adverse employment action based on an individual's sexual orientation or gender identity, the proverbial floodgates will open. Several Justices asked specific questions about things like locker rooms, bathrooms, and participating in activities such as contact sports. The Court's decision may not necessarily require policy changes, but it could fundamentally alter the legal landscape we have been talking about for years.

There is also ongoing litigation in Connecticut regarding a policy permitting participation in athletics by transgender individuals. This case has made recent headlines, and OCR has determined that the policy actually violates Title IX by allowing biological male students to compete in female activities,

consistent with their gender identity. The Obama Administration encouraged the exact opposite, so this is another in a line of circumstances where the Trump Administration's OCR has declared a policy invalid based on changes required by the Obama Administration's OCR!

EDGAR Audits

In 2017 we provided you with Policy 3003.1 and 3004.1 to address the new requirements of the federal Education Department General Administrative Regulations (EDGAR). EDGAR regulations to all federal grants that are made by the US Department of Education to local school districts directly and to all funds that pass from the federal government through state departments of education to local schools. This means that EDGAR governs most local school districts' special education, school breakfast and lunch, and Title I programs. Our policy 3004.1 includes everything that is required by those regulations to be in policy. Unfortunately, some of the individuals who have been contracted by the Nebraska Department of Education believe that schools must adopt a free-standing policy for nutrition services or are telling schools that they must revise their policy. This is not the case, and we have worked closely with the NDE Nutrition Services staff to vet policy 3004.1. However, many of the auditors are contracted staff working from checklists that are not Nebraska-specific. If you are a policy service subscriber and you receive a corrective action notice regarding your EDGAR procurement policy, forward that notice to one of us so that we can resolve this issue for you.

Future Ready District Technology Profiles

NDE has been gathering technology profiles from each school district as part of its Future Ready Framework and Nebraska's Educational Technology and Digital Learning Plan. Section 4 of the survey asks about whether the district has staff policies in place addressing specific topics. For your ease of reference when you or your staff are completing the profile, the content areas that the profile asks about are listed below, with the corresponding policy referenced:

<i>Section 4 Question 1 (staff policies)</i>	
Acceptable Use Policy	5037
Cyberbullying	5054

Children’s Online Privacy Protection Act (COPPA) Compliance	5037
Email Usage and Security	5037
Family Educational Rights and Privacy Act (FERPA) Compliance	5016 and 5017
Social Media Use	4051
Universal Design or Digital Accessibility for Learning	No policy (A policy on this is not required)
<i>Section 4 Question 3</i>	
Acceptable Use Policy	5037
Cyberbullying	5054
Digital Citizenship	5054
Children’s Online Privacy Protection Act (COPPA) Compliance	5037
Email Usage and Security	5037
Family Educational Rights and Privacy Act (FERPA) Compliance	5016 and 5017
Social Media Use	No policy (any attempt to broadly govern student social media use in policy will likely violate the First Amendment. Instead we advise schools to take an educational approach in teaching students about appropriate social media use.)

Leave Under the Families First Coronavirus Response Act

As we have shared through our email updates and webinars, earlier this spring Congress passed the Families First Coronavirus Response Act (“FFCRA”) which created two types of employer-paid leave: Employer-Paid Sick Leave and Emergency Family and Medical Leave. These types of leave can be taken for certain reasons related to the novel coronavirus and COVID-19. Many of the requirements of this new leave program are mandatory, but employers (like the school district) do have some discretion and/or choices to make with respect to how you administer the leave and respond to requests.

There are at least two details for the district to consider. First, whether you will allow employees to supplement the amount of pay that they receive pursuant to the FFCRA with pre-existing paid leave under the terms of their employment agreement with you. Second, how you will handle requests from employees to take Emergency Family and Medical Leave (and in certain narrow instances Emergency Paid Sick Leave) on an intermittent basis.

As of now, FFCRA leave is only available through December 31, 2020. As a result, we decided that at this point it probably does not make sense for your board to formally adopt FFCRA-specific provisions to be part of your regular board policies. So, you will not see any FFCRA leave-specific policies in these updates. Still, we recommend that you think about how you will administer FFCRA leave (including the two specific issues identified above) and have a plan to respond to requests. We are happy to discuss these details and options with you.

HANDBOOKS

With all of the uncertainty surrounding what school will look like for the 2020-21 school year, we are reluctant to advise permanent policy changes addressing COVID-19 issues. However, it is almost certain that school operations will have to be modified substantially next school year. And we know that many districts send their handbooks to be printed in the early summer. In order to put families on notice about possible rule modifications based on the pandemic while still maintaining maximum flexibility, we are suggesting that schools add the following wording into their handbooks:

RECOGNITION OF POTENTIAL AMENDMENTS OR SUPPLEMENTS

In light of the unique challenges and circumstances posed by the outbreak of the novel coronavirus and the recent promulgation of expansive federal regulations, the rules and information provided in this handbook may be supplemented or amended by the School District's administration at any time, consistent with applicable law and board policy. All parents shall be provided notice of any such changes by the district's regular means of contact. By signing below, you agree that you will read any such information and communications, discuss them with your child, and recognize that you must comply with all rules, procedures, and requirements as they apply at that time.

While this isn't a cure-all, it should put families on notice that the rules may change for 2020-21. Notice that the district will have an affirmative obligation to distribute any changes, although the format of that distribution will be up to you. If you use KSB's model handbooks, this wording will be included in the 2020-21 updates which will be available in mid-June. If you do not use our model handbooks, you can insert this wording into your handbooks on the receipt page, right above the student and parent signature blocks.

Policies to be Expected In Updates 2 and 3

COVID-19 really wreaked havoc on our plans to have all policy and handbook updates done for June board meetings. Based on the unique deadlines and effective dates we've laid out below, we may even recommend that school boards schedule their meetings slightly differently this fall.

The Unicameral session is tentatively scheduled to resume July 20 and adjourn *sine die* on August 13. That means any laws passed between the start of session in January and through August 13 that do not have an emergency clause will become effective three months after August 13. If all goes according to plan, this should be on or about **Friday, November 13, 2020**. Most schools would likely have November board meetings on November 9, the second Monday. If your board meeting is not scheduled to be held prior to that date, you may want to consider doing so to avoid having the effective date change your meeting notice requirements.

The U.S. Department of Education (finally) released their new Title IX regulations in early May, which have now been published officially in the Federal Register. They will become effective **August 14, 2020** unless they

are delayed by Congress or by judicial action. Most schools will meet on August 10, the second Monday. Although we will have Title IX policies and other items for you to begin reviewing prior to that date, you should consider moving your board meeting to a date before August 14 if possible to avoid a special meeting to implement the new Title IX policies prior to the effective date.

The typical meeting schedules line up fairly well with effective dates, but schools and ESUs will still need to have policies, handbooks, and notices ready this summer to begin the 2020-2021 school year, even if there are relatively few changes until those dates noted above. There will almost certainly be additional policy, handbook, and other impacts related to COVID-19 as we move toward the fall, as well. This is why we are stuck with three separate sets of updates this year.

We will try to make this as painless and straightforward as possible, but we know administrators and boards are already preparing for some tough decisions and longer board meetings. In light of that, here is our tentative schedule for additional updates in the coming weeks and months.

May 29: Initial policy and form revisions sent. Initial handbook updates available. *However*, if your district has the luxury of time because you don't have to send them to a printer, you may want to discuss if you can wait to finalize handbooks until the COVID-19 and Title IX updates are clearer.

June 1: Initial policy webinar. This will be recorded and posted on our website.

Sometime between July 1 - August 7: Second policy, form, and handbook revisions sent. These will include COVID-19-related considerations for reopening this fall and Title IX policies, handbook updates, and forms. These will be sent based on planned training schedules, litigation tracking, and additional federal guidance on implementation. You may have your own updates to make based on your individual COVID-19 plans, as well.

We do want to note that we plan to make the handbook updates available in two forms: (1) updates included in our full handbooks, and (2) 20-21 handbook "supplements" for those schools that have already completed handbook updates and do not want to reprint or resend the entire handbook.

On or before October 30: Third policy, form, and handbook revisions sent to accommodate the effective dates of new legislative action from

the Unicameral. If there are any additional handbook updates or changes, we will again provide them in two forms.

October 31: Everyone from KSB will trick-or-treat dressed as “attorneys really sick of COVID-19 and policy updates.”

Tuesday, November 3: Presidential election that may or may not unravel a lot of this work.

At least the following policies will be coming in later rounds of updates:

Title IX (new): due to new regulations effective Aug. 14, but with plenty of time in between now and then for legislative delays or court injunctions. Lawsuits are already pending.

COVID-19-related changes: your guess is as good as ours.... We plan to consider changes throughout June and July, as information develops. We also plan to collaborate with NRCSA and its committees on reopening issues.

Meetings (2008): due to LB 148 and delayed effective date.

Budget (3001): due to LB 148 and delayed effective date. Because the effective date will be after the budget submission deadline, then these changes will be effective in November but likely will not affect the budget process until 2021. However, they could impact any budget amendments, which may be prevalent this year based on ever-changing COVID-19 relief aid and impacts from the virus.

Parental Involvement (5018): this may be updated based on ongoing discussions with NDE regarding the conflict between the rights of a parent to request an opt out from state assessments and the state and federal law that requires “all students” to be assessed.

CONCLUSION

It is all too easy to adopt policies that look good, but that do not actually reflect how the school operates or assist the school in accomplishing its goals. Every year we stress that it is very important to us to give you a working, useful set of policies and a continuing **policy service**. For our Complete Service subscribers, there is no additional charge for revisions to our policies or consultation about them. Please don't hesitate to contact any one of us with questions about the updates or other policies. Our group e-mail address is ksb@ksbschoollaw.com.

**2002
Organization of the Board**

1. Membership, Term and Election

- a. The Board of Education shall be comprised of six members who will be elected at large.
- b. Those who wish to serve on the board shall file, be elected, and serve terms of office on the board according to law.

2. Internal Organization and Officers

a. President

- i. At the regular January meeting, the board shall elect from among its members a president who shall serve in that capacity for one year.
- ii. The president shall preside at all board meetings, and shall perform such other duties as may be prescribed by law or by action of the board.

b. Vice President

- i. At the regular January meeting, the board shall elect from among its members a vice president who shall serve in that capacity for one year.
- ii. The vice president shall preside in the absence of the president, and shall perform such other duties as are assigned by the board.

c. Secretary

- i. At the regular January meeting, the board shall elect a secretary who need not be a member of the board. The secretary shall serve in that capacity for one year. If the secretary is a member of the board, an assistant secretary may be named and his or her duties and compensation set by the board.
- ii. The secretary shall see that an accurate record of the proceedings of the board is kept, that a copy of the

proceedings is provided to each board member and to the superintendent, and that a concise summary of each month's meeting is published along with a list of all approved claims. The secretary shall perform such other duties as are prescribed by law and assigned by the board.

d. Treasurer

- i. A treasurer from the board will be designated on a year-to-year basis.
- ii. The treasurer will sign checks and certain other documents. The treasurer is the custodian of the monies of the district.
- iii. The treasurer shall give bond or equivalent insurance coverage payable to the district as prescribed by law with the cost of the bond being paid by the district.
- iv. The treasurer shall issue no warrant of payment of claim against the district until such claim has been duly authorized by the board and has been duly countersigned by the president.
- v. The vice president or secretary may sign any warrant in the absence of either the president or the treasurer.

3. Board Officer Voting and Tie Breakers

- a. The vote to elect board officers may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
- b. In the event any officer cannot be elected by a majority after 10 votes; no votes occur after ten motions fail for lack of a "second,"; or no member volunteers to serve as an officer for a particular position, the tie will be broken by the applicable method:
 - i. If the board is split between two members, the officer will be determined by coin flip. The winning member will be the officer for the upcoming year unless the position changes by action of the board.
 - ii. If the board is split between more than two members who wish to serve as the officer, any member wanting to serve

as the officer will put his or her name into a drawing. The name drawn out will be the officer for the upcoming year unless the position changes by action of the board.

- iii. If no member is willing to serve as an officer for a position which is required to be a member of the board, all non-officers' names will be put into a drawing. The name drawn out will be the officer for the upcoming year unless the position changes by action of the board.

4. Committees

- a. The board shall authorize such special committees as it deems necessary. The board president shall appoint members to the committee, and designate its function, tasks it is to perform, and a completion date for its work.
- b. On or before the beginning of each calendar year, the board shall appoint three members to form a Committee on American Civics. The committee's duties shall be those prescribed by Nebraska statutes, which include:
 - i. Hold no fewer than two public meetings annually, at least one when public testimony is accepted;
 - ii. Keep minutes of each meeting showing the time and place of the meeting, which members were present or absent, and the substance and details of all matters discussed;
 - iii. Examine and ensure that the social studies curriculum used in the district is aligned with the social studies standards adopted pursuant to section 79-760.01 and teaches foundational knowledge in civics, history, economics, financial literacy, and geography;
 - iv. Review and approve the social studies curriculum to ensure that it stresses the services of the men and women who played a crucial role in the achievement of national independence, establishment of our constitutional government, and preservation of the union and includes the incorporation of multicultural education as set forth in sections 79-719 to 79-723 in order to instill a pride and respect for the nation's institutions and not be merely a recital of events and dates;
 - v. Ensure that any curriculum recommended or approved by the committee on American civics is made readily accessible to the public and contains a reference to this section;

- vi. Ensure that the district develops and utilizes formative, interim, and summative assessments to measure student mastery of the social studies standards adopted pursuant to section 79-760.01;
- vii. Ensure that the social studies curriculum in the district incorporates one or more of the following for each student:
 - 1. Administration of a written test that is identical to the entire civics portion of the naturalization test used by United States Citizenship and Immigration Services prior to the completion of eighth grade and again prior to the completion of twelfth grade with the individual score from each test for each student made available to a parent or guardian of such student; or
 - 2. Attendance or participation between the commencement of eighth grade and completion of twelfth grade in a meeting of a public body as defined by section 84-1409 followed by the completion of a project or paper in which each student demonstrates or discusses the personal learning experience of such student related to such attendance or participation; or
 - 3. Completion of a project or paper and a class presentation between the commencement of eighth grade and the completion of twelfth grade on a person or persons or an event commemorated by a holiday listed in section 79-724(6) or on a topic related to such person or persons or event; and
- viii. Take all such other steps as will assure the carrying out of the provisions of this section and provide a report to the school board regarding the committee's findings and recommendations.

5. Vacancies

- a. A vacancy on the board of education shall exist when any one of the following occurs:
 - i. A member submits his or her formal resignation from the board.
 - ii. A member removes himself or herself from the district or is absent from the district for a continuous period of sixty days.

- iii. A member misses more than two consecutive regular board meetings unless excused by a majority of the remaining members.
 - iv. Such other reasons as are set forth in Nebraska statutes.
- b. The board shall make note the vacancy in its minutes and shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term to (1) the election commissioner or county clerk, and (2) the public by published notice in a newspaper of general circulation in the district.
 - c. Vacancies shall be filled in the manner set forth in Nebraska statutes.

Adopted on: __11/14/2016__

Revised on: __7/8/2019__

Reviewed on: _____

3034
Disbursements

Notwithstanding any provision of any other policy, facsimile signatures of board members may be used to sign any warrant, check, or other instrument drawn upon bank depository funds of the district, and a person or persons delegated by the board may sign and validate all warrants, checks, and other instruments drawn upon bank depository funds of the district.

