

POLICY SERVICES ADVISORY

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CONTENTS

Policy Advisory No. 247	ADB/ADC – Drug, Alcohol, and Tobacco/ Nicotine-Free Schools (NEW) ADB/ADC-R – Drug, Alcohol, and Tobacco/ Nicotine-Free Schools
Policy Advisory No. 248	EEA-R – Student Transportation
Policy Advisory No. 249	GBEBB-EA –Staff Conduct with Students
Policy Advisory No. 250	(DELETE)..... GBED – Tobacco Use by Staff Members/Smoking
Policy Advisory No. 251	GCQF – Discipline, Suspension, Termination and Discharge of Professional Staff Members
Policy Advisory No. 252	GDQD – Discipline, Suspension, Termination and Discharge of Support Staff Members
Policy Advisory No. 253	IJOC-E – School Volunteers
Policy Advisory No. 254	JIC – Student Conduct
Policy Advisory No. 255.....	(DELETE).... JICG – Tobacco Use by Students/ Smoking
Policy Advisory No. 256	JK-R – Student Discipline JK-EB – Student Discipline
Policy Advisory No. 257	JLCD – Administering Medicines to Students
Policy Advisory No. 258	KF-EA – Community Use of School Facilities
Policy Advisory No. 259	KFA – Public Conduct on School Property
Policy Advisory No. 260	(DELETE)..... KFAA – Tobacco Use/Smoking on School Premises(DELETE)..... KFAA-R – Tobacco Use/Smoking on School Premises

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Policy Advisory Discussion

Effective November 7, 2023, the Public Education Department revised regulation 6.12.4 NMAC which prohibits various nicotine products, alcohol, and drugs on school property and requires school districts to address specific requirements in policy. Many of the changes appear to try to make clear that any nicotine, regardless of its delivery method, is prohibited on all school property (including vehicles and the sites of school sponsored events) at all times. Among the changes to the regulation are:

- new or changed definitions of prohibited products like “commercial tobacco product,” and E-cigarette and electronic nicotine-delivery system.”
- A requirement for progressive discipline (more on that below) and requirements to provide resources to help students and employees overcome nicotine addiction.
- A prohibition on the “promotion” of any of these products or illegal items.
- New requirements about the communication of these prohibitions including through signage, handbooks, websites, etc.

In the current NMSBA policy manual, policies implementing this regulation appear at least three times: in Section G for employees, Section J for students, and section K for visitors or members of the public. Much redundant language appears in those policies. In the interest of reducing the redundancy and confusion for districts and de-cluttering the policy manual, the Policy Service takes this opportunity to consolidate the Drug, Alcohol, and Tobacco/Nicotine Free Schools policies into one policy contained in Section A. The policies in Sections G, K, and J will be deleted. This change will also require changes to the “cross-referenced” policies shown at the end of various policies and some minor changes to other policies, as described below.

The new, consolidated Drug, Alcohol, and Tobacco/Nicotine Free Schools policy will be contained in A-0750 ADB/ADC. There are a few items that the Policy Service wants to call to your attention. The new regulation requires some level of progressive discipline for violations but it is not perfectly clear that progressive discipline only applies to students and whether it should apply to all violations of the policy or just the lower-level violations. The Policy Service has assumed in writing the new policy that progressive discipline only applies to student (as opposed to employee) violations and that it only applies to tobacco/nicotine violations and not, for example, selling fentanyl on school property. Therefore, the policy is written so that only “an initial violation of the prohibition of the use or possession of tobacco or nicotine products,” requires progressive discipline “prior to imposing out-of-school disciplinary options” and other policy violation do not. Districts should consult their lawyer with for advice regarding the reasonableness of that interpretation.

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As mentioned above, there is a new provision in the regulation that prohibits the “promotion” of these activities or products. The word “promotion” is not defined but the regulation states that promotion is prohibited, among other things, “via gear, technology accessories, bags, clothing, any personal articles, signs, structures, vehicles, flyers, or any other materials.” The word “promotion” implies advertising or marketing but, by using examples like “clothing” and “personal articles,” it appears that the regulation could prohibit a person (like a parent at a baseball game) from wearing clothes that depict a prohibited act or product (like a Budweiser shirt). The Policy Service has retained “promotion” as the term used in the policy, without attempting to define it. Districts may wish to consult with their attorney regarding the proper meaning of this provision.

Please note: The Policy Service has assumed that the expansive definition of “mood-altering substances,” which hasn’t changed, it not intended to prohibit the use, possession, or sale of caffeinated products or the use of legally-prescribed mood-altering medications by adults.

Policy Advisory:

- **PA 247:** (A-0750) ADB / ADC: This policy, which previously just referenced the various policy provisions applicable to drug, alcohol, and tobacco/nicotine free schools, now becomes the primary policy on that subject.
- (A-0761) ADB / ADC-R: This is a new regulation that primarily addresses signage and it is derived from the now deleted regulation at K 1761 KFAA-R.
- **PA 248:** (E-2011) EEA-R: This transportation regulation is amended slightly to add the full range of prohibited drug, alcohol, and nicotine products to the list of prohibited items on a school bus.
- **PA 249:** (G-0881) GBEBB-EA: This exhibit related to staff conduct with students is amended to add the word “nicotine” two times to the list of prohibited items.
- **PA 250:** (G-1100) GBED Tobacco Use by Staff Members/Smoking—**DELETED** in entirety.
- **PA 251:** (G-6100) GCQF: Discipline, Suspension, Termination and Discharge of Professional Staff Members. Changed only to add cross-reference to A-0750 ADB/ADC. **Please note** that if you change this policy, please provide Policy Service with the web address to find a link to the state-wide hotline for reporting incidents of racialized aggression so that change makes it into the new version of the policy.
- **PA 252:** (G-9300) GDQD: Discipline, Suspension, Termination and Discharge of Professional Staff Members. Changed only to add cross-reference to A-0750 ADB/ADC. **Please note** that if you change this policy, please provide Policy Service with the web address to find a link to the state-wide hotline for reporting incidents of racialized aggression so that change makes it into the new version of the policy.
- **PA 253:** (I-6631) IJOC-E School Volunteers: Added “nicotine” to the list in paragraph 13 regarding things not to possess or use.

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- **PA 254:** (J-2300) JIC Student Conduct: add in nicotine to list of prohibited substances and add A-0750 ADB/ADC to cross referenced policies.
- **PA 255:** (J-3000) JICG Tobacco Use By Students/Smoking—**DELETED** in entirety.
- **PA 256:** (J-4611) JK-R. Student Discipline. Added tobacco and nicotine to list of prohibited items.
- (J-4632) JK-EB. Student Discipline Exhibit. Added “and Nicotine” to Tobacco reference.
- **PA 257:** (J-5350) JLCD: Administering Medicine to students; Add cross-reference to A-0750 and delete cross references to JICG-Tobacco Use by Students
- **PA 258:** (K-1681) KF-EA Community Use of School Facilities—Site Use Agreement Exhibit; add nicotine to list of prohibited items.
- **PA 259:** (K 1700) KFA Public Conduct on School Property; add nicotine to list of prohibited items.
- **PA 260:** (K-1750) KFAA Tobacco Use/Smoking on School Property—**DELETED** in entirety.
- (K-1761) Regulation Tobacco use on school premises at public functions—**DELETED** in entirety.

To see the changes to the prior regulation:

https://webnew.ped.state.nm.us/wp-content/uploads/2023/09/6.12.4-NMAC_PreApproved-for-Web_RR-Tracked.pdf

To see the new regulation as currently existing:

<https://nmonesource.com/nmos/nmac/en/item/18063/index.do#!fragment/zoupio-Toc187770580/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAOAdj4AYArF34BKADTJspQhACKiQrgCe0AORrxEQmFwIFS1Rq069IAMp5SAIVUAlAKIAZBwDUAggDkAwg-GkwACNoUnZRUSA>

If you have any questions, or requests call Policy Services at (505) 469-0193 or e-mail Dan Castille, Policy Services Director at rdcpolicyservices@outlook.com.

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Advisory 247

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**DRUG, ALCOHOL, AND TOBACCO/
NICOTINE-FREE SCHOOLS**

See the following policies in reference to Tobacco, Alcohol and Drug Free Schools

Drug Free Workplace	GBEC
Non Medical Use or	
Abuse of Drugs or Alcohol	GBECA
Tobacco Use by Staff Members	GBED
Administering Medicines to Students	JLCD
Tobacco Use by Students	JICG
Drug and Alcohol Use by Students	JICH
Tobacco Use at Public Functions	KFA

The use, possession and distribution of commercial tobacco and nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances and illicit drugs is prohibited on school property and at off-campus school-sponsored events by all persons, including but not limited to following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events.