Adopted on: ___1/9/2017_____

Revised on: _____

Reviewed on: _____

3039

Threat Assessment and Response

The board of education is committed to providing a safe environment for members of the school community. Students, staff and patrons are urged to immediately report any statements or behavior that makes the observer fearful or uncomfortable about the safety of the school environment.

1. Obligation to Report threatening Statements or Behaviors.

All staff and students must report any threatening statements or behavior to a member of the administration. Staff and students must make such report regardless of the nature of the relationship between the individual who initiated the threat or threatening behavior and the person(s) who were threatened or who were the focus of the threatening behavior. Staff and students must also make such reports regardless of where or when the threat was made or the threatening behavior occurred.

THREATS OR ASSAULTS WHICH REQUIRE IMMEDIATE INTERVENTION SHOULD BE REPORTED TO THE POLICE AT 911.

2. Threat Assessment Team

The threat assessment team (team) shall consist of the superintendent, principals, special education director, counselors, and local law enforcement. The team is responsible for investigating all reported threats to school safety, evaluating the significance of each threat, and devising an appropriate response. The threat assessment team shall work closely with the crisis team in planning for crisis situations. The threat assessment team shall be familiar with mental health resources available to students, staff and patrons and shall collaborate with local mental health service providers as appropriate.

3. Threat Assessment Investigation and Response

All reports of violent, threatening, stalking or other behavior or statements which could be interpreted as posing a threat to school safety will immediately be forwarded to a member of the team. Upon receipt of an initial report of any threat, the team will take steps to verify the information, make an initial assessment, and document any decision involving further action. This investigation may include interviews with the person who made the statement(s) or engaged in the behavior of

concern, interviews with teachers and other staff members who may have information about the individual of concern, interviews with the target(s) of the threatening statements or behavior, interviews of family members, physical searches of the individual of concern's person, possessions, and home (as allowed by law and in cooperation with law enforcement), and any other investigatory methods that the team determines to be reasonable and useful.

At the conclusion of the investigation, the team will determine what, if any, response to the threat is appropriate. The team is authorized to disclose the results of its investigation to law enforcement and to the target(s) of any threatened acts. The team may refer the individual of concern to the appropriate school administrator for consequences under the school's student discipline policy or, if appropriate, report the results of its investigation to the student's individualized education plan team.

4. Communication with the Public about Reported Threats

To the extent possible, the team will keep members of the school community informed about possible threats and about the team's response to those threats. This communication may include oral announcements, written communication sent home with students, and communication through print or broadcast media. However, the team will not reveal the identity of the individual of concern or of any target(s) of threatened violence unless permitted by law.

5. Coordination with the Crisis Team After Resolution of Threat

The threat assessment team will confer with the district's crisis team after a threat has been investigated to provide the crisis team with information that the crisis team may use in assessing or revising the district's All-Hazard School Safety Plan.

Adopted on: 1/9/2017

Revised on: 7/8/2019

Reviewed on: _____

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Adopted on: 1/9/2017
Revised on: 7/8/2019
Reviewed on: _____

3046 Animals at Schools

Animals are not allowed in school district buildings or on school district property without the written permission of the superintendent or his or her designee except as provided in this policy or as otherwise required by law.

I. Use of Animals for Instructional Purposes

Animals that support a district program or curriculum or that are used for instructional purposes are allowed in school district buildings or on school district property with the written permission of the superintendent or building principal.

II. Service Animals

The school district does not permit discrimination against individuals with disabilities, including those who require the assistance of a service animal. An individual with a disability is permitted to be accompanied by his/her service animal on school property when required by law, subject to the conditions of this policy.

Service Animal. A "service animal" is a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Work or tasks **do not** include the crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship. The work or tasks performed by a service animal must be directly related to the handler's disability or necessary to mitigate a disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. **See also**, Miniature Horses below.

School District Inquiries. School officials **may** ask the owner or handler of an animal whether the animal is required because of a disability and what work or task the animal has been trained to do **unless** the answers to these inquiries are readily apparent. School officials **may not** ask about the nature or extent of a person's disability and may not require documentary proof of certification or licensing as a service animal.

Procedural Requirements. The following requirements must be satisfied **before** a service animal will be allowed in school buildings or on school grounds:

Request. A person who wants to be accompanied by his/her service animal must submit a written request form to a principal or superintendent. The request form is attached to this policy. These requests must be renewed each school year or whenever a different service animal will be used.

Health and Vaccination. The owner or handler must have proof of current licensure from the local licensing authority including proof of the service animal's current vaccinations and immunizations required by law.

Service animals will not be allowed in school buildings or other school property until the school has approved the request.

Control. A service animal must be under the control of its handler at all times. The service animal must have a harness, backpack, vest identifying the dog as a trained service dog, leash, or other tether. If the handler is unable to use a harness, backpack, vest, leash, or other tether, because of a disability or the use of a harness, backpack, vest, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, the use of these items is not required. However, the service animal must be otherwise under the handler's control.

Exclusion or Removal from School. A service animal may be excluded from school property and buildings if a school administrator determines that:

- (1) A handler does not have control of the service animal;
- (2) The service animal is not housebroken;
- (3) The service animal presents a direct and immediate threat to others in the school; or
- (4) The animal's presence fundamentally alters the nature of the service, program, or activity.

The handler or the student's parent or guardian shall be required to remove the service animal from school premises immediately upon such a determination. If the service animal is removed, the individual with a disability shall be provided with the opportunity to participate in the service, program, or activity without the service animal.

Allergic Reactions. If any student or school employee assigned to a classroom or mode of transportation in which a service animal is permitted suffers an allergic reaction to the service animal, the person having custody and control of the animal will be required to remove the animal to a different location designated by an administrator. The school will arrange a meeting

between school personnel, the individual with the disability, and the parents or guardian(s) of the person with the disability if that person is a student to develop an alternate plan.

Supervision and Care of Service Animals. The owner or handler of a service animal is solely responsible for the supervision and care of the animal, including any feeding, exercising, and clean up while the animal is in a school building or on school property. The student's parent or guardian is responsible for providing for the supervision and the care of the animal in the event that his or her student is not able to do so. The school district is not responsible for providing any care, supervision, or assistance for a service animal.

Extra Charges. The owner or handler of a service animal will not be required to pay an admission fee or a charge for the animal to attend events for which a fee is charged.

Damage to School Property and Injuries. The owner or handler of a service animal is solely responsible and liable for any damage to school property or injury to personnel, students, or others caused by the animal.

Miniature Horses. Requests to permit the use of a miniature horse by an individual with a disability will be addressed on a case-by-case basis by considering the following factors:

- (1) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- (2) Whether the handler has sufficient control of the miniature horse;
- (3) Whether the miniature horse is housebroken; and
- (4) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

All additional requirements outlined in this policy, which apply to service animals, shall apply to miniature horses.

Service Animal in Training. This policy shall also be applicable to service animals in training that are accompanied by a bona fide trainer.

Denial of Access and Grievance. If a school official denies a request for access of a service animal, the disabled individual or parent or guardian can file a written grievance with the school's Section 504 Coordinator.

III. Therapy Animals

The school district supports the use of therapy animals by teachers or other qualified school personnel ("Owner") for the benefit of its students subject to the conditions of this policy.

Therapy Animal. A "therapy animal" is an animal that has been individually trained and certified to work with its Owner to provide emotional support, well-being, comfort, or companionship to school district students. Therapy animals are not "service animals" as that term is used in the American with Disabilities Act. The animal must be well behaved and have a temperament that is suitable for interaction with students and others in a public school. Therapy animals are personal property of the Owner and are not owned by the school district.

Therapy Animal Standards and Procedures. The following requirements must be satisfied *before* a therapy animal will be allowed in school buildings or on school grounds:

Request. An Owner who wants to bring a therapy animal to school must submit a written request form to a principal or superintendent. The request form is attached to this policy. The request must be renewed each school year or whenever a different therapy animal will be used.

Training and Certification. The Owner must submit training and certification information requested by the Superintendent or his or her designee. Any certification required by the school district must remain current at all times.

Health and Vaccination. The therapy animal must be clean, well groomed, in good health, house broken, and immunized against diseases common to such animals. The Owner must submit proof of current required licensure from the local licensing authority and proof of the therapy animal's current vaccinations and immunizations from a licensed veterinarian, if applicable.

Control. A therapy animal must be under the control of the Owner at all times.

Identification. The therapy animal must have appropriate identification identifying it as a therapy animal.

No Disruption. The therapy animal must not disrupt the educational process by any of its behaviors.

Health and Safety. The therapy animal must not pose a health and safety risk to any student, employee, or other person at school.

Supervision and Care of Therapy Animals. The Owner is solely responsible for the supervision and care of the therapy animal, including any feeding, exercising, and clean up while the animal is in a school building or on school property. The school district is not responsible for providing any care, supervision, or assistance for a therapy animal.

Authorized Area(s). The Owner shall only allow the therapy animal to be in areas in school buildings or on school property that are authorized by school district administrators.

Insurance. The Owner must submit a copy of an insurance policy that provides liability coverage for the therapy animal while on school property.

Exclusion or Removal from School. A therapy animal may be excluded from school property and buildings if a school administrator determines that:

- (1) A handler does not have control of the therapy animal;
- (2) The therapy animal is not housebroken;
- (3) The therapy animal presents a direct and immediate threat to others in the school; or
- (4) The animal's presence otherwise interferes with the educational process.

The Owner shall be required to remove the therapy animal from school premises immediately upon such a determination.

Allergic Reactions. If any student or school employee assigned to a classroom in which a therapy animal is permitted suffers an allergic reaction to the therapy animal, the Owner of the animal will be required to remove the animal to a different location designated by an administrator.

Damages to School Property and Injuries. The Owner of a therapy animal is solely responsible and liable for any damage to school property or injury to personnel, students, or others caused by the therapy animal.

Other Therapy Animals. Therapy animals (1) owned by students, patrons, or other non-school employees or (2) owned by school employees for their own benefit will not be allowed on school grounds or school property except as otherwise required by law.

Adopted on: 7/10/2017

Revised on: 7/8/2019

Reviewed on: _____

4003
Drug Policy Regarding Drivers

Policy Statement. Drivers for the school district must be free from drug and alcohol abuse, and the use of illegal drugs or improper use of alcohol is prohibited. The overall goal of drug and alcohol testing is to insure a drug-free and alcohol-free transportation environment, and to reduce accidents, injuries and fatalities.

Types of Testing. Pursuant to regulations promulgated by the Department of Transportation (DOT), the district has implemented four types of testing: (1) pre-employment testing, (2) reasonable cause testing, (3) post-accident testing and (4) random testing.

Refusal to Submit to Testing. The refusal to submit to the testing used by the district will be grounds for refusal to hire driver applicants and to terminate the employment of existing drivers. Any driver who becomes unqualified on the basis of violation of the terms of this policy will be subject to disciplinary action which may include termination of the driver's employment.

Disqualification. Any applicant who tests positive for the presence of the following drugs is medically unqualified to drive and will not be considered for the position of driver: (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, or (5) phencyclidine (PCP). Any district driver who tests positive shall be medically unqualified and removed from service immediately.

Pre-employment Testing. All applicants for employment must submit to drug and alcohol tests as a condition of being considered for employment.

Reasonable Cause Testing. The district shall have reasonable cause to require a driver to submit to drug testing when a driver manifests physical or physiological symptoms or reactions commonly attributed to the use of controlled substances or alcohol.

Post-Accident Testing. A driver who has been involved in a reportable accident must submit to drug and alcohol testing as soon as possible. A reportable accident includes any accident in which there is a fatality, a person is injured and must be treated away from the accident site, the driver receives a citation for a moving violation, or a vehicle is towed from the scene. The driver must notify the district immediately regarding any reportable accident.

Serious Injury to the Driver. If a driver is so seriously injured that he or she cannot submit to testing at or immediately after the time of the accident, the driver must provide the necessary authorization for the district to obtain hospital reports or other documents that would indicate whether there were controlled substances or alcohol in the driver's system.

Random Testing. All drivers will be subject to unannounced random testing for drugs and alcohol. The district or its agents will periodically select drivers at random for testing. A district official will notify a driver when his or her name has been selected and will instruct the driver to report immediately for testing. By its very nature, random selection may result in one driver being tested more than once in a 12-month period, while another driver may not be selected at all during the same 12 months.

Frequency of Random Testing. Under DOT regulations, the district must test at least 50 percent of its average number of driver positions for drugs and 25 percent of its average number of driver positions for alcohol each year. The tests must be unannounced and spread evenly throughout the year. DOT regulations also require that every driver selected at random must have his or her name placed back in the random pool for the next selection period.

Testing Procedure. All urine and blood specimens collected under the policy will be submitted to an approved laboratory for testing. Specimens that initially test positive for drugs will be subjected to a subsequent confirmation test before being reported by the laboratory as positive.

Medical Resource Officer. All laboratory test results will be reported by the laboratory to a medical review officer (MRO) designated by the district. Negative test results will be reported as such by the MRO to the district. Before reporting a positive test result to the district, the MRO will attempt to contact the driver to discuss the test result. If the MRO is unable to contact the driver directly, the MRO will contact a district official designated in advance by the district, who shall in turn contact the driver and direct the driver to contact the MRO. Upon being so directed, the driver shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day.

Confidentiality. Pursuant to DOT regulations, individual test results for applicants and drivers will be released to the district and will be kept confidential unless the tested individual consents to their release. Any person who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

Retesting. An individual who tested positive for the presence of drugs may request that the original sample be retested. The request for a retest must be submitted in writing on a form provided by the district within 3 working days of the district's notification to the individual that he or she has a positive test result. The individual making the request must pay all costs associated with the retest and transfer of the sample to another laboratory before the retest will be performed.

Adopted on: 4/10/2017

Revised on: _____

Reviewed on: _____

5016 Student Records

The school district shall manage student records and reports as is necessary for effective administration and in compliance with law. In general "student records" shall not include transitory communications such as e-mail, text messages, handwritten communication between school and home, and the like, and these items will not generally be maintained by the district.

For purposes of the district's compliance with state and federal law, the district "maintains" student records which are printed and kept in the student's physical file or which school district staff have intentionally saved within the official school district digital student information system that specifically identifies the student for whom those records are maintained. The school district may also use learning management systems, which deliver and manage instructional content. The school district maintains student records within its student information system but not in its learning management system. The official school district student information system is PowerSchool.

Each building principal will assign responsibilities for the preparation and maintenance of records and will ensure compliance with the applicable federal and state laws, regulations, and record retention schedules regarding their storage and use in the building. No "student record" or record required to be retained by the Nebraska Secretary of State's Record Retention Schedules applicable to the district will be destroyed unless it is first saved in a retrievable, digital format. This includes only records required to be kept by the applicable Retention Schedules and "student records" as defined by state and federal law, and this policy does not prohibit the district from following its record expungement procedures for all other records.

Students or their parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning themselves or their students. For purposes of this policy, "teachers" include paraeducators and volunteers who are providing educational services to a student on behalf of the School District. "School officials" include attorneys, members of law enforcement acting on behalf of the school district; representatives of insurance providers that provide coverage to the school district; and third-party website operators who have contracted with the school district or its agent to offer online programs for the benefit of students and the district. All disciplinary material shall be removed and destroyed upon the pupil's graduation or after the pupil's continuous absence from the school for a period of three years, and after authorization is given by the State Records Board pursuant to state law. Upon request, the school district will disclose education records without consent to officials of

another school district in which a student seeks or intends to enroll.