The foregoing products or activities are prohibited at all times, including non-school hours. The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9.

Communication of Policy

The District shall post conspicuous notices on all school property prohibiting the use, possession and distribution of commercial tobacco and nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school property, and by students at off-campus, school-sponsored events away from school grounds. The District shall post appropriate signage on school premises prohibiting the use, possession and distribution of commercial tobacco products, electronic delivery devices, on school property and by students at off-campus school-sponsored events in a manner and location that adequately notifies students, school personnel, and visitors, including at the entrance to school buildings and athletic events.

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The Superintendent shall develop and implement a procedure for effectively communicating this policy to students, their parents and families, school personnel, visitors on school property, and to local residents, groups, businesses and organizations served by the District. In addition to the notice requirements set forth above, such communication may include publishing information in student and employee handbooks, school district websites, and announcements at school-sponsored events, in a manner and location that adequately informs students, school personnel, and visitors of this policy.

Promotion of Products Prohibited

The promotion of tobacco or nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances or illicit drugs on the school property or at off-campus, school-sponsored events is prohibited. This includes promotion of these products via gear, technology accessories, bags, clothing, any personal articles, signs, structures, vehicles, flyers, or any other materials.

Consequences for Violation of Policy

For students who violate this policy, disciplinary penalties may be imposed in accordance with the District's student conduct and discipline policies and procedures. Notwithstanding the foregoing sentence, for an initial violation of the prohibition of the use or possession of tobacco or nicotine products, the district will, prior to imposing out-of-school disciplinary options, use progressive and supportive disciplinary action beginning with options to promote positive student outcomes such as tobacco education or referral to counseling, parent conferences, and school or community service. Thereafter, students may be subject to the normal range of disciplinary consequences for such conduct. Referrals to resources to help students overcome nicotine addictions shall be provided when developmentally appropriate. Parents or guardians shall be notified of all violations and actions taken by each school district.

For employees, disciplinary penalties for violations of this policy may be imposed in accordance with policies of the District regarding employee conduct and disciplinary actions. Without limiting the foregoing, the District will provide referrals to resources to help school personnel overcome nicotine addiction upon request and to school personnel who violate this policy.

Visitors or members of the public who violate this policy and fail to comply with a verbal warning shall be requested to leave the premises by school supervisory personnel in accord with laws on trespass. Law enforcement may be notified to assist if required.

The Superintendent may establish procedures necessary to implement this policy. All school employees shall abide by and are responsible for enforcement of this policy. A school employee who knows or in good faith suspects any student of using

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or abusing alcohol or drugs shall report such use or abuse to school officials. No school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be liable for any civil damages as a result of such report or efforts to enforce this policy.

The prohibitions in this policy do not apply to the lawful possession or use of a tobacco-cessation product approved by the United States Food and Drug Administration. It shall not be a violation of this policy for a person to possess or provide tobacco or lighters to any other person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice, or to use tobacco as part of an educational experience related to indigenous tobacco practices that has been approved by district administration.

Adopted: date of manual adoption

LEGAL REF.: 22-5-4.4. NMSA School employees; reporting drug and alcohol use; release from liability

24-16-3 NMSA *et seq.*, Dee Johnson Clean Air Act

6.12.4.8 NMAC

1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.

20 U.S.C. 6083 Pro-Children Act of 1994

(Environmental Tobacco Smoke)

34 C.F.R. Part 85 Drug Free Workplace Act

CROSS REF.: EEAEAA - Drug and Alcohol Testing of Transportation Employees

EER - Student Transportation

GBEB - Staff Conduct

GBEC - Drug Free Workplace

GBECA - Non Medical Use or Abuse of Drugs or Alcohol

GBECB - Alcohol Use by Staff Members

GBGC - Employee Assistance

GBPD - Drug and Alcohol Testing of Employees

GCQF - Discipline, Suspension, Termination and Discharge of Professional Staff Members

GDQD - Discipline, Suspension, Termination and Discharge of Support Staff Members

JIC - Student Conduct

JICH - Drug and Alcohol Use by Students

JK - Student Discipline

JKD - Student Suspension/Expulsion

JLCD - Administering Medications to Students

KF - Community Use of School Facilities

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REGULATION**REGULATION****DRUG, ALCOHOL, AND TOBACCO/
NICOTINE-FREE SCHOOLS**

All entrances to buildings and athletic facilities will be posted with a notice that the use, possession, or distribution of commercial tobacco and nicotine product(s), electronic delivery device(s), alcoholic beverage(s), mood-altering substance(s), and illicit drug(s) are prohibited.

This prohibition applies to all school property and all off-campus, school-sponsored events as those terms are defined in the New Mexico Administrative Code 6.12.4. Announcements will be made at school activities and events.

Members of the public using or possessing prohibited products on school premises and failing to respond to a verbal warning shall be requested to leave the premises by school supervisory personnel in accord with laws on trespass. Law enforcement may be notified if deemed necessary.

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Advisory 248

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REGULATION**REGULATION****STUDENT TRANSPORTATION****Student Bus Transportation
Procedures*****Arriving at pickup point:***

- Be on time. Leave home in good time so that you will arrive at the pickup point before the school bus.
- If you have to walk along the road to reach the bus stop, walk on the left side facing oncoming traffic.
- Walk on the shoulder of the road where possible, and not on the traveled portion.
- If other students are waiting at the bus stop, get in line without pushing or crowding and stay off the roadway.
- Respect the property of others while waiting at your bus stop.
- Keep your arms, legs and belongings to yourself.
- Use appropriate language.
- Stay away from the street, road or highway when waiting for the bus. Wait until the bus stops before approaching the bus.

Board the bus:

- Line up in single-file parallel to the roadway, with younger students in front, so they can board first.
- Wait until the bus comes to a complete stop before attempting to get on board.
- Board the bus quickly but without crowding or pushing.
- Never run on the bus, as the steps or floor may be slippery, especially in wintertime. Place your foot squarely on the step, not on the edge, and use the handrail.
- Be particularly careful if you are carrying books or parcels, as it is difficult to see the steps and to hold the handrail.
- Go directly to your seat and sit straight, well to the back of the seat, and face the front of the bus.

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Conduct on the bus:

- Follow driver's instructions.
- The bus will not move until all passengers are seated.
- Remain seated throughout the trip, and leave your seat only when the bus has reached its destination and comes to a complete stop.
- Keep your books and parcels on your lap or put them under the seat or on the luggage rack.
- Keep the aisle clear.
- Do not talk to the driver except in case of emergency.
- Avoid doing anything that might disturb or interfere with the driver. Refrain from loud or boisterous talking or yelling.
- Never stick hands, arms, head, or feet out of the windows of the bus.
- Do not open windows without the driver's permission.
- Do not throw anything within the bus or out of a window; you might injure a pedestrian or force a motorist to make a dangerous maneuver.
- Do not touch the emergency door or exit controls or any of the bus safety equipment.
- Do not discard refuse in the bus.
- Eat at home or school, but not on the bus.
- Obey promptly the directions and instructions of the school bus driver.
- Consequences for school bus stop misconduct will apply to all regular and late routes. Decisions regarding a student's eligibility to ride the bus in connection with co-curricular and extra-curricular events (for example, field trips or competitions) will be at the sole discretion of the School District. Parents or guardians will be notified of any suspension of bus privileges.

Prohibited items:

- ~~Tobacco is not allowed in a school bus.~~
- ~~Alcoholic beverages shall not be carried onto a school bus~~ Commercial tobacco and nicotine products, electronic tobacco or nicotine delivery devices, alcoholic beverages, mood-altering substances and illicit drugs are prohibited in a school bus.
- Insects, reptiles, or other animals shall not be transported in a school bus with the exception of Service Animals.
- No weapon, explosive device, harmful drug, or chemical shall be transported in a school bus.

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Exit from the bus:

- Remain seated until the bus has reached its destination and comes to a complete stop.
- Do not push or crowd when leaving the bus.
- No fighting, harassment, intimidation or horseplay.
- After getting off the bus, move away from the bus.

Crossing the highway:

- If you must cross the road, walk to a point about ten (10) feet in front of bus but do not cross until you can see that the driver has indicated that it is safe to do so.
- As you cross the road, look continuously to the right and left. At an intersection, look in all directions.
- Cross at right angles to the highway. Never cross the highway diagonally.
- Walk briskly across the road, but do not run.
- Never cross the road behind the bus.

Accident or other emergency:

- In case of an accident or emergency, older students should help the driver to maintain order and assist younger students.
- Stay in the bus unless otherwise directed by the driver.
- If you have to leave the bus, stay in a group and obey the driver's instructions.
- Do not expose yourself or others to needless hazard.
- Medical needs for students with disabilities are to be handled in accord with the individualized educational program (IEP).
- All medications required by disabled students will be carried and administered by the person and means designated by the IEP.
- All medication transportation shall be prearranged and be subject to a prior health management plan being prepared if for purposes of possible use on the transportation.

Consequences for Misconduct

Emergency removal of a student from the bus may occur if the student endangers or reasonably appears to endanger the health, welfare, or safety of themselves, any other person, student, teacher, or employee. The driver must contact the school administration for approval of any emergency removal and file a written behavioral report within twenty-four (24) hours with a copy sent to the parents of the removed child.

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Consequences for bus misconduct are to be handled by the principal of the school of attendance in accord with the minimal due process procedure including an opportunity to be heard. *Exception:* Students with individual educational programs (IEPs) or 504 accommodation plans including transportation will be referred to the team responsible for preparing the program. Such plans or programs shall include procedures for discipline and emergency removal for violation of bus conduct rules. A student may use Policy JII Student Concerns, Complaints, and Grievances to make a complaint regarding transportation.

Procedures followed upon student misbehavior on school bus:

- When a student misbehaves on a bus for the first time, the driver will explain to the offender the necessity for good behavior.
- If, after talks and warning, the rider continues to violate the rules, the driver will inform the student that the rule violation will be reported to the principal. This report will include the use of a written form that lists the offense and the action taken by the principal.
- Upon receiving the complaint, the principal will then call the student to the office and warn the student that the parents must be notified that the student may be put off the bus or suffer other consequences if misbehavior reoccurs.
- If poor conduct continues, the driver will again report the incident to the principal. After discussion with the child the consequences will be determined.
- When a student is not allowed transportation by school bus, the principal will inform the parents of the penalty, the reason for it, and how long the penalty will last. In such cases, the parents become responsible for seeing that their child gets to and from school safely. Parents, community members, and others may submit complaints regarding transportation issues by completing the forms provided with Policies KE through KED. These can be obtained through the school Web site or from the school office.
- A student who is put off one (1) bus will be refused transportation by all drivers for the specified period of time.

Possible reporting outcomes:

- *1st report:* Student will be placed on probation and the parent/guardian will be notified that further behavior infractions may result in disciplinary action up to or including loss of ridership privileges.
- *2nd report:* Student may be suspended from the bus for a minimum of one (1) day or suffer other consequences dependent upon the seriousness of the offenses reported.
- *3rd report:* Meeting with parent/guardian. Possible loss of bus ridership privileges for an extended period.

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Other Discipline

Depending on the nature and number of the offenses, consequences such as loss of transportation privilege, suspension or expulsion from school also may result from school bus stop misconduct.

Records

Records of school bus stop misconduct will be forwarded to the individual school building and will be retained in the same manner as other student discipline records. Reports of serious misconduct may be provided to law enforcement.

Vandalism/Bus Damage

Students damaging school buses will be responsible for the damages. Failure to pay such damages (or make arrangements to pay) may result in the loss of bus privileges or other disciplinary sanctions until damages are paid.

Notice

Students will be given a copy of school bus rules and the responsibilities and behavior standards for bus riders before the end of the first full week of school or when a child enrolls, if this occurs during the school year. The rules will also be posted on each bus.

Criminal Conduct

In cases involving criminal conduct (for example, assault, weapons, possession or vandalism), the Superintendent, local law enforcement officials and the Department of Public Safety may be informed.

Parent/Guardian Responsibilities for Transportation Safety:

- Provide the school office with proper student information including the home address, the home telephone number, and the telephone number at which the parent/guardian may be reached in the event of an emergency.
- Provide the school office and the transportation office with accurate information regarding student name, address, phone number, emergency information and day care information. Remember to immediately notify the school office of any changes.
- Instruct children to be at the school bus stop at least five (5) minutes before the scheduled pick-up time and not to arrive at the bus stop substantially more than ten (10) minutes prior to the scheduled pick-up time.
- Remain alert to impending weather patterns and have your child properly clothed for the current weather conditions.

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- Consider in advance how long your child should wait at pick-up locations during conditions of extreme cold or extreme wind- chill conditions.
- Both parents and students should know the school name and the route number of the bus. Students in K-2 should have a "bus tag" fastened to their book bag or backpack containing the route, stop and child's name and contact information.
- Provide the child with a book bag or backpack for books and loose papers, pencils, etc.

Parent and Guardian Notification

A copy of the School District school bus stop rules will be provided to each family at the beginning of the school year or when a child enrolls, if this occurs during the school year. Parents and guardians are asked to review the rules with their students.

School Bus Driver Duties and Responsibilities

All school bus drivers shall be adequately prepared, both physically and mentally, each day to perform required duties. These shall include:

- Operating the vehicle in a safe and efficient manner.
 - Wearing driver's seat belt whenever the bus is in motion.
 - *Safety.* The primary concern of each driver is safety. Drivers will exercise extreme caution during the loading and unloading process as well as when driving.
 - *Defensive Driving.* All drivers are to drive defensively at all times. A definition of defensive driving is: driving in a manner to avoid accident involvement despite adverse conditions created by roads, weather, traffic, or errors of other drivers or pedestrians.
 - *Driving Adjustments.* Winter and wet weather conditions require adjusting speed and normal driving practices to compensate for road conditions.
 - *Emergency Doors.* Emergency doors must be free and operable. Under *no* circumstances may the doors be obstructed to prevent easy access.
 - *Service Door.* The service door of the bus must be closed at all times while the bus is in motion.

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- *Overloads.* The registration card in all vehicles designates the maximum number of passengers allowed. This limit cannot be exceeded. A driver should call the dispatch office for instructions should a vehicle become overloaded.
 - *Railroad Crossings.* All vehicles must stop at railroad crossings, using required procedures, whether they are loaded or empty. Drivers shall not activate the eight (8)-way lights. Four (4)-way hazard lights are to be used before stopping and when crossing the tracks.
 - *Speeding and Other Moving Violations.* No bus will travel faster than road, traffic and weather conditions safely permit, regardless of the posted speed limit. Any driver convicted of a moving violation with a school bus will face disciplinary action. Other reports or warnings regarding speeding will result in suspension and/or termination.
 - *Smoking Prohibited.* Smoking by either the driver or the passengers is prohibited on any school bus or on school property.
- Conducting thorough pre-trip and post-trip inspections of the vehicle and special equipment.
 - *Bus Inspection.* Drivers are required to make a pre-trip inspection of the bus before each trip. Failure to do so is a violation of state law. Defects are to be reported in writing. Drivers are required to check their buses for students, vandalism and articles left on the bus after each route segment.
 - *Safety Equipment.* All drivers are responsible for ensuring that the necessary safety equipment is aboard the bus, including fire extinguisher, first aid kit, bodily fluids clean-up kit, flashlight, reflectorized emergency warning device, and any additional items required by the District. Drivers of vehicles for disabled students will ensure all student health information cards are on board the bus.
 - *Bus Cleaning.* Drivers are required to keep the interior of their buses swept and free of trash at all times.
 - *Fueling.* The driver is responsible for ensuring that his or her assigned vehicle is adequately fueled before leaving the yard. Smoking is prohibited in the fueling area. The engine shall be turned off while fueling. It is against the law to fuel with passengers aboard.
 - Ensuring the safety, welfare and orderly conduct of passengers while on the bus.
 - Meeting emergency situations in accordance with operating procedures.