Outside agencies such as physicians, probation officers, psychologists, child guidance clinics, and other agencies concerned with child welfare who are working directly with a child may have access to information pertaining to that child with written parental consent or upon issuance of a valid court order.

The school district shall share student data, records, and information with school districts, educational service units, learning communities, and the State Department of Education to the fullest extent practicable unless otherwise prohibited by law. This includes sharing information with the Department of Education necessary to comply with the requirement of state law that all third-year high school students take a college entrance exam. Any redisclosure of information related to the administration of this exam shall be governed by the agreement between the Nebraska Department of Education and the third-party testing company.

Each year, the school district will notify parents and guardians of their rights under this policy and the Family Educational Rights and Privacy Act.

Adopted on: 7/10/2017
Revised on: 7/8/2019
Reviewed on: _____

5035 Student Discipline

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in this policy and the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation. Disciplinary consequences may also include in-school suspension, Saturday School, and any other consequence authorized by law. District administrators may develop building-specific protocols for the imposition of student discipline.

In this policy, references to "Principal" shall include building principals, the principal's designee, or other appropriate school district administrators.

Any statement, notice, recommendation, determination, or similar action specified in this policy shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

Any student who is suspended or expelled from school pursuant to this policy may not participate in any school activity during the duration of that exclusion including adjacent school holidays and weekends. The student activity eligibility of a student who is mandatorily reassigned shall be determined on a case-by-case basis by the principal of the building to which the student is reassigned.

Short-Term Suspension

The Principal may exclude students from school or any school function for a period of up to five school days (short-term suspension) on the following grounds:

1. Conduct constituting grounds for expulsion as hereinafter set forth; or,
2. Other violations of rules and standards of behavior adopted by the Board of Education or the administrative or teaching staff of the school, that occur on or off school grounds, if such conduct interferes with school purposes or there is a connection between such conduct and school.

The following process applies to short-term suspension:

1. The Principal shall make a reasonable investigation of the facts and circumstances. Short-term suspension shall be imposed only after a determination that the suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.
2. Prior to commencement of the short-term suspension, the student will be given oral or written notice of the charges against the student. The student will be advised of what he or she is accused of having done, be given an explanation of the evidence the authorities have, and be given an opportunity to explain the student's version of the facts.
3. Within 24 hours or such additional time as is reasonably necessary following the suspension, the Principal will send a written statement to the student, and the student's parent or guardian, describing the student's conduct, misconduct or violation of the rule or standard and the reasons for the action taken. An opportunity will be given to the student, and the student's parent or guardian, to have a conference with the Principal ordering the short-term suspension before or at the time the student returns to school. The Principal shall determine who, in addition to the parent or guardian, is to attend the conference.
4. Students who are short-term suspended will be given the opportunity to complete classwork, including but not limited to examinations.

Emergency Exclusion

Students may be emergency excluded from school pursuant to the board's separate policy on emergency exclusion or state law.

Weapons and/or Firearms

Students may be disciplined for the possession of weapons and/or firearms pursuant to the board's separate policy on weapons and firearms or state law.

Long-Term Suspension

Students may be excluded by the Principal from school or any school function for a period of more than five school days but less than twenty school days (long-term suspension) for any conduct constituting grounds for expulsion as hereinafter set forth. The process for long-term suspension is set forth below.

Expulsion

1. **Meaning of Expulsion.** Expulsion means exclusion from attendance in all schools, grounds and activities of or within the system for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year, or (c) unless the expulsion is for conduct specified in these rules or in law as permitting or requiring a longer removal, in which case the expulsion shall remain in effect for the period specified therein. Such action may be modified or terminated by the school district at any time during the expulsion period.
2. **Summer Review.** Any expulsion that will remain in effect during the first semester of the following school year will be automatically scheduled for review before the beginning of the school year. The review will be conducted by the hearing officer who conducted the initial expulsion hearing, or a hearing officer appointed by the Superintendent in the event no hearing was previously held or the initial hearing officer is no longer available or willing to serve, after the hearing officer has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing officer that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the Superintendent.
3. **Suspension of Enforcement of an Expulsion:** Enforcement of an expulsion action may be suspended (i.e., "stayed") for a period of not more than one full semester in addition to the balance of the semester in which the expulsion takes effect, and as a condition of such suspended action, the student may be assigned to a school, class, or program/plan and to such other consequences which the school district deems appropriate.
4. **Alternative School or Pre-expulsion Procedures.** The school shall either provide an alternative school, class or educational program for

expelled students or shall follow the pre-expulsion procedures outlined in NEB. REV. STAT. 79-266.

Grounds for Long-Term Suspension, Expulsion or Mandatory Reassignment:

The following conduct constitutes grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, NEB. REV. STAT. § 79-254 through 79-296, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

1. Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
2. Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
3. Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;
4. Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
5. Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon (*see also board policy on weapons and firearms*);
6. Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor (*note: the term "under the influence" for school purposes has a less strict meaning than it does under criminal law; for school purposes, the term means any level of impairment and includes even the odor of alcohol on the breath or person of a student; also, it includes being impaired by reason of the abuse of any material used as a stimulant*);
7. Public indecency as defined in section 28-806, except that this prohibition shall apply only to students at least twelve years of age but less than nineteen years of age;
8. Engaging in bullying as defined in section 79-2,137 and in these policies;

9. Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;
10. Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or
11. A repeated violation of any of the following rules if such violations constitute a substantial interference with school purposes:
 - a. The use of language, written or oral, or conduct, including gestures, which is profane or abusive to students or staff members. Profane or abusive language or conduct includes, but is not limited to, that which is commonly understood and intended to be derogatory toward a group or individual based upon race, gender, national origin, or religion;
 - b. Dressing or grooming in a manner which violates the school district's dress code and/or is dangerous to the student's health and safety, a danger to the health and safety of others, or which is disruptive, distracting or indecent to the extent that it interferes with the learning and educational process;
 - c. Violating school bus rules as set by the school district or district staff;
 - d. Possessing, using, selling, or dispensing tobacco, drug paraphernalia, an electronic nicotine delivery system, or a tobacco imitation substance or packaging, regardless of form, including cigars, cigarettes, chewing tobacco, and any other form of tobacco, tobacco derivative product or imitation, or electronic cigarettes, vapor pens, etc.;
 - e. Possessing, using, selling, or dispensing any drug paraphernalia or imitation of a controlled substance regardless of whether the actual substance possessed is a controlled substance by Nebraska law;
 - f. Possession of pornography;
 - g. Sexting or the possession of sexting images (a combination of sex and texting - the act of sending sexually explicit messages or photos electronically);

- h. Engaging in hazing, defined as any activity expected of someone joining a group, team, or activity that humiliates, degrades or risks emotional and/or physical harm, regardless of the person's willingness to participate. Hazing activities are generally considered to be: physically abusive, hazardous, and/or sexually violating and include but are not limited to the following: personal servitude; sleep deprivation and restrictions on personal hygiene; yelling, swearing and insulting new members/newbies; being forced to wear embarrassing or humiliating attire in public; consumption of vile substances or smearing of such on one's skin; branding; physical beatings; binge drinking and drinking games; sexual simulation and sexual assault;
- i. Bullying which shall include cyber-bullying, defined as the use of the internet, including but not limited to social networking sites such as Facebook, cell phones or other devices to send, post or text message images and material intended to hurt or embarrass another person. This may include, but is not limited to; continuing to send e-mail to someone who has said they want no further contact with the sender; sending or posting threats, sexual remarks or pejorative labels (i.e., hate speech); ganging up on victims by making them the subject of ridicule in forums, and posting false statements as fact intended to humiliate the victim; disclosure of personal data, such as the victim's real name, address, or school at websites or forums; posing as the identity of the victim for the purpose of publishing material in their name that defames or ridicules them; sending threatening and harassing text, instant messages or emails to the victims; and posting or sending rumors or gossip to instigate others to dislike and gang up on the target;
- j. Violation of the district's computer acceptable computer use policy are subject to discipline, up to and including expulsion;
- k. Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a simulated or "look-a-like" weapon;
- l. Using any object to simulate possession of a weapon; and
- m. Any other violation of a rule or regulation established by a school district staff member pursuant to authority delegated by the board.

Due Process Afforded to Students Facing Long-term Suspension or Expulsion

The following procedures shall be followed regarding any long-term suspension, expulsion or mandatory reassignment

1. On the date of the decision to discipline, the Principal shall file with the Superintendent a written charge and a summary of the evidence supporting such charge.
2. The Principal shall serve the student and the student's parents or guardian with a written notice by registered or certified mail or personal service within two school days of the date of the decision to recommend long-term suspension or expulsion. The notice shall include the following:
 - a. The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;
 - b. The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;
 - c. A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;
 - d. A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;
 - e. A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and
 - f. A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail.
3. When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent,

the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

4. Nothing in this policy shall preclude the student, student's parents, guardian or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.
5. If a hearing is requested within five days after receipt of the notice, the Superintendent shall appoint a hearing officer who shall follow the "hearing procedures" outlined below.
6. If a hearing is requested more than five school days following the receipt of the written notice, but not more than thirty calendar days after receipt, the Superintendent shall appoint a hearing officer who shall follow the "hearing procedures" outlined below, except that the time constraints set forth may differ as provided by law and this policy. The student shall be entitled to a hearing but the consequence imposed may continue in effect pending final determination.
7. If a request for hearing is not received within thirty calendar days following the mailing or delivery of the written notice, the student shall not be entitled to a hearing.

In the event a hearing is requested, the hearing, hearing procedures, the student's rights and any appeals or judicial review permitted by law shall be governed by the applicable provisions of the Nebraska Student Discipline Act (NEB. REV. STAT. § 79-254 to 79-294). The school district will provide parents with copies of the relevant statutes upon request.

Reporting Requirement to Law Enforcement

Violations of this section will result in a report to law enforcement if:

1. The violation includes possession of a firearm;
2. The violation results in child abuse;

3. It is a violation of the Nebraska Criminal Code that the administration believes cannot be adequately addressed solely by discipline from the school district;
4. It is a violation of the Nebraska Criminal Code that endangers the health and welfare of staff or students;
5. It is a violation of the Nebraska Criminal Code that interferes with school purposes;
6. The report is required or requested by law enforcement or the county attorney.

Adopted on: 7/10/2017

Revised on: 7/8/2019

Reviewed on: _____

6020
Multicultural Education

In every curriculum area and at all grades, the school district will provide programs which foster and develop an appreciation and understanding of the racial, ethnic, and cultural heritage of all students. These programs will allow students to explore the history and contributions made by various ethnic groups and will emphasize the rich diversity of the population of the United States.

The programs shall be implemented within the guidelines of the State Department of Education and in accordance with any other applicable laws and/or regulations. The superintendent shall provide the board with a report on the status of the district's multicultural education program annually.

Adopted on: ___9/11/2017_____

Revised on: _____

Reviewed on: _____

6021

District Criteria for Selecting Evaluators to be Used for Special Education Evaluation and Verification and Independent Educational Evaluations

The following criteria shall be used for selecting evaluators according to 92 Nebraska Administrative Code 51-006.07B:

1. Those in-state service agencies that have approved rates for the current year established by the Nebraska Department of Education. A list of service agencies with approved rates, including state agencies, individual providers, and in-state providers may be found at <https://www.education.ne.gov/sped/service-agencies/>.
2. Those Nebraska providers located within 50 miles of the school district.

Adopted on: 9/11/2017
Revised on: 7/9/2018
Reviewed on: _____

6033 Restraint and Seclusion of Students

Restraint and seclusion are behavioral interventions, not educational techniques. They are limited to exigent circumstances and situations that necessitate their use to protect the safety of the student, other students, staff and property. When used as safety intervention, they should be used as methods of last resort. When used as behavior intervention, they must be used according to the terms of this policy.

This policy does not cover interventions such as voice control, limited to loud, firm commands; time-limited ignoring of specific behaviors; brief physical prompts to interrupt or prevent a specific behavior; physical interventions which a student's health care provider has indicated are medically necessary for the treatment or protection of the individual; or other similar interventions.

I. Seclusion

A. Definition

1. Seclusion is a last resort emergency safety intervention that provides an opportunity for the student to regain self-control. Seclusion is the confinement of a student in a room or other space from which the student is physically prevented from leaving and which provides for continuous adult observation of the student.
2. A room or area used for seclusion:
 - a. must not be locked;
 - b. must not prevent the student from exiting the area should staff become incapacitated or leave that area;
 - c. must provide for adequate space, lighting, ventilation, viewing, and the safety of the student.

B. Timeout

1. Timeout is a behavior intervention in which a student, for a limited and specified time, is placed in an environment where access to positive reinforcement is unavailable.
2. Timeout should not be confused with seclusion because a student's movement in a timeout setting is not physically restricted.
3. Timeout lies within a continuum of procedures that help students self-regulate and control their behavior.

C. Seclusion is inappropriate for students who are severely self-injurious or suicidal.

D. Time and Duration

1. Emergency seclusion should be used only as long as necessary to allow a student to regain control of his/her behavior, but generally:
 - a) Elementary school students – no longer than 15 minutes; and
 - b) Middle and high school students – no longer than 20 minutes.
 - c) If an emergency seclusion lasts longer than the suggested maximum time, the staff member should:
 - (1) summon additional support (e.g., change of staff, introducing a nurse or specialist, obtaining additional expertise); and
 - (2) document the need to explain the extension beyond the time limit.

E. Staff Requirements

While using seclusion, staff must:

1. involve appropriately-trained key identified personnel to protect the care, welfare, dignity, and safety of the student;
2. continually observe the student in seclusion for indications of physical distress and seek medical assistance if there is a concern; and
3. document observations.

II. Restraint

There are three types of restraint: physical, chemical, and mechanical.

A. Physical restraint involves direct physical contact that prevents or significantly restricts a student's movement.

1. Restraint is a last resort emergency safety intervention. Restraint is an opportunity for the student to regain self-control.
2. This policy on physical restraint is not intended to forbid actions undertaken:
 - a. to break up a fight
 - b. to take a weapon away from a student
 - c. to hold a student briefly in order to calm or comfort
 - d. to escort a student physically from one area to another location within the school building
 - e. to assist a student in completing a task/response if the student does not resist or resistance is minimal in intensity or duration.
 - f. to hold a student briefly in order to prevent an impulsive behavior that threatens the student's immediate safety (e.g., running in front of a car).

- B. Chemical restraint is the administration of medication for the purpose of restraint.
 - 1. The school district will not, under any circumstances, engage in chemical restraint.
 - 2. Chemical restraint does not apply to medication prescribed by and administered in accordance with the directions of a physician.
- C. Mechanical restraint means the use of any device or material attached to or adjacent to a student's body that restricts normal freedom of movement and which cannot be easily removed by a student.
 - 1. Mechanical restraint does not include:
 - a. an adaptive or protective device recommended by a physician or therapist (when it is used as recommended).
 - b. safety equipment used by the general student population as intended (for example, seat belts, safety harness on school transportation).

III. Limitations in Use

- A. Seclusion and/or restraint shall not be used:
 - 1. for the convenience of staff;
 - 2. as a substitute for an educational program; or
 - 3. as a form of discipline/punishment.

IV. Recurring Behavior

- A. If a pattern of behavior emerges, or is anticipated, which may require the use of emergency seclusion, the school personnel must:
 - 1. conduct a functional behavioral assessment;
 - 2. call a meeting of the student's IEP team to develop or revise a positive behavior intervention plan to facilitate the reduction or elimination of the use of seclusion and/or restraint
- B. Given the limited size and training of the school district's staff, students whose behavior routinely requires seclusion and restraint may not be able to be served in the school district and may require a placement out of the school district.

V. Prohibited Practices

- A. The following are prohibited under all circumstances, including emergency situations:
 - 1. corporal punishment;

2. the deprivation of basic needs;
3. anything that constitutes child abuse;
4. the seclusion of preschool children; and
5. the intentional application of any noxious substance(s) or stimuli which result in physical pain or extreme discomfort

Adopted on: ___9/11/2017_____

Revised on: _____

Reviewed on: _____

2002
Organization of the Board, Board Officers, Check Signing, and Committees

1. Membership, Term and Election

- a. The Board of Education shall be comprised of six members who will be elected at large.
- b. Those who wish to serve on the board shall file, be elected, and serve terms of office on the board according to law.

2. Internal Organization and Officers

a. President

- i. At the regular January meeting, the board shall elect from among its members a president who shall serve in that capacity for one year.
- ii. The president shall preside at all board meetings, and shall perform such other duties as may be prescribed by law or by action of the board.

b. Vice President

- i. At the regular January meeting, the board shall elect from among its members a vice president who shall serve in that capacity for one year.
- ii. The vice president shall preside in the absence of the president, and shall perform such other duties as are assigned by the board.

c. Secretary

- i. At the regular January meeting, the board shall elect a secretary who need not be a member of the board. The secretary shall serve in that capacity for one year. If the secretary is a member of the board, an assistant secretary may be named and his or her duties and compensation set by the board.

- ii. The secretary shall see that an accurate record of the proceedings of the board is kept, that a copy of the proceedings is provided to each board member and to the superintendent, and that a concise summary of each month's meeting is published along with a list of all approved claims. The secretary shall perform such other duties as are prescribed by law and assigned by the board.

d. Treasurer

- i. At the regular January meeting, the board shall elect, employ, or appoint a treasurer who need not be a member of the board if permitted by law. The treasurer shall serve in that capacity for one year, unless the board designates a longer term for the treasurer.
- ii. The treasurer may be designated to sign checks and certain other documents. The treasurer is the custodian of the monies of the district.
- iii. The treasurer shall give bond or equivalent insurance coverage payable to the district as prescribed by law with the cost of the bond being paid by the district.
- iv. The treasurer shall issue no warrant of payment of claim against the district until such claim has been duly authorized.

3. Signing and Authorizing Checks, Warrants, and other Instruments.

- a. Unless otherwise delegated by the board, the president and secretary of the board shall sign checks, warrants, and other instruments of the district.
- b. The board may delegate another person to sign and validate any checks, warrants, and other instruments. Facsimile signatures of board members may be used.
- c. The board delegates that the vice president or treasurer may sign any warrant in the absence of either the president or the secretary.

4. Board Officer Voting and Tie Breakers

- a. The vote to elect board officers may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
- b. In the event any officer cannot be elected by a majority after 10 votes; no votes occur after ten motions fail for lack of a "second,"; or no member volunteers to serve as an officer for a particular position, the tie will be broken by the applicable method:
 - i. If the board is split between two members, the officer will be determined by coin flip. The winning member will be the officer for the upcoming year unless the position changes by action of the board.
 - ii. If the board is split between more than two members who wish to serve as the officer, any member wanting to serve as the officer will put his or her name into a drawing. The name drawn out will be the officer for the upcoming year unless the position changes by action of the board.
 - iii. If no member is willing to serve as an officer for a position which is required to be a member of the board, all non-officers' names will be put into a drawing. The name drawn out will be the officer for the upcoming year unless the position changes by action of the board.

5. Committees

- a. The board shall authorize such special committees as it deems necessary. The board president shall appoint members to the committee, and designate its function, tasks it is to perform, and a completion date for its work.
- b. On or before the beginning of each calendar year, the board shall appoint three members to form a Committee on American Civics. The committee's duties shall be those prescribed by Nebraska statutes, which include:
 - i. Hold no fewer than two public meetings annually, at least one when public testimony is accepted;

- ii. Keep minutes of each meeting showing the time and place of the meeting, which members were present or absent, and the substance and details of all matters discussed;
- iii. Examine and ensure that the social studies curriculum used in the district is aligned with the social studies standards adopted pursuant to section 79-760.01 and teaches foundational knowledge in civics, history, economics, financial literacy, and geography;
- iv. Review and approve the social studies curriculum to ensure that it stresses the services of the men and women who played a crucial role in the achievement of national independence, establishment of our constitutional government, and preservation of the union and includes the incorporation of multicultural education as set forth in sections 79-719 to 79-723 in order to instill a pride and respect for the nation's institutions and not be merely a recital of events and dates;
- v. Ensure that any curriculum recommended or approved by the committee on American civics is made readily accessible to the public and contains a reference to this section;
- vi. Ensure that the district develops and utilizes formative, interim, and summative assessments to measure student mastery of the social studies standards adopted pursuant to section 79-760.01;
- vii. Ensure that the social studies curriculum in the district incorporates one or more of the following for each student:
 - 1. Administration of a written test that is identical to the entire civics portion of the naturalization test used by United States Citizenship and Immigration Services prior to the completion of eighth grade and again prior to the completion of twelfth grade with the individual score from each test for each student made available to a parent or guardian of such student; or
 - 2. Attendance or participation between the commencement of eighth grade and completion of twelfth grade in a meeting of a public body as defined by section 84-1409 followed by the completion of a

project or paper in which each student demonstrates or discusses the personal learning experience of such student related to such attendance or participation; or

3. Completion of a project or paper and a class presentation between the commencement of eighth grade and the completion of twelfth grade on a person or persons or an event commemorated by a holiday listed in section 79-724(6) or on a topic related to such person or persons or event;

viii. Take all such other steps as will assure the carrying out of the provisions of this section and provide a report to the school board regarding the committee's findings and recommendations.

6. Vacancies

a. A vacancy on the board of education shall exist when any one of the following occurs:

i. A member submits his or her formal resignation from the board.

ii. A member removes himself or herself from the district or is absent from the district for a continuous period of sixty days.

iii. A member misses more than two consecutive regular board meetings unless excused by a majority of the remaining members.

iv. Such other reasons as are set forth in Nebraska statutes.

b. The board shall make note the vacancy in its minutes and shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term to (1) the election commissioner or county clerk, and (2) the public by published notice in a newspaper of general circulation in the district.

c. Vacancies shall be filled in the manner set forth in Nebraska statutes.

Adopted on: _____

Revised on: _____

Reviewed on: _____

Threat Assessment and Response

[Option 1: Team Concept]

The board of education is committed to providing a safe environment for members of the school community. Students, staff and patrons are urged to immediately report any statements or behavior that makes the observer fearful or uncomfortable about the safety of the school environment.

1. Definitions

- a. A **threat** is an expression of a willful intent to physically or sexually harm someone or to damage property in a way that indicates that an individual poses a danger to the safety of school staff, students or other members of the school community.
 - i. The threat may be expressed/communicated behaviorally, orally, visually, in writing, electronically, or through any other means.
 - ii. A **transient threat** is an expression of anger or frustration that can be quickly or easily resolved.
 - iii. A **substantive threat** is an expression of serious intent to harm others which includes, but is not limited to, any threat which involves a detailed plan and means.
- b. A **threat assessment** is a fact-based process emphasizing an appraisal of observed (or reasonably-observable) behaviors to identify potentially dangerous or violent situations, to assess them and to manage/address them. Threat assessment is the process of identifying and responding to serious threats in a systematic, data-informed way.
 - i. The threat assessment process is distinct from student disciplinary procedures. The mere fact that the district is conducting a threat assessment does not by itself necessitate suspension, expulsion or

emergency exclusion without complying with state law and board policy related governing those actions.

- ii. The threat assessment process is distinct from specialized instruction which a student with a disability may receive from the school district. The school district will not change a student's educational placement as that term is used in the Individuals with Disabilities in Education Act *solely* as part of a threat assessment.

2. Obligation to Report Threatening Statements or Behaviors.

All staff and students must report **substantive threats** to a member of the administration immediately and comply with any other mandatory reporting obligations. Staff and students who are unsure whether a threat is substantive or transient should report the situation. Staff and students must make such report regardless of the nature of the relationship between the individual who initiated the threat or threatening behavior and the person(s) who were threatened or who were the focus of the threatening behavior. Staff and students must also make such reports regardless of where or when the threat was made or the threatening behavior occurred.

THREATS OR ASSAULTS WHICH REQUIRE IMMEDIATE INTERVENTION SHOULD BE REPORTED TO THE POLICE AT 911.

3. Threat Assessment Team

The threat assessment team (team) shall consist of _____ . **[Note to be deleted: This team should include at least the superintendent of schools, building principal(s), guidance counselor and local law enforcement. It also could include information technology staff, the school nurse, members of the mental health profession who would be willing to work with the school. It should not include parents or board members. Members of the school crisis team may also serve on the threat assessment team.]** Not every team member need participate in every threat assessment. If the threat has been made by or is directed towards, a student with a disability, the threat assessment team must include a staff member who is knowledgeable about special education services or Section 504 of the Rehabilitation Act, as appropriate. Neither the student nor their student's family members are part of the threat assessment team.

The team is responsible for investigating all reported threats to school safety, evaluating the significance of each threat, and devising an appropriate response. The threat assessment team shall work closely with the crisis team in planning for crisis situations. The threat assessment team shall be familiar with mental health resources available to students, staff and patrons and shall collaborate with local mental health service providers as appropriate.

4. Threat Assessment Investigation and Response

When a threat is reported, the school administrator shall initiate an initial inquiry/triage and, in consultation with members of the threat assessment team, make a determination of the seriousness of the threat as expeditiously as possible. The school administrator must contact law enforcement if the administrator believes that an individual poses a clear and immediate threat of serious violence.

If there is no reasonably apparent imminent threat present or once such an imminent threat is contained, the threat assessment team will meet to evaluate and respond to the threatening behavior. The team may, but is not required to, review the following types of information:

- Review of the threatening behavior and/or communication;
- Interviews with the individuals involved including students, staff members, and family members as necessary and/or appropriate;
- Review of school and other records for any prior history or interventions with the students involved;
- Any other investigatory methods that the team determines to be reasonable and useful.

At the conclusion of the investigation, the team will determine what, if any, response to the threat is appropriate. The team is authorized to disclose the results of its investigation to law enforcement and to the target(s) of any threatened acts. The team may refer the individual of concern to the appropriate school administrator for consequences under the school's student discipline policy or, if appropriate, report the results of its investigation to the student's individualized education plan team.

Regardless of threat assessment activities, disciplinary action and referral to law enforcement will occur consistent with board policy and Nebraska law.

5. Communication with the Public about Reported Threats

The team will keep members of the school community appropriately informed about substantive threats and about the team's response to those threats. This communication may include oral announcements, written communication sent home with students, or communication through print or broadcast media. However, the team will not reveal the identity of the individual of concern or of any target(s) of threatened violence unless permitted by law.

6. Coordination with the Crisis Team After Resolution of Threat

The threat assessment team will confer with the district's crisis team after a threat has been investigated to provide the crisis team with information that the crisis team may use in assessing or revising the district's All-Hazard School Safety Plan.

[Option 2: Superintendent as Primary Investigator and Decision-Maker]

The board of education is committed to providing a safe environment for members of the school community. Students, staff and patrons are urged to immediately report any statements or behavior that makes the observer fearful or uncomfortable about the safety of the school environment.

1. Definitions

- a. A **threat** is an expression of willful intent to physically or sexually harm someone or to damage property in a way that indicates that an individual poses a danger to the safety of school staff, students or other members of the school community.
 - i. The threat may be expressed/communicated behaviorally, orally, visually, in writing, electronically, or through any other means.
 - ii. A **transient threat** is an expression of anger or frustration that can be quickly or easily resolved.
 - iii. A **substantive threat** is an expression of serious intent to harm others which includes, but is not limited to, any threat which involves a detailed plan and means
- b. A **threat assessment** is a fact-based process emphasizing an appraisal of observed (or reasonably-observable) behaviors to identify potentially dangerous or violent situations, to assess them and to manage/address them. Threat assessment is the process of distinguishing "transient" threats from serious ones in a systematic, data-informed way.
 - i. The threat assessment process is distinct from student disciplinary procedures. The mere fact that the district is conducting a threat assessment does not by itself necessitate suspension, expulsion or emergency exclusion without complying with state law and board policy related governing those actions.

- ii. The threat assessment process is distinct from specialized instruction which a student with a disability may receive from the school district. The school district will not change a student's educational placement as that term is used in the Individuals with Disabilities in Education Act *solely* as part of a threat assessment.

2. Obligation to Report Threatening Statements or Behaviors.

All staff and students must report **substantive threats** to a member of the administration immediately and comply with any other mandatory reporting obligations. Staff and students who are unsure whether a threat is substantive or transient should report the situation. Staff and students must make such report regardless of the nature of the relationship between the individual who initiated the threat or threatening behavior and the person(s) who were threatened or who were the focus of the threatening behavior. Staff and students must also make such reports regardless of where or when the threat was made or the threatening behavior occurred.

THREATS OR ASSAULTS WHICH REQUIRE IMMEDIATE INTERVENTION SHOULD BE REPORTED TO THE POLICE AT 911.

3. Threat Assessment Investigation and Response

When a threat is reported, the school administrator shall initiate an initial inquiry/triage and, in consultation with members of the threat assessment team, make a determination of the seriousness of the threat as expeditiously as possible. The school administrator must contact law enforcement if the administrator believes that an individual poses a clear and immediate threat of serious violence.

If there is no reasonably apparent imminent threat present or once such an imminent threat is contained, the threat assessment team will meet to evaluate and respond to the threatening behavior. The superintendent may, but is not required to, review the following types of information:

- Review of the threatening behavior and/or communication;
- Interviews with the individuals involved including students, staff members, and family members as necessary and/or appropriate;
- Review of school and other records for any prior history or interventions with the students involved;

- Any other investigatory methods that the law enforcement unit determines to be reasonable and useful.
- The superintendent must confer with at least one member of the school's guidance counseling staff as part of his/her investigation. If the threat has been made by, or is directed towards, a student with a disability, the superintendent must confer with a staff member who is knowledgeable about special education services or Section 504 of the Rehabilitation Act, as appropriate.

At the conclusion of the investigation, the superintendent will determine what, if any, response to the threat is appropriate. The superintendent is authorized to disclose the results of his/her investigation to law enforcement and to the target(s) of any threatened acts. The superintendent may refer the individual of concern to the appropriate school administrator for consequences under the school's student discipline policy or, if appropriate, report the results of his/her investigation to the student's individualized education plan team.

Regardless of threat assessment activities, disciplinary action and referral to law enforcement will occur consistent with board policy and Nebraska law.

4. Communication with the Public about Reported Threats

To the extent possible, the superintendent will keep members of the school community informed about substantive threats and about the District's response to those threats. This communication may include oral announcements, written communication sent home with students, and communication through print or broadcast media. However, the superintendent will not reveal the identity of the individual of concern or of any target(s) of threatened violence unless permitted by law.

5. Coordination with the Crisis Team After Resolution of Threat

The superintendent will confer with the district's crisis team after a threat has been investigated to provide the crisis team with information that the crisis team may use in assessing or revising the district's All-Hazard School's Safety Plan.