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- Communicating effectively with school staff, students, parents, law enforcement officials and the motoring public.
 - *Relations with Students.* Bus drivers will treat students with respect and will refrain from any conduct which is intended or could be perceived as demeaning, intimidating or harassing.
 - *Relations with School Officials.* School officials can and will be of considerable assistance to drivers. They are trained in the education of students and it is in their best interest that control and discipline be maintained on the bus. Therefore, it is very important drivers have good relationships with the school officials and give them full cooperation.
 - *Relations with the Public.* It is important to remember that to the general public, the driver represents the School District. Buses are one of the most visible vehicles on the road. Drivers must deal with students, parents, and other motorists in a polite, professional and considerate manner.
 - *Student Discipline.* Although drivers are responsible for maintaining order on the bus, drivers must always remember that the types of actions they may use are governed by School District policy. Drivers must never, under any circumstances, use corporal punishment. Drivers have no authority to deny a child the privilege of riding the bus, or drop the student at other than the designated stop. Any denial of bus-riding privileges can come only from the school authorities.
 - *Route Changes.* Drivers may not make changes in the pick-up or drop-off schedule for his or her route without prior authorization. Bus stops may not be added, deleted or moved without approval. Drivers may not deviate from the established route without prior permission except as required by an emergency or temporary road condition.
 - *Route Problems.* Any problems, of whatever kind, encountered by a driver on the routes or trips should be brought to the attention of the Dispatch Office or the transportation supervisor as soon as possible.
 - *Unauthorized Passengers.* Only authorized passengers may be transported in a bus. Any other passenger must be specifically approved by a school administrator.
 - *Notices.* It is the responsibility of the driver to check for notices each day and to check with his or her supervisor regularly.
- Completing required reports.
 - It is the responsibility of the driver to completely fill out and turn in all reports, discipline referrals, time cards, and mechanical defect slips as required. This includes all requirements pertaining to pre-trip inspections and stop-arm violation reports.

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- Completing required training programs successfully.
- Providing maximum safety for passengers during loading and unloading.
 - *Standees Prohibited.* Standees are not allowed on a moving school bus. Drivers must not move a bus from a stopped position until all passengers are seated. Students are to remain seated until the bus has stopped.
 - *Dangerous Articles.* No weapons or articles that may be classified as dangerous, may be transported on a school bus. This includes any and all weapons, gasoline cans, animals, and other dangerous or objectionable items. Possession of weapons on school property or the bus will not be tolerated. Service animals are allowed.

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Advisory 249

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EXHIBIT**EXHIBIT****STAFF CONDUCT WITH STUDENTS****Working One-On-One with Children and Young People**

The following summary of expectations applies to all situations where staff are providing one-on-one learning assistance or feedback, behavior assistance/monitoring, counseling, testing and/or assessment.

Make it Public	<ul style="list-style-type: none"> • The more visible and/or public the location the better. • Use the authorized information technology systems. • Do not use personal e-mail, electronic communication, websites, and/or social media platforms to communicate with students or families.
Make it Authorized	<ul style="list-style-type: none"> • Parents/guardians should be informed and give consent. • Activity must be authorized by an appropriate administrator.
Make it Timely	<ul style="list-style-type: none"> • Provide support during normal work hours. • Do not conduct excessively long sessions.

Managing Privacy Expectations

School staff rely in different ways on being able to provide a degree of privacy for students. This may be to protect the student's dignity, to provide an environment conducive to the service/assessment being provided or to respect the student's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, staff needs to find a careful balance between respecting the sensitive and private nature of counseling or service provided and the professional's duty of care obligations for the safety and wellbeing of the student.

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Good practice in managing these circumstances is the following:

- Health/physical care should be provided with respect for the student's dignity and in a manner approved by the student, his/her parents/guardians, and within District policy.
- Counseling should be provided in unlocked rooms with part-glass doors, where possible, that are located near staff traffic areas.
- Avoid out-of-hours contact.
- While parental consent is often not applicable in many counseling situations, the school will provide all parents/guardians with written information about the school's counseling services which outlines confidentiality and privacy issues.
- Ensure student appointments and counseling notes are documented properly, while preserving appropriate levels of confidentiality.

Conducting Home Visits

Staff must ensure they follow the specific home visiting protocols that apply. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed.

A summary of general expectations is provided below.

Inform	Home visits must be authorized and documented by the administration and this must include information about when and where visits are being undertaken and the expected departure and return times.
Prepare	<ul style="list-style-type: none"> • All available information about the safety of the proposed visit must be considered and risks managed. • Mobile phones must be taken and school ID should be visible. • Parents/guardians are to be notified in advance of the intended visit.
Protect	<ul style="list-style-type: none"> • Do not enter the house if parents/guardians are not at home. • Speak with the student where the parent/guardian is present or clearly visible. • Do not interview or interact with students in bedrooms or other locations not conducive to the purpose of the visit. • Have a colleague present if problems are anticipated. • Document the visit.

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Examples of Boundary Invasions by staff members, include, but are not limited to the following:

- Making any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under the law or policies addressing the prohibition against Harassment and Retaliation.
- Condoning hazing, initiations or other rituals that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to students, regardless of the student's willingness to participate.
- Showing inappropriate images to a student, including, but not limited to violent, disturbing or sexually explicit or pornographic subject matter.
- Dating a student or discussing or planning a future romantic or sexual relationship with a student.
- Making sexual advances toward a student, including but not limited to personalized comments about a student's body, appearance, physical features, attributes or attractiveness, off color jokes, or sexual innuendoes.
- Telling off color jokes or making comments with sexual innuendo.
- Encouraging a flirtatious, romantic, or sexual relationship with a student.
- Unnecessarily invading a student's personal space or privacy.
- Singling out a particular student or students for personal attention and friendship beyond the professional staff/student relationship.
- Socializing where students are consuming alcohol, drugs, or tobacco/nicotine.
- Providing or offering to provide alcohol, drugs, or tobacco/nicotine to students.
- For non-guidance/non-counseling staff, excessively encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to immediately use professional judgment as contained in this training and refer the student to appropriate guidance/counseling staff.
- Sending students on personal errands unrelated to any educational, athletic, non-curricular or extracurricular purpose.
- Bantering, joking or making comments of a sexual nature with students.
- Asking a student to keep a secret.
- Disclosing inappropriate personal, sexual, family, employment concerns, or other inappropriate private matters to one (1) or more students.
- Addressing students with personalized terms of endearment or pet names that would suggest the staff member feels love or affection for the student. As a staff member, permitting students to address you by your first name, nickname, personalized terms of endearment, pet names, or otherwise in an overly familiar manner.

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- Maintaining personal contact with a student outside of school by telephone, text message, e-mail, Instant Messenger, Internet chat rooms, social networking websites or letters beyond homework or other legitimate school business.
- Exchanging gifts cards or letters that are personal or extravagant in nature with a student beyond customary student-staff gifts.
- Socializing or spending time with students outside of school-related or school-sponsored curricular or extracurricular activities or organized community activities, including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling and recreational activities.
- Giving a student a ride alone in a vehicle in a non-emergency situation or in a situation that can be avoided. If a staff member is approved to give a student a ride, the student shall ride in the back seat of the vehicle when possible, and staff member must attempt to gain prior permission from the parent for the transportation arrangement.

Romantic or Sexual Relationship examples, include, but are not limited to the following:

Staff members shall be prohibited from dating, courting, or entering into or attempting to form a romantic or sexual relationship with any student enrolled in the school or any other public or private school, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with staff members.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body, appearance, attractiveness or physical attributes.
- Sexual jokes, notes, stories, drawings, gestures or pictures.
- Spreading sexual or romantic rumors.
- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.
- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
- Displaying or transmitting sexual objects, pictures, or depictions.

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Inappropriate Social Interactions, including, but not limited to the following:

In order to maintain professional boundaries, staff shall ensure that their interactions with students are appropriate. Examples of prohibited conduct that violates professional boundaries include, but are not limited to:

- Touching students without a legitimate educational reason. Reasons could include, but are not limited to, the need for assistance when injured, restraint or intervention to prevent or separate students who are fighting, threatening to fight or posing a risk of violence or harm to others, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction.
- Taking a student out of class without a legitimate educational reason.
- Being alone with a student behind closed doors without a legitimate educational reason.
- Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
- Inviting a student to the staff member's home.
- Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal.
- Engaging in harassing, bullying, discriminatory, or other conduct prohibited by other District policies or by state or federal law and regulations.

Appearances of Impropriety

The following activities are boundary invasions and can create an actual impropriety or the appearance of impropriety. Whenever possible, staff should avoid these situations. If unavoidable, these activities must be pre-approved by the appropriate administrator. If not pre-approved, the staff member must immediately report the occurrence to the principal or other appropriate administrator.