[Option 3: Law Enforcement Unit as Primary Investigator; Superintendent as Primary Decision Maker – Please note, this option is only available if you have adopted Policy 3054 designating a Law Enforcement Unit]

The board is committed to providing a safe environment for members of the school community. Students, staff and patrons are urged to immediately report any statements or behavior that makes the observer fearful or uncomfortable about the safety of the school environment.

1. Definitions

- a. A **threat** is an expression of willful intent to physically or sexually harm someone or to damage property in a way that indicates that an individual poses a danger to the safety of school staff, students or other members of the school community.
 - i. The threat may be expressed/communicated behaviorally, orally, visually, in writing, electronically, or through any other means.
 - ii. A **transient threat** is an expression of anger or frustration that can be quickly or easily resolved.
 - iii. A **substantive threat** is an expression of serious intent to harm others which includes, but is not limited to, any threat which involves a detailed plan and means.
- b. A **threat assessment** is a fact-based process emphasizing an appraisal of observed (or reasonably-observable) behaviors to identify potentially dangerous or violent situations, to assess them and to manage/address them. Threat assessment is the process of distinguishing "transient" threats from serious ones in a systematic, data-informed way.
 - i. The threat assessment process is distinct from student disciplinary procedures. The mere fact that the district is conducting a threat assessment does not by itself necessitate suspension, expulsion or emergency exclusion without complying with state law and board policy related governing those actions.

- ii. The threat assessment process is distinct from specialized instruction which a student with a disability may receive from the school district. The school district will not change a student's educational placement as that term is used in the Individuals with Disabilities in Education Act *solely* as part of a threat assessment.

2. Obligation to Report Threatening Statements or Behaviors.

All staff and students must report **substantive threats** to a member of the administration immediately and comply with any other mandatory reporting obligations. Staff and students who are unsure whether a threat is substantive or transient should report the situation. Staff and students must make such report regardless of the nature of the relationship between the individual who initiated the threat or threatening behavior and the person(s) who were threatened or who were the focus of the threatening behavior. Staff and students must also make such reports regardless of where or when the threat was made or the threatening behavior occurred.

THREATS OR ASSAULTS WHICH REQUIRE IMMEDIATE INTERVENTION SHOULD BE REPORTED TO THE POLICE AT 911.

3. Threat Assessment Investigation and Response

All reports of violent, threatening, stalking or other behavior or statements which could be interpreted as posing a threat to school safety will immediately be forwarded to the designated law enforcement unit. Upon receipt of an initial report of any threat, the law enforcement unit shall initiate an initial inquiry/triage and make a determination of the seriousness of the threat as expeditiously as possible. The law enforcement unit must contact local law enforcement if it determines that an individual poses a clear and immediate threat of serious violence.

If there is no reasonably apparent imminent threat present or once such an imminent threat is contained, the law enforcement unit will meet to evaluate and respond to the threatening behavior. The law enforcement unit may, but is not required to, review the following types of information:

- Review of the threatening behavior and/or communication;
- Interviews with the individuals involved including students, staff members, and family members as necessary and/or appropriate;

- Review of school and other records for any prior history or interventions with the students involved;
- Any other investigatory methods that the law enforcement unit determines to be reasonable and useful.

If the threat has been made by, or is directed towards, a student with a disability, the superintendent must confer with a staff member who is knowledgeable about special education services or Section 504 of the Rehabilitation Act, as appropriate.

At the conclusion of the investigation, the law enforcement unit will share its findings with the superintendent. The superintendent will determine what, if any, response to the threat is appropriate. The superintendent is authorized to disclose the results of the investigation to law enforcement and to the target(s) of any threatened acts. The superintendent may refer the individual of concern to the appropriate school administrator for consequences under the school's student discipline policy or, if appropriate, report the results of the investigation to the student's individualized education plan team.

4. Communication with the Public about Reported Threats

To the extent possible, the superintendent will keep members of the school community informed about substantive threats and about the district's response to those threats. This communication may include oral announcements, written communication sent home with students, and communication through print or broadcast media. However, the superintendent will not reveal the identity of the individual of concern or of any target(s) of threatened violence unless permitted by law.

5. Coordination with the Crisis Team After Resolution of Threat

The superintendent will confer with the district's crisis team after a threat has been investigated to provide the crisis team with information that the crisis team may use in assessing or revising the district's All-Hazard School's Safety Plan.

Adopted on: _____

Revised on: _____

Reviewed on: _____

3046 Animals at Schools

Animals are not allowed in school district buildings or on school district property without the written permission of the superintendent or his or her designee except as provided in this policy or as otherwise required by law.

I. USE OF ANIMALS FOR INSTRUCTIONAL PURPOSES

Animals that support a district program or curriculum or that are used for instructional purposes are allowed in school district buildings or on school district property with the written permission of the superintendent or building principal.

II. SERVICE ANIMALS

The school district does not permit discrimination against individuals with disabilities, including those who require the assistance of a service animal. An individual with a disability is permitted to be accompanied by his/her service animal on school property when required by law, subject to the conditions of this policy.

Service Animal. A "service animal" is a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Work or tasks **do not** include the crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship. The work or tasks performed by a service animal must be directly related to the handler's disability or necessary to mitigate a disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. **See also**, Miniature Horses below.

School District Inquiries. School officials **may** ask the owner or handler of an animal whether the animal is required because of a disability and what work or task the animal has been trained to do **unless** the answers to these inquiries are readily apparent. School officials **may not** ask about the nature or extent of a person's disability and may not require documentary proof of certification or licensing as a service animal.

Procedural Requirements. The following requirements must be satisfied **before** a service animal will be allowed in school buildings or on school grounds:

Request. A person who wants to be accompanied by his/her service animal must submit a written request form to a principal or superintendent. The request form is attached to this policy. These requests must be renewed each school year or whenever a different service animal will be used. When a request to be accompanied by a service animal is submitted by, or on behalf of, a student who has an Individualized Education Program (IEP) and/or a Section 504 Plan, then the request shall be promptly referred to the student's respective IEP Team and/or 504 Team for its consideration and/or input.

Health and Vaccination. The owner or handler must have proof of current licensure from the local licensing authority including proof of the service animal's current vaccinations and immunizations required by law.

Service animals will not be allowed in school buildings or other school property until the school has approved the request.

Control. A service animal must be under the control of its handler at all times. The service animal must have a harness, backpack, vest identifying the dog as a trained service dog, leash, or other tether. If the handler is unable to use a harness, backpack, vest, leash, or other tether, because of a disability or the use of a harness, backpack, vest, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, the use of these items is not required. However, the service animal must be otherwise under the handler's control.

Exclusion or Removal from School. A service animal may be excluded from school property and buildings if a school administrator determines that:

- (1) A handler does not have control of the service animal;
- (2) The service animal is not housebroken;
- (3) The service animal presents a direct and immediate threat to others in the school; or
- (4) The animal's presence fundamentally alters the nature of the service, program, or activity.

The handler or the student's parent or guardian shall be required to remove the service animal from school premises immediately upon such a determination. If the service animal is removed, the individual with a disability shall be provided with the opportunity to participate in the service, program, or activity without the service animal.

Allergic Reactions. If any student or school employee assigned to a classroom or mode of transportation in which a service animal is permitted suffers an allergic reaction to the service animal, the person having custody and control of the animal will be required to remove the animal to a different location designated by an administrator. The school will arrange a meeting between school personnel, the individual with the disability, and the parents or guardian(s) of the person with the disability if that person is a student to develop an alternate plan.

Supervision and Care of Service Animals. The owner or handler of a service animal is solely responsible for the supervision and care of the animal, including any feeding, exercising, and clean up while the animal is in a school building or on school property. The student's parent or guardian is responsible for providing for the supervision and the care of the animal in the event that his or her student is not able to do so. The school district is not responsible for providing any care, supervision, or assistance for a service animal.

Extra Charges. The owner or handler of a service animal will not be required to pay an admission fee or a charge for the animal to attend events for which a fee is charged.

Damage to School Property and Injuries. The owner or handler of a service animal is solely responsible and liable for any damage to school property or injury to personnel, students, or others caused by the animal.

Miniature Horses. Requests to permit the use of a miniature horse by an individual with a disability will be addressed on a case-by-case basis by considering the following factors:

- (1) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- (2) Whether the handler has sufficient control of the miniature horse;
- (3) Whether the miniature horse is housebroken; and
- (4) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

All additional requirements outlined in this policy, which apply to service animals, shall apply to miniature horses.

Service Animal in Training. This policy shall also be applicable to service animals in training that are accompanied by a bona fide trainer.

Denial of Access and Grievance. If a school official denies a request for access of a service animal, the disabled individual or parent or guardian can file a written grievance with the school’s Section 504 Coordinator.

[NOTE TO BE DELETED: There are 2 options below. The first option allows therapy animals brought by school employees as approved by the administration. The second does not allow therapy animals “except as required by law.” YOU MUST PICK AN OPTION AND DELETE THE OTHER.]

[OPTION 1]

III. THERAPY ANIMALS

The school district supports the use of therapy animals by teachers or other qualified school personnel (“Owner”) for the benefit of its students subject to the conditions of this policy.

Therapy Animal. A “therapy animal” is an animal that has been individually trained and certified to work with its Owner to provide emotional support, well-being, comfort, or companionship to school district students. Therapy animals are not “service animals” as that term is used in the American with Disabilities Act. The animal must be well behaved and have a temperament that is suitable for interaction with students and others in a public school. Therapy animals are personal property of the Owner and are not owned by the school district.

Therapy Animal Standards and Procedures. The following requirements must be satisfied *before* a therapy animal will be allowed in school buildings or on school grounds:

Request. An Owner who wants to bring a therapy animal to school must submit a written request form to a principal or superintendent. The request form is attached to this policy. The request must be renewed each school year or whenever a different therapy animal will be used. When a request to bring a therapy animal to school is submitted by, or on behalf of, a student who has an Individualized Education Program (IEP) and/or a Section 504 Plan, then the request shall be promptly referred to the student’s respective IEP Team and/or 504 Team for its consideration and/or input.

Training and Certification. The Owner must submit training and certification information requested by the Superintendent or his or her

designee. Any certification required by the school district must remain current at all times.

Health and Vaccination. The therapy animal must be clean, well groomed, in good health, house broken, and immunized against diseases common to such animals. The Owner must submit proof of current required licensure from the local licensing authority and proof of the therapy animal's current vaccinations and immunizations from a licensed veterinarian, if applicable.

Control. A therapy animal must be under the control of the Owner at all times.

Identification. The therapy animal must have appropriate identification identifying it as a therapy animal.

No Disruption. The therapy animal must not disrupt the educational process by any of its behaviors.

Health and Safety. The therapy animal must not pose a health and safety risk to any student, employee, or other person at school.

Supervision and Care of Therapy Animals. The Owner is solely responsible for the supervision and care of the therapy animal, including any feeding, exercising, and clean up while the animal is in a school building or on school property. The school district is not responsible for providing any care, supervision, or assistance for a therapy animal.

Authorized Area(s). The Owner shall only allow the therapy animal to be in areas in school buildings or on school property that are authorized by school district administrators.

Insurance. The Owner must submit a copy of an insurance policy that provides liability coverage for the therapy animal while on school property.

Exclusion or Removal from School. A therapy animal may be excluded from school property and buildings if a school administrator determines that:

- (1) A handler does not have control of the therapy animal;
- (2) The therapy animal is not housebroken;
- (3) The therapy animal presents a direct and immediate threat to others in the school; or

- (4) The animal's presence otherwise interferes with the educational process.

The Owner shall be required to remove the therapy animal from school premises immediately upon such a determination.

Allergic Reactions. If any student or school employee assigned to a classroom in which a therapy animal is permitted suffers an allergic reaction to the therapy animal, the Owner of the animal will be required to remove the animal to a different location designated by an administrator.

Damages to School Property and Injuries. The Owner of a therapy animal is solely responsible and liable for any damage to school property or injury to personnel, students, or others caused by the therapy animal.

Other Therapy Animals. Therapy animals (1) owned by students, patrons, or other non-school employees or (2) owned by school employees for their own benefit will not be allowed on school grounds or school property except as otherwise required by law.

[OPTION 2]

III. THERAPY ANIMALS

A "therapy animal" is an animal that has been individually trained and certified to work with its owner to provide emotional support, well-being, comfort, or companionship. Therapy animals are not "service animals" as that term is used in the Americans with Disabilities Act.

Therapy animals will not be allowed on school grounds or school property except as otherwise required by law.

Adopted on: _____

Revised on: _____

Reviewed on: _____

4003 Drug Policy Regarding Drivers

Policy Statement. Drivers for the school district must be free from drug and alcohol abuse, and the use of illegal drugs or improper use of alcohol is prohibited. The overall goal of drug and alcohol testing is to insure a drug-free and alcohol-free transportation environment, and to reduce accidents, injuries and fatalities.

Designated Contact. The school district has designated the superintendent as the individual any driver may contact with questions about this policy or the school district's drug testing program and procedures for drivers. This individual further maintains and will provide drivers informational materials concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

The superintendent may be contacted at (402) 534-2291.

Covered Drivers. Any person who operates a commercial motor vehicle on behalf of the school district is covered by this policy and the school district's drug testing program and procedures for drivers. All covered drivers must provide the school district a signed statement certifying that he or she has received a copy of this policy and related materials.

Covered Workday. A driver is required to comply with this policy and the terms of the school district's drug testing program and procedures for drivers at all times they are assigned, or may be assigned, to perform safety-sensitive functions. This includes all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include: (1) all time at a school district facility or property, contractor facility or property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the school district; (2) all time inspecting equipment as required by state or federal law or regulation and any and all other time inspecting, servicing, or conditioning any commercial motor vehicle; (3) all time spent at the driving controls of a commercial motor vehicle in operation; (4) all time, other than driving time, in or upon any commercial motor vehicle; (5) all time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; or in giving or

receiving receipts for shipments loaded or unloaded; and (6) all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Prohibited Conduct. No driver shall: (1) report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater; (2) use alcohol while performing safety-sensitive functions; (3) perform safety-sensitive functions within four hours after using alcohol; or (4) refuse to submit to a pre-employment controlled substance, a post-accident alcohol or controlled substance test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substance test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substance test required under state or federal law or this policy. No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

No driver shall: (1) report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 31 CFR 1308.11 Schedule 1; (2) report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle; or (3) report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances.

Types of Testing. Pursuant to regulations promulgated by the Department of Transportation (DOT), the district has implemented four types of testing: (1) pre-employment testing, (2) reasonable cause testing, (3) post-accident testing and (4) random testing.

Refusal to Submit to Testing. A driver shall not refuse to submit to testing. A driver will be considered to have refused to submit to testing if the driver fails to provide a sample or specimen necessary for testing upon a lawful request, consistent with the required testing protocols. The refusal to submit to the testing used by the district will be grounds for refusal to hire driver applicants and to terminate the employment of existing drivers.

Consequences for Violations. Any driver who becomes unqualified on the basis of violation of the terms of this policy will be subject to disciplinary action which may include termination of the driver's employment, and shall include

the immediate removal from safety-sensitive functions in compliance with federal law. No driver tested pursuant to this policy and the school district's drug testing program and procedures who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Return to Duty Process. A driver who has violated this policy or the school district drug testing program and procedures cannot again perform any safety-sensitive functions until and unless the employee completes the return-to-duty process, including the substance-abuse professional's (SAP) evaluation, referral, and recommended education or treatment. The school district will provide employees the relevant contact information for available and acceptable SAPs as necessary, but the school district is not required under the law to provide a SAP evaluation or any subsequent recommended education or treatment for a driver. Any driver completing the return-to-duty process must complete a return-to-duty test and test negatively.

Disqualification. Any applicant who tests positive for the presence of the following drugs is medically unqualified to drive and will not be considered for the position of driver: (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, or (5) phencyclidine (PCP). Any district driver who tests positive shall be medically unqualified and removed from service immediately.

Pre-employment Testing. All applicants for employment must submit to drug and alcohol tests as a condition of being considered for employment.

Reasonable Cause Testing. The district shall have reasonable cause to require a driver to submit to drug testing when a driver manifests physical or physiological symptoms or reactions commonly attributed to the use of controlled substances or alcohol.

Post-Accident Testing. A driver who has been involved in a reportable accident must submit to drug and alcohol testing as soon as possible. A reportable accident includes any accident in which there is a fatality, a person is injured and must be treated away from the accident site, the driver receives a citation for a moving violation, or a vehicle is towed from the scene. The driver must notify the district immediately regarding any reportable accident.

Serious Injury to the Driver. If a driver is so seriously injured that he or she cannot submit to testing at or immediately after the time of the accident, the driver must provide the necessary authorization for the district to obtain

hospital reports or other documents that would indicate whether there were controlled substances or alcohol in the driver's system.

Random Testing. All drivers will be subject to unannounced random testing for drugs and alcohol. The district or its agents will periodically select drivers at random for testing. A district official will notify a driver when his or her name has been selected and will instruct the driver to report immediately for testing. By its very nature, random selection may result in one driver being tested more than once in a 12-month period, while another driver may not be selected at all during the same 12 months.

Frequency of Random Testing. Under DOT regulations, the district must test at least 50 percent of its average number of driver positions for drugs and 25 percent of its average number of driver positions for alcohol each year. The tests must be unannounced and spread evenly throughout the year. DOT regulations also require that every driver selected at random must have his or her name placed back in the random pool for the next selection period.

Testing Procedure. All urine and blood specimens collected under the policy will be submitted to an approved laboratory for testing. Specimens that initially test positive for drugs will be subjected to a subsequent confirmation test before being reported by the laboratory as positive. All such specimens collected and submitted will be maintained securely to safeguard the validity of the test results and maintain the integrity of the testing process while ensuring the results are attributed to the correct driver.

Medical Resource Officer. All laboratory test results will be reported by the laboratory to a medical review officer (MRO) designated by the district. Negative test results will be reported as such by the MRO to the district. Before reporting a positive test result to the district, the MRO will attempt to contact the driver to discuss the test result. If the MRO is unable to contact the driver directly, the MRO will contact a district official designated in advance by the district, who shall in turn contact the driver and direct the driver to contact the MRO. Upon being so directed, the driver shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. If required by DOT regulations, personal information collected and maintained pursuant to this policy shall be reported to the Clearinghouse by the MRO in the event of: (1) a verified positive, adulterated, or substituted drug test result; (2) an alcohol confirmation test with a concentration of 0.04 or higher; (3) a refusal to submit to any test required by this policy and the school district's drug testing program and procedures; (4) an employer's report of actual knowledge that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's

previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use; (5) on duty alcohol use as prohibited above; (6) pre-duty alcohol use as prohibited above; (7) alcohol use following an accident as prohibited above; (8) controlled substance use as prohibited above; (9) a substance abuse professional report of the successful completion of the return-to-duty process; (10) a negative return-to-duty test; and (11) an employer's report of completion of follow-up testing.

Confidentiality. Pursuant to DOT regulations, individual test results for applicants and drivers will be released to the district and will be kept confidential unless the tested individual consents to their release or release is required by law (such as the release of information to the Clearinghouse.) Any person who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

Retesting. An individual who tested positive for the presence of drugs may request that the original sample be retested. The request for a retest must be submitted in writing on a form provided by the district within 3 working days of the district's notification to the individual that he or she has a positive test result. The individual making the request must pay all costs associated with the retest and transfer of the sample to another laboratory before the retest will be performed.

Adopted on: _____

Revised on: _____

Reviewed on: _____

5016 Student Records

The school district shall manage student records and reports as is necessary for effective administration and in compliance with law. In general "student records" shall not include transitory communications such as e-mail, text messages, handwritten communication between school and home, and the like, and these items will not generally be maintained by the district. "Student records" also shall not include any records created and maintained by the district's law enforcement unit for a law enforcement purpose.

For purposes of the district's compliance with state and federal law, the district "maintains" student records which are printed and kept in the student's physical file or which school district staff have intentionally saved within the official school district digital student information system that specifically identifies the student for whom those records are maintained. The school district may also use learning management systems, which deliver and manage instructional content. The school district maintains student records within its student information system but not in its learning management system. The official school district student information system is PowerSchool.

Each building principal will assign responsibilities for the preparation and maintenance of records and will ensure compliance with the applicable federal and state laws, regulations, and record retention schedules regarding their storage and use in the building. No "student record" or record required to be retained by the Nebraska Secretary of State's Record Retention Schedules applicable to the district will be destroyed unless it is first saved in a retrievable, digital format. This includes only records required to be kept by the applicable Retention Schedules and "student records" as defined by state and federal law, and this policy does not prohibit the district from following its record expungement procedures for all other records.

Students or their parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning themselves or their students. For purposes of this policy, "teachers" include paraeducators and volunteers who are providing educational services to a student on behalf of the School District. A school official may access, maintain, and use education records containing personally identifiable information (PII) when he or she has a legitimate educational interest in such. "School official" includes any agent, volunteer, or contractor performing an institutional service or function for which the school would otherwise use its own employees and who is under the school district's direct control with respect to their access to, maintenance of, and use of PII from student records. For example, a school official may include, but would not be

limited to, a teacher or other educator, administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); school board member; volunteer; contractor or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, representative of the district's insurance providers, auditor, medical consultant, therapist, or a third-party website operator who has contracted with the school district or its agent to offer online programs for the benefit of students and/or the district; members of law enforcement acting on behalf of the school district; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a "legitimate educational interest" if the official needs to review an education record in order to fulfill a school-related professional, contractual, statutory, or regulatory responsibility.

All disciplinary material shall be removed and destroyed upon the pupil's graduation or after the pupil's continuous absence from the school for a period of three years, and after authorization is given by the State Records Board pursuant to state law. Upon request, the school district will disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.

Outside agencies such as physicians, probation officers, psychologists, child guidance clinics, and other agencies concerned with child welfare who are working directly with a child may have access to information pertaining to that child with written parental consent or upon issuance of a valid court order.

The school district shall share student data, records, and information with school districts, educational service units, learning communities, and the State Department of Education to the fullest extent practicable unless otherwise prohibited by law. This includes sharing information with the Department of Education necessary to comply with the requirement of state law that all third-year high school students take a college entrance exam. Any redisclosure of information related to the administration of this exam shall be governed by the agreement between the Nebraska Department of Education and the third-party testing company.

Each year, the school district will notify parents and guardians of their rights under this policy and the Family Educational Rights and Privacy Act.

Adopted on: _____

Revised on: _____

Reviewed on: _____

5016 Student Records

The school district shall manage student records and reports as is necessary for effective administration and in compliance with law. In general "student records" shall not include transitory communications such as e-mail, text messages, handwritten communication between school and home, and the like, and these items will not generally be maintained by the district. "Student records" also shall not include any records created and maintained by the district's law enforcement unit for a law enforcement purpose.

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Each building principal will assign responsibilities for the preparation and maintenance of records and will ensure compliance with the applicable federal and state laws, regulations, and record retention schedules regarding their storage and use in the building. No "student record" or record required to be retained by the Nebraska Secretary of State's Record Retention Schedules applicable to the district will be destroyed unless it is first saved in a retrievable, digital format. This includes only records required to be kept by the applicable Retention Schedules and "student records" as defined by state and federal law, and this policy does not prohibit the district from following its record expungement procedures for all other records.

Students or their parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning themselves or their students. For purposes of this policy, "teachers" include paraeducators and volunteers who are providing educational services to a student on behalf of the School District. A school official may access, maintain, and use education records containing personally identifiable information (PII) when he or she has a legitimate educational interest in such. "School official" includes any agent, volunteer, or contractor performing an institutional service or function for which the school would otherwise use its own employees and who is under the school district's direct control with respect to their access to, maintenance of, and use of PII from student records. For example, a school official may include, but would not be

limited to, a teacher or other educator, administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); school board member; volunteer; contractor or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, representative of the district's insurance providers, auditor, medical consultant, therapist, or a third-party website operator who has contracted with the school district or its agent to offer online programs for the benefit of students and/or the district; members of law enforcement acting on behalf of the school district; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a "legitimate educational interest" if the official needs to review an education record in order to fulfill a school-related professional, contractual, statutory, or regulatory responsibility.

All disciplinary material shall be removed and destroyed upon the pupil's graduation or after the pupil's continuous absence from the school for a period of three years, and after authorization is given by the State Records Board pursuant to state law. Upon request, the school district will disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.

Outside agencies such as physicians, probation officers, psychologists, child guidance clinics, and other agencies concerned with child welfare who are working directly with a child may have access to information pertaining to that child with written parental consent or upon issuance of a valid court order.

The school district shall share student data, records, and information with school districts, educational service units, learning communities, and the State Department of Education to the fullest extent practicable unless otherwise prohibited by law. This includes sharing information with the Department of Education necessary to comply with the requirement of state law that all third-year high school students take a college entrance exam. Any redisclosure of information related to the administration of this exam shall be governed by the agreement between the Nebraska Department of Education and the third-party testing company.

Each year, the school district will notify parents and guardians of their rights under this policy and the Family Educational Rights and Privacy Act.

Adopted on: _____

Revised on: _____
Reviewed on: _____

5035 Student Discipline

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in this policy and the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation. Disciplinary consequences may also include in-school suspension, Saturday School, and any other consequence authorized by law. District administrators may develop building-specific protocols for the imposition of student discipline.

In this policy, references to "Principal" shall include building principals, the principal's designee, or other appropriate school district administrators.

Any statement, notice, recommendation, determination, or similar action specified in this policy shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

Any student who is suspended or expelled from school pursuant to this policy may not participate in any school activity during the duration of that exclusion including adjacent school holidays and weekends. The student activity eligibility of a student who is mandatorily reassigned shall be determined on a case-by-case basis by the principal of the building to which the student is reassigned.

Short-Term Suspension

The Principal may exclude students from school or any school function for a period of up to five school days (short-term suspension) on the following grounds:

1. Conduct constituting grounds for expulsion as hereinafter set forth; or,
2. Other violations of rules and standards of behavior adopted by the Board of Education or the administrative or teaching staff of the school, that occur on or off school grounds, if such conduct interferes with school purposes or there is a connection between such conduct and school.

The following process applies to short-term suspension:

1. The Principal shall make a reasonable investigation of the facts and circumstances. Short-term suspension shall be imposed only after a determination that the suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.
2. Prior to commencement of the short-term suspension, the student will be given oral or written notice of the charges against the student. The student will be advised of what he or she is accused of having done, be given an explanation of the evidence the authorities have, and be given an opportunity to explain the student's version of the facts.
3. Within 24 hours or such additional time as is reasonably necessary following the suspension, the Principal will send a written statement to the student, and the student's parent or guardian, describing the student's conduct, misconduct or violation of the rule or standard and the reasons for the action taken. An opportunity will be given to the student, and the student's parent or guardian, to have a conference with the Principal ordering the short-term suspension before or at the time the student returns to school. The Principal shall determine who, in addition to the parent or guardian, is to attend the conference.
4. Students who are short-term suspended will be given the opportunity to complete classwork, including but not limited to examinations.

Emergency Exclusion

Students may be emergency excluded from school pursuant to the board's separate policy on emergency exclusion or state law.

Weapons and/or Firearms

Students may be disciplined for the possession of weapons and/or firearms pursuant to the board's separate policy on weapons and firearms or state law.

Long-Term Suspension

Students may be excluded by the Principal from school or any school function for a period of more than five school days but less than twenty school days (long-term suspension) for any conduct constituting grounds for expulsion as hereinafter set forth. The process for long-term suspension is set forth below.

Expulsion

1. **Meaning of Expulsion.** Expulsion means exclusion from attendance in all schools, grounds and activities of or within the system for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year, or (c) unless the expulsion is for conduct specified in these rules or in law as permitting or requiring a longer removal, in which case the expulsion shall remain in effect for the period specified therein. Such action may be modified or terminated by the school district at any time during the expulsion period.
2. **Summer Review.** Any expulsion that will remain in effect during the first semester of the following school year will be automatically scheduled for review before the beginning of the school year. The review will be conducted by the hearing officer who conducted the initial expulsion hearing, or a hearing officer appointed by the Superintendent in the event no hearing was previously held or the initial hearing officer is no longer available or willing to serve, after the hearing officer has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing officer that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the Superintendent.
3. **Suspension of Enforcement of an Expulsion:** Enforcement of an expulsion action may be suspended (i.e., "stayed") for a period of not more than one full semester in addition to the balance of the semester in which the expulsion takes effect, and as a condition of such suspended action, the student may be assigned to a school, class, or program/plan and to such other consequences which the school district deems appropriate.
4. **Alternative School or Pre-expulsion Procedures.** The school shall either provide an alternative school, class or educational program for expelled students or shall follow the pre-expulsion procedures outlined in NEB. REV. STAT. 79-266.