- Conducting ongoing, private conversations with individual students that do not have an educational purpose, are unrelated to school activities or the well-being of the student, and that take place in locations inaccessible to or not observable by others.
- Being alone with an individual student out of the view of others or in an inaccessible location, except in the context of school counselors providing professional counseling support services, teachers working with students in an after-school setting or during testing, or a school nurse providing medical services to a student.

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- Inviting students for social contact off school grounds without the prior knowledge and express permission of the parent/guardian and an appropriate administrator.
- Social networking with students for non-educational purposes.

Staff members are expected to be aware of the appearance of impropriety in their conduct with students. Staff members are encouraged to discuss issues with the appropriate administrator whenever they are unsure whether particular conduct may constitute a violation of Policy GBEBB and this regulation.

Electronic Communication

The District supports the use of technology to communicate for educational purposes. However, employees acting in their District capacity are prohibited from inappropriate online socializing, phone calls, texting, skyping, instant messaging, or use of any other telecommunication device, or from engaging in any conduct that violates the law, District policies or other generally recognized professional standards. Employees must conduct themselves in ways that do not distract from or disrupt the educational process. Nothing in Policy GBEBB and this regulation prohibits employees, faculty, staff or students from the use of approved educational websites if such sites are used solely for educational purposes.

Electronic and online communication between staff members and students must be transparent, contemporaneously accessible to administrators and parents/guardians, and must be professional in content and tone. Such communication must be professional, non-sexual, appropriate to the circumstances, and unambiguous in meaning. Staff members must restrict one-on-one electronic communications with individual students to accounts, systems, and platforms that are provided by and accessible to the District schools or with the prior express permission of the appropriate administrator and the parent/guardian.

As with in-person communications, staff members shall avoid appearances of impropriety and refrain from inappropriate electronic communications with students. Factors that may be considered in determining whether an electronic communication is inappropriate include, but are not limited to:

- The subject, content, purpose, authorization, timing, and frequency of the communication;
- Whether there was an attempt to conceal, shield, or misrepresent the nature of the communication from administrators and/or parents/guardians;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; and/or
- Whether the communication contained sexual innuendo, such as for purposes of grooming the student for victimization.

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Advisory 250

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~~TOBACCO USE BY STAFF MEMBERS / SMOKING~~

~~The use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs is prohibited in the following locations:~~

- ~~• School grounds.~~
- ~~• School buildings.~~
- ~~• School parking lots.~~
- ~~• School playing fields.~~
- ~~• School buses and other District vehicles.~~
- ~~• Off-campus school sponsored events.~~

~~The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9. Notice of this policy shall be made by a listing of prohibited items that will be included in a Tobacco, Drug and Alcohol Free School notice posted at the entrance to school buildings and athletic events.~~

~~The Superintendent may establish procedures necessary to implement this policy. Disciplinary penalties may be imposed in accord with policies of the District regarding employee conduct and disciplinary actions.~~

~~The prohibitions do not apply to an adult when possession or use of the tobacco products are for demonstration purposes as a necessary instructional component of a tobacco prevention or cessation program that is:~~

- ~~• Approved by the school.~~
- ~~• Established in accord with New Mexico Revised Statute.~~

~~Adopted:~~ date of manual adoption

~~LEGAL REF.:~~ 24-16-3 NMSA *et seq.*, Dec Johnson Clean Air Act
6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083 Pro Children Act of 1994 (Environmental Tobacco-Smoke).
34 C.F.R. Part 85 Drug Free Workplace Act

~~CROSS REF.:~~ GBEB Staff Conduct
GCQF Discipline, Suspension, Termination and Discharge
of Professional Staff Members
GDQD Discipline, Suspension, Termination and Discharge
of Support Staff Members
JICG Tobacco Use by Students
KF Community Use of School Facilities
KFAA Tobacco Use on School Premises at Public Functions

Advisory 251

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**DISCIPLINE, SUSPENSION, TERMINATION
AND DISCHARGE OF
PROFESSIONAL STAFF MEMBERS**

Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may:

- direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees;
- determine qualifications for employment and the nature and content of personnel examinations;
- take actions as may be necessary to carry out the mission of the public employer in emergencies; and
- retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

For purposes of this policy:

- "Discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract.
- "Terminate" means, in the case of a licensed school employee, the act of not reemploying an employee for the ensuing school year.
- "Working day" means every school calendar day, excluding Saturday, Sunday or legal holiday.
- "Just cause" means a reason that is rationally related to an employee's competence or turpitude or the proper performance of assigned duties and that is not in violation of the employee's civil or constitutional rights.
- "Administrative leave" means the assignment of an employee to the employee's home to await further instructions pending the outcome of an investigation or inquiry into the actions of the employee in order to avoid interference in the inquiry. The use of "administrative leave" is not a disciplinary action.

Categories of Misconduct

Licensed staff members may be disciplined for infractions that include, but are not limited to, the following categories:

- Engaging in unprofessional conduct.

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- Committing fraud in securing appointment.
- Exhibiting incompetency in their work.
- Exhibiting inefficiency in their work.
- Exhibiting improper attitudes.
- Neglecting their duties.
- Engaging in acts of insubordination.
- Engaging in acts of child abuse or child molestation.
- Engaging in acts of dishonesty.
- Being under the influence of alcohol while on duty.
- Engaging in the use, possession, or distribution of narcotics or habit-forming drugs.
- Being absent without leave.
- Engaging in discourteous treatment of the public.
- Engaging in improper political activity.
- Engaging in willful disobedience.
- Being involved in misuse or unauthorized use of school property.
- Being involved in excessive absenteeism.
- Possessing alcohol on school-owned property.
- Carrying or possessing a weapon on school grounds unless they have obtained specific authorization from the appropriate school administrator.
- Engaging in ethical misconduct by inappropriate touching, sexual harassment, discrimination or intended behavior to induce a child into engaging in illegal, immoral or other prohibited behavior.
- Racialized aggression defined as any aggressive act which can be characterized, categorized or which appears as such to be racial in nature. Such aggression is prohibited. A link to a state-wide hotline for reporting such incidents is provided on the District Website located at _____ ***(fill in web address for School District)***.

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General Provisions for Discipline

General provisions for discipline are as follows:

- *Informal consultation.* Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with a licensed employee to discuss matters of concern related to the employee's performance, conduct, et cetera.
- *Persons authorized to impose discipline.* Any supervising licensed administrator who is the immediate or primary supervisor of a staff member is authorized to impose a penalty or penalties, short of termination.
- *Administrative discretion.* In adopting these policies/procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.
- *Right not to impose discipline.* The District reserves the right not to discipline a staff member for conduct that violates this policy.
- *Additional reasons for discipline.* A staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.
- *Amendments.* The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.
- *Severability.* If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Minor Discipline

Minor disciplinary action includes, without limitation thereto, removal from grounds, written warning, written reprimand, or suspension. Minor disciplinary action shall be imposed by the staff member's administrative supervisor upon informing the employee of any violations of state or federal statutes, policies, rules or the New Mexico code of ethics and offering a minimum due process hearing and opportunity to express the employee's side of the issue before implementing the disciplinary action. The disciplinary action shall be confirmed in writing to the employee. The discipline may only be appealed to the next level of administration. The hearing procedure shall be as follows.

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Step 1 - Notice:

- Upon the supervising administrator's determination of the existence of cause to impose discipline, the supervising administrator shall notify the staff member of intent to impose discipline. The notice shall be in writing and shall be delivered in person or by first-class mail. The notice shall include the following:
 - The conduct or omission on the part of the staff member that constitutes the reason for discipline.
 - A scheduled meeting time between the supervising administrator and the staff member. Such meeting shall be scheduled not more than ten (10) working days after the date the licensed staff member receives the notice.
 - A statement of the disciplinary action the supervising administrator intends to impose.
 - Copies of any available relevant documentation, at the discretion of the supervising administrator.

Step 2 - Hearing:

- At the hearing, the supervising administrator shall discuss with the staff member the conduct that warrants disciplinary action and shall provide the staff member with any appropriate evidence and a copy of relevant documentation if not previously provided.
- The supervising administrator shall conduct the hearing in an informal manner, without adherence to the rules of evidence and procedure required in judicial proceedings.
- A record of the hearing shall be made by electronic recordation.