Grounds for Long-Term Suspension, Expulsion or Mandatory Reassignment:

The following conduct constitutes grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, NEB. REV. STAT. § 79-254 through 79-296, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

1. Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
2. Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
3. Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;
4. Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
5. Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon (*see also board policy on weapons and firearms*);
6. Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor (*note: the term "under the influence" for school purposes has a less strict meaning than it does under criminal law; for school purposes, the term means any level of impairment and includes even the odor of alcohol on the breath or person of a student; also, it includes being impaired by reason of the abuse of any material used as a stimulant*);
7. Public indecency as defined in section 28-806, except that this prohibition shall apply only to students at least twelve years of age but less than nineteen years of age;
8. Engaging in bullying as defined in section 79-2,137 and in these policies;
9. Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or

attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

10. Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or
11. A repeated violation of any of the following rules if such violations constitute a substantial interference with school purposes:
 - a. The use of language, written or oral, or conduct, including gestures, which is profane or abusive to students or staff members. Profane or abusive language or conduct includes, but is not limited to, that which is commonly understood and intended to be derogatory toward a group or individual based upon race, gender, national origin, or religion;
 - b. Dressing or grooming in a manner which violates the school district's dress code and/or is dangerous to the student's health and safety, a danger to the health and safety of others, or which is disruptive, distracting or indecent to the extent that it interferes with the learning and educational process;
 - c. Violating school bus rules as set by the school district or district staff;
 - d. Possessing, using, selling, or dispensing tobacco, drug paraphernalia, an electronic nicotine delivery system, or a tobacco imitation substance or packaging, regardless of form, including cigars, cigarettes, chewing tobacco, and any other form of tobacco, tobacco derivative product or imitation or electronic cigarettes, vapor pens, etc.;
 - e. Possessing, using, selling, or dispensing any drug paraphernalia or imitation of a controlled substance regardless of whether the actual substance possessed is a controlled substance by Nebraska law;
 - f. Possession of pornography;
 - g. Sexting or the possession of sexting images (a combination of sex and texting - the act of sending sexually explicit messages or photos electronically);
 - h. Engaging in hazing, defined as any activity expected of someone joining a group, team, or activity that humiliates, degrades or risks emotional and/or physical harm, regardless of the person's

willingness to participate. Hazing activities are generally considered to be: physically abusive, hazardous, and/or sexually violating and include but are not limited to the following: personal servitude; sleep deprivation and restrictions on personal hygiene; yelling, swearing and insulting new members/newbies; being forced to wear embarrassing or humiliating attire in public; consumption of vile substances or smearing of such on one's skin; branding; physical beatings; binge drinking and drinking games; sexual simulation and sexual assault;

- i. Bullying which shall include cyberbullying, defined as the use of the internet, including but not limited to social networking sites such as Facebook, cell phones or other devices to send, post or text message images and material intended to hurt or embarrass another person. This may include, but is not limited to; continuing to send e-mail to someone who has said they want no further contact with the sender; sending or posting threats, sexual remarks or pejorative labels (i.e., hate speech); ganging up on victims by making them the subject of ridicule in forums, and posting false statements as fact intended to humiliate the victim; disclosure of personal data, such as the victim's real name, address, or school at websites or forums; posing as the identity of the victim for the purpose of publishing material in their name that defames or ridicules them; sending threatening and harassing text, instant messages or emails to the victims; and posting or sending rumors or gossip to instigate others to dislike and gang up on the target;
- j. Violation of the district's computer acceptable computer use policy are subject to discipline, up to and including expulsion;
- k. Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a simulated or "look-a-like" weapon;
- l. Using any object to simulate possession of a weapon;
- m. Knowingly making a false statement or knowingly submitting false information during the Title IX grievance process or any other school investigation or making a materially false statement in bad faith in the course of a Title IX grievance proceeding or any other school investigation; and
- n. Any other violation of a rule or regulation established by a school district staff member pursuant to authority delegated by the board.

Due Process Afforded to Students Facing Long-term Suspension or Expulsion

The following procedures shall be followed regarding any long-term suspension, expulsion or mandatory reassignment

1. On the date of the decision to discipline, the Principal shall file with the Superintendent a written charge and a summary of the evidence supporting such charge.
2. The Principal shall serve the student and the student's parents or guardian with a written notice by registered or certified mail or personal service within two school days of the date of the decision to recommend long-term suspension or expulsion. The notice shall include the following:
 - a. The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;
 - b. The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;
 - c. A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student has a right to a hearing, upon request, on the specified charges;
 - d. A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;
 - e. A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and
 - f. A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail.
3. When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-

term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

4. Nothing in this policy shall preclude the student, student's parents, guardian or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.
5. If a hearing is requested within five days after receipt of the notice, the Superintendent shall appoint a hearing officer who shall follow the "hearing procedures" outlined below.
6. If a hearing is requested more than five school days following the receipt of the written notice, but not more than thirty calendar days after receipt, the Superintendent shall appoint a hearing officer who shall follow the "hearing procedures" outlined below, except that the time constraints set forth may differ as provided by law and this policy. The student shall be entitled to a hearing but the consequence imposed may continue in effect pending final determination.
7. If a request for hearing is not received within thirty calendar days following the mailing or delivery of the written notice, the student shall not be entitled to a hearing.

In the event a hearing is requested, the hearing, hearing procedures, the student's rights and any appeals or judicial review permitted by law shall be governed by the applicable provisions of the Nebraska Student Discipline Act (NEB. REV. STAT. § 79-254 to 79-294). The school district will provide parents with copies of the relevant statutes upon request.

Reporting Requirement to Law Enforcement

Violations of this section will result in a report to law enforcement if:

1. The violation includes possession of a firearm;
2. The violation results in child abuse;
3. It is a violation of the Nebraska Criminal Code that the administration believes cannot be adequately addressed solely by discipline from the school district;
4. It is a violation of the Nebraska Criminal Code that endangers the health and welfare of staff or students;

5. It is a violation of the Nebraska Criminal Code that interferes with school purposes;
6. The report is required or requested by law enforcement or the county attorney.

Adopted on: _____

Revised on: _____

Reviewed on: _____

6020 Multicultural Education

In every curriculum area and at all grades, the school district will provide programs which foster and develop an appreciation and understanding of the racial, ethnic, and cultural heritage of all students. These programs will allow students to explore the history and contributions made by various ethnic groups and will emphasize human relations, sensitivity toward all races, and the rich diversity of the population of the United States. The programs shall be implemented within the guidelines of the State Department of Education and in accordance with any other applicable laws and/or regulations.

Philosophy, Mission, and Program Goals. The school district respects and appreciates cultural diversity and seeks to promote the understanding of unique cultural and ethnic heritage. The district will promote the development of a culturally responsible and responsive curriculum. The school district's program will explore the attitudes, skills, and knowledge necessary to function in various cultures.

District Guides, Frameworks, or Standards. Appropriate district staff and/or committee(s) will review the school district curriculum guides, frameworks, or standards to determine that they appropriately incorporate multicultural education.

Selecting Appropriate Instructional Materials. Appropriate school district staff and/or committee(s) will review instructional materials and make a recommendation regarding those that are appropriate for the school district's multicultural education program.

Providing Staff Development. Appropriate school district staff and/or committee(s) will review the staff development provided for administrators, teachers, and support staff to determine that it includes appropriate multicultural education that is consistent with school district and program goals.

Periodic Assessment. Appropriate school district staff and/or committee(s) will periodically review the school district's multicultural education program by reviewing the criteria in this policy to assess whether the school district is adequately and appropriately incorporating multicultural education in all curriculum areas in all grades.

Annual Status Report. The superintendent will provide the board with a

report on the status of the school district's multicultural education program annually.

Adopted on: _____

Revised on: _____

Reviewed on: _____

6021

District Criteria for Selecting Evaluators to be Used for Special Education Evaluation and Verification and Independent Educational Evaluations

The following criteria shall be used for selecting evaluators according to 92 Nebraska Administrative Code 51-006.07B:

1. Those in-state service agencies that have approved rates for the current year established by the Nebraska Department of Education. A list of service agencies with approved rates, including state agencies, individual providers, and in-state providers may be found at <https://www.education.ne.gov/sped/service-agencies/>.
2. Those Nebraska providers located within 100 **[NOTE TO BE DELETED: insert mileage that is appropriate to your district's geographic location.]** miles of the building of the district where the child attends when driving by ordinary public roadways, except **[include here any exceptions to these criteria necessary for specific assessments which the district would not obtain within the indicated area. Based on feedback from ESU Special Education Directors statewide, these exceptions might include the following: vision-related evaluations (___ miles); evaluations for severe autism spectrum disorder (___ miles); evaluations for severe psychiatric disorders (___ miles); evaluations for significant or atypical orthopedic disorders (___ miles); threat assessments (___ miles); profound hearing impairments (___ miles). You should specifically identify such assessments after consulting with your special education or educational service unit staff, and include those and their relevant mileage range. If no assessments would require a deviation from this area, simply conclude this paragraph after the word "roadways."]**
3. Evaluations must consider the educational, health, or other student records of the student provided by the district. The parents, guardians, or age-appropriate student must provide any required consent to the disclosure of these records unless disclosure is already authorized by state and federal law.
4. Evaluations must be provided to the district, including all educational, health, student, or other records created as part of or relied upon to complete the evaluation. The parents, guardians, or age-appropriate student must provide any required consent to the disclosure of these records unless disclosure is already authorized by state and federal law.
5. Evaluations must be conducted by a provider that is authorized,

available, and willing to discuss, confer, or otherwise cooperate with the district regarding the evaluation, its results, or any other information related to the evaluation. Such cooperation may include reasonable participation in, or the submission of additional reports or information to, an IEP, MDT, or SAT team. The parents, guardians, or age-appropriate student must provide any required consent to the disclosure of these records or information unless disclosure is already authorized by state and federal law.

6. Evaluations must be sufficiently comprehensive for the evaluator to submit to the district a report that specifically details whether the student should be considered eligible for special education and related services, the nature of special education and related services recommended to accommodate the student's suspected disability, and the particular facts or findings underlying the evaluator's conclusions. This report must be submitted to the district within 45 days after the conclusion of the evaluation.
7. Evaluations must meet the then-current state standards for reliability, research-based processes, and educational or professional best practices.
8. Reimbursement to any evaluator chosen in conformance with this policy shall not exceed the cost that would be charged by the school district's contracted providers for the same or substantially similar evaluation.

All special education evaluations, including those independently obtained at the district's expense, must be obtained in a manner consistent with the criteria set forth above, unless state or federal law requires waiver of one or more criteria in order to accommodate unique circumstances.

Adopted on: _____
Revised on: _____
Reviewed on: _____

6033

Restraint and Seclusion of Students

Restraint and seclusion, as defined below, are behavioral interventions. The use of such behavioral interventions must be in accordance with this policy. The following interventions do not constitute seclusion and restraint, and are not governed by this policy: voice control, limited to loud, firm commands; time-limited ignoring of specific behaviors; brief physical prompts to interrupt or prevent a specific behavior; physical interventions which a student's health care provider has indicated are medically necessary for the treatment or protection of the individual; or other similar interventions.

Definitions

Physical restraint refers to a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint does not include incidental touching that comes along with movement inside a classroom, lunch line, or other areas of the school building where maintaining order is required.

Mechanical restraint refers to the use of any device or equipment to restrict a student's freedom of movement. The term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:

- Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- Restraints for medical immobilization; or
- Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Chemical restraint refers to the administration of medication for the purpose of restraint, but does not include the administration of medication in accordance with the directions and prescription of a physician with the consent of the student's parent or guardian.

Seclusion refers to the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Use of Restraint and Seclusion

The use of chemical restraint is strictly prohibited. The use of any seclusion or restraint intervention for punitive or disciplinary purposes is strictly prohibited. Similarly, the use of any technique that constitutes corporal punishment, which is the infliction of bodily pain as a penalty for disapproved behavior, is strictly prohibited. Seclusion and/or restraint shall not be used for the convenience of staff or as a substitute for an educational program. When restraint or seclusion is used to respond to the danger of harm posed by a student's behavior, the intervention shall be discontinued as soon as the danger of harm has dissipated.

[Option A: Most Aggressive Approach]

The use of physical restraint, mechanical restraint, and seclusion is permitted in a manner consistent with this policy as reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process.

[Option B: Aggressive Approach]

The use of physical restraint, mechanical restraint, and seclusion is permitted in a manner consistent with this policy:

- as reasonably necessary where the student's behavior risks causing physical harm to self, others, and property;
- in accordance with the student's IEP, Section 504, or behavior intervention plan; *or*
- as otherwise prescribed, recommended, or suggested by a medical or related services provider.

[Option C: Conservative Approach]

The use of mechanical restraint is strictly prohibited. The use of physical restraint and seclusion is permitted in a manner consistent with this policy as reasonably necessary where the student's behavior risks causing physical harm to self or others.

Procedures

No technique shall restrict a student's breathing, deprive a student of basic needs, or unnecessarily expose a student to physical pain or discomfort.

Seclusion shall not be used for students who are severely self-injurious or suicidal. When seclusion is utilized as permitted by this policy, the following procedures shall be followed:

- The student shall be monitored by an adult in close proximity who is able to regularly observe the student;
- The confining space shall be approved for such use, unless the use of such a space is impossible or impracticable under the circumstances;
- The confining space shall be appropriately lighted, ventilated, and heated or cooled; *and*
- The confining space shall be free from objects that unreasonably expose the student or others to harm.

If a pattern of behavior emerges that requires or is anticipated to require the use of restraint and/or seclusion for the student, the appropriate educators and/or team members shall review what assessments, evaluations, supports, services, programs, or placements are appropriate in light of the student's needs and circumstances.

Recording and Reporting

Each incident of restraint or seclusion must be recorded and reported as required by the building administrators.

Training

All staff members shall be provided notice of this policy and will be trained on its contents. The Superintendent or his or her designee will identify school staff members likely to implement the restraint or seclusion interventions authorized by this policy and arrange for those individuals to receive appropriate training on the appropriate implementation of such interventions and the use of other behavioral supports and interventions.

Adopted on: _____

Revised on: _____

Reviewed on: _____

KAREN A. HAASE
STEVE WILLIAMS
BOBBY TRUHE



COADY H. PRUETT
JORDAN JOHNSON
TYLER COVERDALE
SHARI RUSSELL, Paralegal

M E M O R A N D U M

To: KSB School Law Client

FROM: KSB School law

DATE: July 10, 2020

RE: Board Resolution re School Re-Opening after COVID-19 Closures

Schools are beginning to make preparations for reopening for in-person instruction to start the 2020-21 school year. As part of this process, boards of education will need to make a series of decisions about what "school" will look like this fall. The Nebraska Rural Community Schools Association has released an extremely valuable [guidance document](#) that discusses many of the issues that school districts will have to consider as they plan to re-open. The Nebraska Department of Education also continues to update its [Launch Nebraska website](#) with guidance and suggestions for local school districts. However, in the final analysis, most decisions about how your school will operate this fall will be left in the hands of local education officials. We think it is important that boards of education decide several key policy issues and questions related to staff and students, and that boards then direct the school's administrative team to implement those policy decisions.

We have drafted a resolution that outlines the board's range of choices on what we believe to be the key issues that will affect the rest of your administration's reopening plans. Please note, this resolution is not intended to substitute for solid reopening plans. Rather, it is intended to provide clear direction to your administration on critical issues when finalizing those plans. The list of issues and options we have included are not exhaustive, and if

there are other items that you want to consider or address, you certainly should. Likewise, the fact that we have identified an issue for a decision does not necessarily mean that we are recommending that you choose a specific approach. You have the discretion -- and should exercise it -- to make the best decision for your school district based on your community and the information available to you. Nevertheless, the draft resolution and this memorandum will walk through some of the issues that we believe are important to consider, providing wording we believe to support each decision in a lawful manner.

Site for Instruction

The first decision you are going to have to make is whether you will offer in-person instruction only, remote learning only, or what we have been calling a "dual track" or "hybrid system" of allowing parents to choose for themselves between remote and in-person instruction. All of these options are lawful, but each comes with pros and cons.

It seems universally accepted and agreed that in-person instruction is the best option for students' educational achievement as well as for their social and emotional well being. That is in addition to the related benefits for each community and the state at large. The question is how to weigh the risks that a potential COVID-19 infection poses against those benefits from in-person instruction. Obviously state and national leaders are strongly encouraging boards to have in-person instruction this fall. School boards may lawfully say that all student instruction will occur in-person. If the board selects this option, students with disabilities (both students with IEPs and with 504 plans) will be accommodated through the school's special education and/or Section 504 process. Those laws are in place to address the circumstances of students with disabilities. Families who are uncomfortable with having students attend in person for reasons other than the student's disability can apply to homeschool for the 2020-21 school year. If the board selects this option, the administration will be tasked with working with your county attorney to review and possibly revise your attendance policy and practices.

It will be very tempting to allow parents the choice of having their children attend school in person or remotely. This allows for families with unique situations -- a parent who is ill, a grandparent who lives with the student, or

a parent who is highly risk averse -- to choose for themselves whether to have a student enter the school building to receive instruction. Unfortunately, we believe there are *significant* legal challenges to this sort of system. First, running a dual system of both in-person and remote learning will create a significant additional workload for your teachers. In addition to all of their duties in the classroom (including cleaning desks and maintaining social distancing and who knows what else), teachers would be required to *also* make sure that students attending remotely are hooked up to Zoom or some other videoconferencing platform and that the students are attending to the lesson being presented. Second, it will be almost impossible to use tools like DIBELS or MAP testing to benchmark and assess student learning in the remote location. Third, and most significantly, if schools allow all students to select between in-person and remote learning, they will have to include those options for students with disabilities. However, as we learned this spring, it is almost impossible to provide full special education services to many students on a remote platform. Families of special education students then could sue schools for failing to provide a free, appropriate public education (FAPE) *even though* the parents were the ones to opt for remote instruction. We are fearful that schools will be in a no-win situation in those cases and that these decisions are best left to students' education teams, of which parents are a part. Still, this is a lawful option if done correctly and certainly may help with political difficulties.

The final option is remote learning only. This is also not very attractive because the Nebraska Department of Education has not suspended the requirement that schools offer 1,080 hours of in-person "seat time" instruction annually. While the Department did grant waivers to all schools for the 2019-20 school year, we cannot be 100% assured that NDE will grant similar waivers in 2020-21. The Declaratory Order issued by the State Board of Education last month said waivers will be available in areas where the school, *with reasonable efforts*, could not meet requirements.

Masks

Staff masking

Boards of education undoubtedly have the authority to require all district teachers, staff, employees, and volunteers to wear masks at all times while they are on duty. We do not believe that staff will be able to claim a First

Amendment right to not wear a mask. We do believe that boards who require staff members to mask should include an exception for employees who have a disability that prevents them from masking. We also believe you should include wording noting that there may be times where the nature of the instruction or other activity makes face covering unsafe or impossible.

Boards who do not want to require employees to wear masks do not have to adopt such a requirement. Instead you can say that staff and volunteers are strongly encouraged to do so and let them decide on an individual basis.

Student masking

The issue of student mask requirements is turning into one of the most hyper-political questions of the new school year. That is the bad news. The good news is that we are confident that we will be able to defend you against legal challenges regardless of what you decide to do about student mask wearing.

A board of education does have the authority to require students to wear face coverings at all times. We interpret the Nebraska Student Fees Act to say that if you require masks, you must provide them to students (although you may ask families to "donate" their students' masks--*i.e.*, provide their own--just as you do with school supplies). If your board decides to require students to wear masks, you will need to make exceptions for students with disabilities whose IEP team or 504 committee have determined that it is inappropriate for a particular student to wear a mask. You will also need to be prepared for individual challenges based on the First Amendment. Families across the country have already sued educational entities claiming that a universal masking requirement violates their religious freedom and/or their freedom of speech. We think that ultimately schools will win these challenges, but you should definitely call your school attorney if a family claims their student has a First Amendment right not to wear a mask, or to wear a particular mask (such as one with a political statement on it). Finally, if your board is going to require students to wear masks, you will need to consider how you will enforce this rule. The Nebraska Student Discipline Act will allow you to emergency exclude students who refuse to wear a mask. Refusals may also be grounds to suspend or expel students for "repeated violations of school rules" (assuming that you provide written notice to students and parents and meet the other requirements to have an

enforceable school rule). If your board selects this option, you will not need to have parents sign any separate form. However, you should include a handbook, policy, or other written notice provision of this board "rule" to parents and students, confirming their receipt.

A second option for student masking is what we are calling an "opt-out system." Basically this would be a system under which parents who do not want their students to wear masks would be permitted to sign a form opting their students out of the requirement. The benefits of this system is that you will be able to side-step a lot of the enforcement and discipline issues: if a student refuses to wear the mask the parent can either sign the opt-out or they will need to support the school's discipline of the student. We think this system will also allow you to provide the health department with a list of students who were not required to wear masks if one of their classmates is diagnosed with COVID for contact tracing and quarantine directive purposes. Most health departments have indicated that students who are not masked will be required to quarantine if a classmate is diagnosed, while students who are consistently masked may not be required to quarantine. The downside of this system is that it will require a lot of effort to keep track of the opt-out forms, and families may change their minds as health, political, or other circumstances change. You will also need to provide students with masks under this system, since the default rule will be that masks are required. [Here is a sample of the opt-out form you might use if this is the system you elect.](#)

A third option is an "opt-in" system. If you have this approach you say that students will be encouraged to wear masks, but that staff will not discipline students who do not wear masks and will not force the issue *unless* the parent has opted into mandatory mask wearing. This has a lot of the same pros and cons as the opt-out system, with the default rule being "masks aren't required unless parents want them to be." You would not need to provide masks under this system, however, because you are not requiring them as a condition of being in school. [Here is a sample of the opt-in form you might use if this is the system you elect.](#)

The last option is a completely voluntary system. Under this approach, the board would say that student masking is strongly encouraged but that it will not be required. The benefits of this approach should be clear: you will not have the disciplinary and administrative headaches that accompany the

other approaches. However, the downside is that local health departments have indicated that they will be much more aggressive in mandating quarantines of students when one of their peers or a staff member has tested positive. In many smaller school buildings that could functionally result in whole grade levels and possibly full buildings being quarantined. If your board selects this option, you will not need to have parents sign any separate form.

We are aware that many boards are interested in the effect of some of these choices on the school district's potential liability. If you would like more information on this, we would be happy to provide you with a legal memo that explains the reasons why we believe a plaintiff would have an uphill battle in a negligence claim against a school district. To be clear, however, we believe that there are arguments that support each of these options. Similarly, we do not believe that picking one of these options will automatically make the district liable in response to a lawsuit arising from or related to the decision to require masks (or not).

Employee Leave/Attendance

Employees have the potential to qualify for a variety of leave *that already exists*. Federal laws such as the Americans with Disabilities Act, the Family and Medical Leave Act, and the Families First Coronavirus Relief Act provide some protection for certain employees, including protection specific to COVID-19. We will be preparing materials for school administrators to use to quickly determine whether a specific employee may be protected by one or more of these laws and, if so, how to apply it.

Additionally, you have likely provided paid leave and unpaid leave to employees via contracts and collective bargaining. Although that is not included in the resolution, the board may want to discuss whether to expand the use of those leaves, such as sick leave, for reasons related to COVID-19. To be clear, we do not believe this is required. Your local teachers' union may approach the board asking for expanded use of sick leave due to fear of COVID-19, as an example. If your practice is to require an actual illness or illness of a family member to use sick leave, then you have no obligation to expand the use of sick leave to employees fearful of COVID-19.

We point out these considerations because there will inevitably be a number of employees who do not fall with the protections of any of these laws, but for one reason or another are uncomfortable coming to work at school in person. For example, employees who are in their 60's and in good health may be leery of working in the school building because age is a risk factor of severe illness from COVID-19. However, there is no law which requires employers to give additional leave or any other sort of accommodation for employees based solely on their age. In fact, the Equal Employment Opportunity Commission has warned employers against telling older employees that they should not come to work during the pandemic because that could be unlawful age discrimination. We anticipate that many teachers in this position will ask to be allowed to teach remotely. Classified staff in this position may ask for extended leave of one sort or another. The board will have to decide whether it will allow employees who are not "disabled" under the ADA, but who do fall within the CDC's categories of individuals who are at increased risk from COVID, to have some sort of additional paid or unpaid leave--or work remotely.

Please note that the CDC "at-risk" categories shown in the draft resolution are separated because that is how the CDC is currently separating them--between conditions that **make** people at risk and conditions that **may make** people at risk. Your board doesn't necessarily need to include both sets, separate them out, or even list the conditions explicitly. But, if you pick and choose between the at-risk categories, we believe that you will need to articulate an objective basis why you want to include one condition and exclude another. As an alternative, you could also simply reference the CDC at-risk conditions (without naming each and every one) and then if/when the CDC updates them, those updates would automatically be current in your resolution. We are happy to discuss these options with you, but we also wanted to get all of these details in there so that you are aware of them as you discuss your choices at your meeting.

A Few Other Details in the Resolution...

Based on the board's decisions in this resolution, the superintendent will have to take some steps to implement them. For example, if the board decides to require all general education students to come to school, the superintendent will have to confer with the county attorney about whether he/she will prosecute a family for truancy if they flatly refuse to attend and

that attendance is not excused by law. A decision to have a “hybrid” attendance model may also require revisions to the district’s attendance policy, as an example. This resolution authorizes the superintendent to take all reasonable and necessary action to implement this resolution without further action of the Board. That doesn’t mean that the superintendent shouldn’t keep the board informed, but it does allow the administration to move forward without the necessity of a special meeting, unless further board actions are specifically required by law.

We also have struggled to devise a system that won’t require boards to revise a bunch of policies to deal with COVID-19 and then change them back next school year when the pandemic is (hopefully) over. This resolution states that if there is any conflict between it and any provision of Board policy or of staff or student handbooks, the terms of the resolution control. You will need to provide families with a copy of the resolution or some other communication that gives them written notice of the new rules, once adopted.

Finally, we have set the resolution to automatically expire at the end of the 2020-21 school year. Again, we are trying to avoid the necessity of boards circling back to rescind the resolution next year (unless there is a cure discovered in October and you *want* to rescind it yet this school year). With that said, the resolution also makes clear that the board may modify it at any point based on changes in public health requirements and local circumstances.

[If you would like a simple agenda item for your meeting, we have drafted one here.](#)

Conclusion

We continue to believe that local school officials are in the best position to make decisions about how to reopen school this fall. There inevitably will be differences between schools in how they respond to the challenge of COVID-19. We will work to provide school leaders with as many lawful choices as possible. That means we will try to find a way to support you in implementing whatever options your school board selects. [We have also posted a recording of our webinar from Wednesday, July 8 here](#) -- you’ll see that we separated the recordings out to let you watch only the topic that you want to hear us discuss.

These issues are complicated and constantly evolving. We'll try to provide you with the information you need as it becomes available. In the meantime, please let one of the KSB attorneys know if you have any questions or concerns on these issues.

2020–2021 SCHOOL RE-OPENING RESOLUTION

WHEREAS, the school district was closed during a portion of the 2019–2020 school year based on the statewide outbreak of COVID-19; and

WHEREAS, the President and the Governor have declared a state of emergency; and

WHEREAS, the State of Nebraska and [INSERT LOCAL COUNTY HEALTH DEPARTMENT NAME] have issued various directed health measures in response to the novel coronavirus and the COVID-19 pandemic; and

WHEREAS, the directed health measures currently in place allow the school facilities to be reopened to in-person student attendance; and

WHEREAS, the Board of Education wishes to support student learning while taking reasonable precautions to keep students, staff, and administrators safe; and

WHEREAS, the school district is also completing reopening plans with contingencies for changes in circumstances, but for the time being, the Board of Education believes it is important to address these critical issues to assist the administration in preparing for plans when school resumes;

NOW, THEREFORE, be it resolved that the Board of Education has determined as follows:

Site for Instruction

Student instruction will occur in-person in the classroom unless otherwise required by law. All students who are enrolled in the school district must attend school on all days when school is open for in-person instruction unless the student's illness makes attendance impossible or impractical or is otherwise excused by board policy.

Students are expected to attend school in person. If parents believe that it is unsafe for their students to attend school in person, parents may keep their students at home where students will be provided with the opportunity to engage in distance learning and are expected to complete all assigned coursework remotely.

Instruction will occur exclusively via remote learning. No students will attend school in person unless required to access services.

[IEP and 504 plans will likely trump these options for affected students.]

[Related issues:

Attendance policies?

Consistency in assessments? Grades? Credits?]

Masks

All district teachers, staff, employees, and volunteers:

- Must wear face coverings at all times unless the nature of the instruction or other activity makes face covering unsafe or impossible. Employees who suffer from a disabling condition that necessitates a reasonable accommodation to this requirement must notify their supervising administrator immediately of the employee's physical or mental impairment and the accommodation the employee seeks.

- Will not be required to wear face coverings at all times, but are strongly encouraged to do so.

All students

- Must wear face coverings at all times, unless one of the following exception applies:
 - o The student has a disability and a reasonable accommodation excuses the student from wearing a mask for some or all of the school day;
 - o The student's Individualized Education Program (IEP) team has determined that wearing a mask for some or all of the school day would interfere with the student's ability to receive a free, appropriate public education and that determination is documented in the student's IEP;
 - o The student's Section 504 committee has determined that wearing a mask for some or all of the school day would interfere with the student's ability to receive a free, appropriate public education and that determination is documented in the student's Section 504 Plan; OR
 - o Another legally valid reason exists to excuse the student from the face covering requirement and such reason has been approved in writing by the building Principal.

Must wear face coverings at all times, unless their parent or guardian has opted their student out of being required to wear a mask by executing a written document and such document is on file in the office of the Principal at the time at issue.

Must wear face coverings in all common areas (hallways, media center, etc.) but may opt to remove the face covering while the student is seated at his/her desk in a classroom which allows for at least 6 feet of social distancing from others.

Will not be required to wear face coverings at all times, but will be strongly encouraged to do so

Leave / Staff Attendance

Employees will be permitted to take leave (paid or otherwise) provided by the terms of employment (staff contract, negotiated agreement, etc.) and as provided by law (e.g., ADA, FMLA, FFCRA, etc.).

In addition to leave required by law, policy, or contract, the district will allow employees that satisfy the COVID-19 Qualifying Criteria below to take up to days of leave (paid or unpaid, or some combination of the same) in addition to all of forms of leave provided by the terms of employment (e.g., staff contract, negotiated agreement, etc.):

COVID-19 Qualifying Criteria

- o Employee has one of the following conditions that the Centers for Disease Control (CDC) has identified to ***put Employee at increased risk*** of severe illness from COVID-19:
 - Chronic kidney disease
 - COPD (chronic obstructive pulmonary disease)
 - Immunocompromised state (weakened immune system) from solid organ transplant
 - Obesity (body mass index [BMI] of 30 or higher)
 - Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
 - Sickle cell disease
 - Type 2 diabetes mellitus

- o Employee has one of the following conditions that the Centers for Disease Control (CDC) has identified to ***maybe put Employee at increased risk*** of severe illness from COVID-19:

- Asthma (moderate-to-severe)
 - Cerebrovascular disease (affects blood vessels and blood supply to the brain)
 - Cystic fibrosis
 - Hypertension or high blood pressure
 - Immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines
 - Neurologic conditions, such as dementia
 - Liver disease
 - Pregnancy
 - Pulmonary fibrosis (having damaged or scarred lung tissues)
 - Smoking
 - Thalassemia (a type of blood disorder)
 - Type 1 diabetes mellitus
- o A member of Employee's residence has one of the conditions (listed above) that the CDC has identified to put or possibly put that member of Employee's residence at increased risk of severe illness from COVID-19.
 - o [Other reasons for additional leave?]

[Think about whether to require exhaustion of all paid leave first before accessing this additional leave.]

[Additional leave for teachers will require negotiating with the teachers' union.]

The superintendent is authorized to take all reasonable and necessary action to implement this resolution without further action of the Board.

If there is any conflict between this resolution and any provision of Board policy or of staff or student handbooks, the terms in this resolution shall control.

NOW, THEREFORE, be it finally resolved that this resolution will expire upon the sooner of action taken by the Board to rescind it or the expiration of the 2020-2021 school year.

Approved by the Board on _____, 2020.

Board President