Step 3 - Decision (in writing):

- At the hearing, or within seven (7) working days following the hearing, the supervising administrator shall, in writing, inform the licensed staff member of the decision. If the decision is to impose discipline, written notice of the discipline shall be enclosed.

Appeal of Minor Discipline

A staff member who wishes to object to a minor disciplinary action shall submit a written complaint to the supervisor's superior within five (5) work days of receiving notice of the disciplinary action. Failure to request the hearing in the time frame indicated will be considered acceptance of the discipline imposed. The appeal shall specifically describe the part of the determination with which the staff member disagrees, such as:

- Determination was founded upon error of construction or application of any pertinent regulations or policies.
- Determination was unsupported by any evidence as disclosed by the entire record.
- Determination was materially affected by unlawful procedure.
- Determination was based on violation of any statutory or constitutional right.
- Determination was arbitrary and capricious.
- The penalty was excessive.

The appeal shall be based on the record of the hearing. The supervising administrator, the Superintendent, or, when appropriate, the Governing Authority may, at the conclusion of the appeal, uphold the discipline, modify the decision, or refer the matter back to the level from which it was appealed for rehearing and additional information. Such decision, along with specific direction as to the effective date of any discipline, shall be communicated to the staff member within a reasonable amount of time following the appeal, not to exceed seven (7) working days. The decision upon appeal is final for all minor disciplinary actions.

**Termination Pursuant to
22-10A-24 NMSA (1978)**

The following procedures will be used to impose any termination permitted under 22-10A-24 NMSA (1978) except that it does not apply to:

- A licensed school employee employed to fill the position of a licensed school employee entering military service;
- A licensed school employee who is employed as a licensed school administrator; or
- An unlicensed school employee employed to perform primarily District-wide management functions; or
- A person who does not hold a valid license or has not submitted a complete application for licensure within the first three (3) months from beginning employment duties.

Step 1 - Notice:

- Upon the Superintendent's determination of the existence of cause to terminate, and on or before fifteen (15) working days prior to the last day of the school year, the Superintendent shall notify the staff member of intent to terminate. The notice shall be in writing and shall be delivered in person or by first-class mail to the last address provided for personnel records. The notice shall include the following:

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- The statement that the employee has the right to request written reasons for the decision to terminate and such reasons shall be provided within ten (10) working days of such request.
- *For a licensed employee who has not been offered and accepted a third-year contract for services and licensed educational assistants with less than one (1) year of employment the decision to terminate is not contestable under the School Personnel Act.*
 - For licensed employees who have been offered and accepted a third-year contract for service and licensed educational assistants employed for more than one (1) year the following appeal procedure shall apply.

Step 2 - Appeal Requirements and Content:

- Termination may be appealed to the Governing Authority by a professional staff employee who has been employed for more than two (2) consecutive years and licensed educational assistants employed for more than one (1) year by making a request to the Superintendent within five (5) working days of the date of receipt of the notice of termination requesting a meeting with the Governing Authority.
 - The appeal shall be granted if the employee responds to the Superintendent in writing within ten (10) working days of receiving the reasons for termination with the following information:
 - ▲ A statement of contention that the employee believes the decision is without just cause.
 - ▲ A brief statement of the reason(s) why the staff member believes the decision is without just cause.
 - ▲ A statement of the facts that the employee believes support this contention.

Step 3 - Appeal Procedure:

- The Governing Authority shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after receipt of the statement.
- The hearing shall be conducted informally in accordance with the provisions of the Open Meeting Act.
 - Hearing Procedure:
 - ▲ The employee and the Superintendent may each be accompanied by a person of their choice.

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- ▲ The Superintendent shall present the factual basis for determination that just cause exists for the termination, limited to the reasons provided to the employee.
 - ▲ The employee shall present contentions, limited to the reason(s) why the licensed staff member believes the decision is without just cause.
 - ▲ Rebuttal to the employee's presentation may be presented as deemed relevant by the Governing Authority.
 - ▲ Witnesses called may be questioned by the Governing Authority, the Superintendent or an appointed representative, and the employee or an appointed representative.
 - ▲ The Governing Authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
- The Governing Authority shall take such action as is necessary in accordance with the Open Meeting Act to uphold or deny the recommendation to terminate. The Governing Authority shall notify the employee and the Superintendent of its decision in writing within five (5) working days from the conclusion of the meeting.

Termination - Arbitration Appeal Pursuant to 22-10A-25 NMSA (1978)

An employee still aggrieved by a decision of the Governing Authority may appeal the decision to an arbitrator by doing the following:

- Submitting a written appeal to the Superintendent within five (5) working days from receipt of the Governing Authority's written decision or refusal to grant a hearing on the issue of termination.
- Accompanying the written appeal shall be a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to subsection E of Section 22-10A-24 NMSA (1978).
- Including in the contentions a statement of facts supporting the contentions.

Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify the employee for any appeal and render the Governing Authority's decision on termination final.

If the arbitration appeal is timely and complete, the Governing Authority and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select an independent arbitrator within five (5) working days of the date of the request.

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A de novo (new) hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and Governing Authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The Governing Authority shall be required to prove by a preponderance of the evidence that just cause to discharge the employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the Governing Authority may each be accompanied by counsel.
 - The Governing Authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Governing Authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - A record shall be made of the hearing and each party may order the record at the expense of the party.
- The arbitrator shall notify the employee and the Governing Authority of the decision in writing within ten (10) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the Governing Authority.

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The parties shall be guided by the statute and arbitrator as to the conduct of the hearing, each party bearing its own costs. The arbiter's fees and other expenses in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

No official record shall be made of the proceeding but the party desiring a record may arrange for a record, paying the expense.

Discharge per 22-10A-27 NMSA (1978)

A licensed school employee may be discharged only for just cause following procedures as indicated below:

Notice:

- Upon the Superintendent's determination of the existence of cause to discharge, the Superintendent shall notify the licensed staff member of intent to recommend discharge. The notice shall state the cause for the recommendation and shall advise the employee of a right to a discharge hearing before the Governing Authority.
- The notice shall be in writing and shall be provided in accordance with the law for service of process in civil actions.
- If the licensed school employee does not exercise that right to hearing, the Superintendent shall discharge the licensed school employee.

Employee's Request for Hearing:

- An employee who receives notice of intent to recommend discharge may exercise the right to a hearing before the Governing Authority by giving the Superintendent written notice of that election within ten (10) working days of receipt of the notice of intent to recommend discharge.
- The Governing Authority shall hold a discharge hearing no less than twenty (20) and no more than forty (40) working days after the receipt of the staff member's election of a hearing.

Preliminary Information

- At least ten (10) days written notice of the date, time and place of the discharge hearing shall be provided to the employee with such notice in the same form as used in civil proceedings. The notice shall indicate the following:
 - Both the Superintendent and the licensed school employee may be accompanied by a person of their choice.
 - Each party is to complete and respond to discovery by deposition and production of documents prior to the hearing date established.

- The Governing Authority may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths.
- The Superintendent shall be required to prove by preponderance of the evidence that just cause to discharge the licensed school employee existed at the time of the notice of intent to discharge.
- Procedure for the conduct of the hearing shall be as follows:
 - ▲ The Superintendent shall present the factual basis for determination that just cause exists for the termination based upon information available at the time the employee was given notice of the intent to discharge.
 - ▲ The employee shall present reason(s) why the recommendation is without just cause.
 - ▲ Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - ▲ Witnesses called may be questioned by the Superintendent or an appointed representative, and the employee or an appointed representative.
 - ▲ The Governing Authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
 - ▲ A record shall be made of the hearing and each party may have one (1) copy of the record at the expense of the Governing Authority.
- The Governing Authority shall notify the employee and the Superintendent of its decision in writing within twenty (20) days from the conclusion of the hearing. The Governing Authority shall take such action as is necessary in accordance with the Open Meeting Act.

**Discharge - Arbitration Appeal Pursuant
to 22-10A-28 NMSA (1978)**

An employee aggrieved by a decision of the Governing Authority to discharge may appeal the decision to an arbitrator by doing the following: Submitting a written appeal to the Governing Authority within ten (10) working days from receipt of the written decision of the Governing Authority.

The Governing Authority may delegate responsibility for the arbitration to the Superintendent.

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If the arbitration appeal is timely the Governing Authority (or Superintendent as delegee) and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the public school is located to select an independent arbitrator within five (5) working days from the date of the request.

The hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and Governing Authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The Governing Authority shall be required to prove by preponderance of the evidence that just cause to discharge the certificated employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the Governing Authority may each be accompanied by counsel.
 - The Governing Authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by the Governing Authority or a representative, and the employee or a representative.

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- Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
- Either party desiring a record of the arbitration proceedings may, at the party's own expense, record or otherwise provide for a transcript of the proceedings; provided, however, that the record so provided shall not imply any right of automatic appeal or review.
- The arbitrator shall notify the employee and the Governing Authority of the decision in writing within thirty (30) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the Governing Authority.

Each party shall bear its own costs and expenses.

Additional Provisions and Conditions

During the pendency of any hearing, neither the licensed staff member nor the supervising administrator shall contact the Superintendent or a Governing Authority member to discuss the merits of the supervising administrator's recommendation except as provided by this policy.

This policy addresses only discipline, termination or discharge and has no application to any of the following:

- Letters or memorandums directed to a licensed staff member containing directives or instructions for future conduct.
- Counseling of a licensed staff member concerning expectations of future conduct.
- Placing an employee on administrative leave with pay and assignment of the employee to home during work hours in order to conclude a review of the employee's actions or activities pending an administrative recommendation.

The Governing Authority shall file annually a record with the Secretary of Education of all terminations and discharges and all actions arising from terminations and discharges.

Adopted: date of manual adoption

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

LEGAL REF.: 10-7E-1 to 10-7E-26 NMSA (1978) Public Employee
Bargaining Act
10-15-1 NMSA (1978) Open Meeting Act
22-5-4.3 NMSA
22-10A-5 NMSA (1978)
22-10A-24 NMSA (1978)
22-10A-25 NMSA (1978)
22-10A-26 NMSA (1978)
22-10A-27 NMSA (1978) Discharge hearing; procedures
22-10A-28 NMSA (1978) Appeals; independent arbitrator;
qualifications; procedure; binding decision
22-10A-29 NMSA (1978) Compensation payments to
discharged personnel
22-10A-30 NMSA (1978) Supervision and correction
procedures
22-10A-31 NMSA (1978) Denial, suspension and revocation
of licenses
22-10A-32 NMSA (1978) Licensed school employees; required
training program
6.60.9.9 NMAC Standards of Professional Conduct
6.60.9.12 NMAC Reporting Requirements
6.67.2.8 NMAC Notice of reemployment or termination of
licensed personnel
School Personnel Act (new section 1&2)

CROSS REF.: ADB / ADC – Drug, Alcohol, and Tobacco/Nicotine Free Schools
DKA - Payroll Procedures/Schedules
GBEB - Staff Conduct
GCA - Professional Staff Positions

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Advisory 252

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

**DISCIPLINE, SUSPENSION, TERMINATION
AND DISCHARGE OF
SUPPORT STAFF MEMBERS**

Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, a public employer may:

- direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate public employees;
- determine qualifications for employment and the nature and content of personnel examinations;
- take actions as may be necessary to carry out the mission of the public employer in emergencies; and
- retain all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

For purposes of this policy:

- "Terminate" means, in the case of a noncertificated school employee, the act of severing the employment relationship with the employee.
- "Working day" means every calendar day, excluding Saturday, Sunday or legal holiday.
- "Administrative leave" means the assignment of an employee to the employee's home to await further instructions pending the outcome of an investigation or inquiry into the actions of the employee in order to avoid interference in the inquiry. The use of "administrative leave" is not a disciplinary action.

Categories of Misconduct

Staff members may be disciplined for infractions that include, but are not limited to, the following categories:

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• Absence without leave	• Incompetence or inefficiency
• Abuse of leave	• Insubordination
• Alcohol or drug impairment	• Neglect of duty
• Child abuse or molestation	• Unauthorized possession of a weapon on school grounds
• Discourteous treatment of the public	• Unauthorized use of school property
• Dishonesty	• Unlawful conduct
• Excessive absenteeism	• Use of illegal drugs
• Fraud in securing employment	• Violation of a directive of a supervisor
• Improper attitude	• Violation of a District policy or regulation

- Racialized aggression defined as any aggressive act which can be characterized, categorized or which appears as such to be racial in nature is prohibited. A link to a state-wide hotline for reporting such incidents is provided on the District Website located at _____
(fill in web address for School District).

General Provisions for Discipline are as follows:

- *Informal consultation.* Nothing contained herein will limit a supervising administrator's prerogative to engage in informal consultation with an employee to discuss matters of concern related to the employee's performance, conduct, etc.
- *Persons authorized to impose discipline.* Any supervising licensed administrator who is the immediate or primary supervisor of a staff member is authorized to impose a penalty or penalties, short of termination.
- *Administrative discretion.* In adopting these policies/procedures, it is the intention of the District that they be interpreted and applied in a reasonable fashion. The policies are not intended to restrict or eliminate the discretion traditionally afforded to supervising administrators to determine whether discipline is appropriate. Administrators are therefore directed to continue to use reasonable discretion in determining whether a particular alleged violation merits discipline.
- *Right not to impose discipline.* The District reserves the right not to discipline a staff member for conduct that violates this policy.

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- *Additional reasons for discipline.* A staff member may be disciplined for conduct that has occurred but that, at or near the time of misconduct, was not the subject of or identified as a reason for a specific proceeding under this policy.
- *Amendments.* The District reserves the right to amend this policy in any way at any time. Any amendment shall have prospective application only.
- *Severability.* If any provision of this policy is held to be invalid for any reason, such action shall not invalidate the remainder of this policy. If any provision of this policy conflicts with any provisions in any other policies adopted by the District, the provisions of this policy shall prevail.

Minor Discipline

Minor disciplinary action includes, without limitation thereto, removal from the grounds, written warning, written reprimand, or suspension. Minor disciplinary action shall be imposed by the staff member's administrative supervisor upon informing the employee of any violations of state or federal statutes, policies, rules or the New Mexico code of ethics and offering a hearing and opportunity to express the employee's side of the issue before implementing the disciplinary action. The disciplinary action shall be confirmed in writing to the employee. The discipline may only be appealed to the next level of administration. The hearing procedure shall be as follows.

Step 1 - Notice and Hearing:

- Upon the supervising administrator's determination of the existence of cause to impose discipline, the supervising administrator shall notify the staff member of intent to impose discipline, the conduct or omission on the part of the staff member that constitutes the reason for discipline, and provide the employee an opportunity to explain the employee's side of the issue. A reasonable effort to determine the circumstances of the incident will be made. The discipline may be imposed immediately or following any further investigation.

Step 2- Decision (in writing):

- At the hearing, or within seven (7) working days following the hearing, the supervising administrator shall inform the employee in writing of the disciplinary action, if imposed and summarize the discussion at the hearing.

Appeal of Minor Discipline

A staff member who wishes to object to a minor disciplinary action shall submit a written appeal request to the supervisor's superior within five (5) work days of receiving notice of the disciplinary action. Failure to request the appeal in the time frame indicated will be considered acceptance of the discipline imposed. The discipline shall be suspended if the appeal is timely made. The appeal shall specifically describe the part of the determination with which the staff member disagrees, such as:

- Determination was founded upon error of construction or application of any pertinent regulations or policies.
- Determination was unsupported by any evidence as disclosed by the entire record.
- Determination was materially affected by unlawful procedure.
- Determination was based on violation of any statutory or constitutional right.
- Determination was arbitrary and capricious.
- The penalty was excessive.

The appeal shall be based on the staff member's submission as listed above and the summary of the hearing made by the supervisor. The supervising administrator, the Superintendent, or, when appropriate, the Governing Authority may, at the conclusion of the appeal, uphold the discipline, modify the decision, or refer the matter back to the level from which it was appealed for rehearing and additional information. Such decision, along with specific direction as to the effective date of any discipline, shall be communicated to the staff member within a reasonable amount of time following the appeal, not to exceed seven (7) working days. The decision upon appeal is final for all minor disciplinary actions.

Termination Pursuant to 22-10A-24 NMSA (1978)

The following procedures will be used to impose any termination permitted under 22-10A-24 NMSA (1978) except that it does not apply to:

- A noncertificated school employee employed to perform primarily District-wide management. (22-10A-26 NMSA)

Step 1 - Notice:

- Upon the Superintendent's determination of the existence of cause to terminate, the Superintendent shall notify the staff member of intent to terminate. The notice shall be in writing and shall be delivered in person or by first-class mail. The notice shall include the following:
 - The statement that the employee has the right to request written reasons for the decision to terminate and such reasons shall be provided within five (5) working days of such request.
- *A local Board may terminate a nonlicensed school employee with less than one (1) year of employment for any reason it deems sufficient.*
 - For a nonlicensed school employee who has been employed for more than one (1) year the following appeal procedure shall apply.

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Step 2-3 Appeal Requirements and Content:

- Termination may be appealed to the Governing Authority by a nonlicensed school employee who has been employed for more than one (1) year by making a request to the Superintendent within five (5) working days of the date of receipt of the notice of termination requesting reasons for the termination decision and a meeting with the Governing Authority.
 - The appeal shall be granted if the employee responds to the Superintendent in writing within ten (10) working days of receiving the reasons for termination with the following information:
 - ▲ A statement of contention that the employee believes the decision is without just cause.
 - ▲ A brief statement of the reason(s) why the staff member believes the decision is without just cause.
 - ▲ A statement of the facts that the employee believes support this contention.

Step 4 - Appeal Procedure:

- The Governing Authority shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after receipt of the statement.
- The hearing shall be conducted informally in accordance with the provisions of the Open Meeting Act.
 - Hearing Procedure:
 - ▲ The employee and the Superintendent may each be accompanied by a person of their choice.
 - ▲ The Superintendent shall present the factual basis for determination that just cause exists for the termination, limited to the reasons provided to the employee.
 - ▲ The employee shall present contentions, limited to the reason(s) why the staff member believes the decision is without just cause.
 - ▲ Rebuttal to the employee's presentation may be presented as deemed relevant by the Governing Authority.
 - ▲ Witnesses called may be questioned by the Governing Authority, the Superintendent or an appointed representative, and the employee or an appointed representative.

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- ▲ The Governing Authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.
- The Governing Authority shall take such action as is necessary in accordance with the Open Meeting Act to uphold or deny the recommendation to terminate. The Governing Authority shall notify the employee and the Superintendent of its decision in writing within five (5) working days from the conclusion of the meeting.

Termination - Arbitration Appeal Pursuant to 22-10A-25 NMSA (1978)

An employee still aggrieved by a decision of the Governing Authority may appeal the decision to an arbitrator by doing the following:

- Submitting a written appeal to the Superintendent within five (5) working days from receipt of the Governing Authority's written decision or refusal to grant a hearing on the issue of termination.
- Accompanying the written appeal shall be a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to subsection E of Section 22-10A-24 NMSA (1978).
- Including in the contentions a statement of facts supporting the contentions.

Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify the employee for any appeal and render the Governing Authority's decision on termination final.

If the arbitration appeal request is timely and complete, the Governing Authority and the employee shall meet within ten (10) working days from the receipt of the request for an appeal and select an independent arbitrator, qualified in accord with the applicable statute, to conduct the appeal. If the parties fail to agree on an arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select an independent arbitrator within five (5) working days of the date of the request.

A de novo (new) hearing shall be conducted within thirty (30) working days of selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, sending such notice to the employee and Governing Authority.

The parties shall be provided a copy of the relevant portion of this policy which shall include:

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- Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the arbitrator.
- The arbitrator may issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and has the power to administer oaths. Subpoenas issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American Arbitration Association's voluntary labor arbitration rules if that entity is used by the parties.
- The Governing Authority shall be required to prove by a preponderance of the evidence that just cause to discharge the employee existed at the time of the notice of intent to discharge the employee by the administration.
- Hearing Procedure:
 - The employee and the Governing Authority may each be accompanied by counsel.
 - The Governing Authority shall present the basis for determination that just cause exists for the discharge.
 - The employee shall present reason(s) why the recommendation is without just cause.
 - Either party shall be permitted to call witnesses and to introduce documentary evidence.
 - Witnesses called may be questioned by, the Governing Authority or a representative, and the employee or a representative.
 - Technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of the statements or records tendered, the accuracy of truth of which is in reasonable doubt.
 - Either party desiring a record of the arbitration proceedings may, at the party's own expense, record or otherwise provide for a transcript of the proceedings; provided, however, that the record so provided shall not imply any right of automatic appeal or review.
- The arbitrator shall notify the employee and the Governing Authority of the decision in writing within ten (10) working days from the conclusion of the arbitration hearing. The decision shall contain findings of fact and conclusions of law affirming or reversing the action of the Governing Authority.

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The parties shall be guided by the statute and arbitrator as to the conduct of the hearing, each bearing their own costs. The arbiter's fees and other expenses in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

Adopted: date of manual adoption

LEGAL REF.: 22-5-4.3 NMSA
22-10A-24 NMSA (1978)
22-10A-25 NMSA (1978)
22-10A-26 NMSA (1978)
School Personnel Act (new section 1&2)

CROSS REF.: ADB / ADC – Drug, Alcohol, and Tobacco/Nicotine Free Schools
DKA - Payroll Procedures/Schedules

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Advisory 253

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EXHIBIT**EXHIBIT****SCHOOL VOLUNTEERS**

Regular volunteers shall not be allowed to begin their service until after they have received a copy of their job description, their duties are explained to them and they have accepted in writing the following volunteer pledge:

- (1) It is my duty to deal justly and considerately with each student, school employee or other volunteer.
- (2) It is my duty to share the responsibility for improving educational opportunities for all.
- (3) It is my duty to stimulate students to think and learn, but at the same time protect them from harm,
- (4) It is my duty to respect the confidentiality of student records and information about students, their personal or family life.
- (5) It is my duty not to discriminate or to permit discrimination on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion or serious medical condition against any person while I am on duty as a volunteer.
- (6) It is my duty to avoid exploiting or unduly influencing a student into engaging in an illegal or immoral act or any other behavior that would subject the student to discipline for misconduct, whether or not the student actually engages in the behavior.
- (7) It is my duty to avoid giving gifts to any one student unless all students similarly situated receive or are offered gifts of equal value for the same reason.
- (8) It is my duty to avoid lending money to students.
- (9) It is my duty to avoid having inappropriate contact with any student, whether or not on school property, which includes all forms of sexual touching, sexual relations or romantic relations, any touching which is unwelcome by the student or inappropriate given the age, sex and maturity of the student.
- (10) It is my duty to avoid giving a ride to a student.
- (11) It is my duty not to engage in sexual harassment of students, other volunteers or school employees.

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- (12) It is my duty not to engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off premises.
- (13) It is my duty not to possess or use tobacco or nicotine, alcohol or illegal drugs while on school property or during school events off premises.
- (14) It is my duty to use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable law, policies and rules.
- (15) It is my duty to avoid any violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct when on school property or off campus at school functions.
- (16) It is my duty to refrain from using school information technology equipment, hardware, software or internet access for other than a school related purpose.
- (17) It is my duty to refrain from striking, assaulting or restraining students unless necessary in the defense of self or others.
- (18) It is my duty to refrain from using inflammatory, derogatory or profane language while on school property or while attending school events off premises.
- (19) It is my duty to refrain from bringing or possessing firearms or other weapons on school property except with proper authorization.
- (20) It is my duty not to be under the influence of alcohol or illegal drugs on school property or at school events off premises.
- (21) It is my duty to report, as appropriate under the circumstances, violations of this pledge by other regular volunteers or school employees.

Volunteers are considered at-will employees and may be dismissed with or without cause at the discretion of the district by the administrator who assigns the volunteer to duties in the building or department or by the Superintendent.

Volunteer Signature

Date

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Advisory 254

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STUDENT CONDUCT

The Superintendent will establish regulations governing the conduct of students in school, traveling to and from school, at school functions, or affecting the school order. In establishing these regulations, the Superintendent may consult with parents, students and staff committees. In addition to compliance with regulations established by the Superintendent, students are expected to obey all rules and regulations adopted by the Board, and to obey any order given by a member of the faculty or staff relating to school activities.

A student shall be defined as any person who is enrolled in an educational program provided by or approved by the District and carried on in premises owned or controlled by the District.

Students shall not engage in improper behavior, including but not limited to the following:

- Any conduct intended to obstruct, disrupt, or interfere with teaching, research, service, administrative or disciplinary functions, or any activity sponsored or approved by the Board.
- Physical abuse of or threat of harm to any person on District owned or controlled property or at District sponsored or supervised functions.
- Damage or threat of damage to property of the District, regardless of the location, or to property of a member of the community or a visitor to the school, when such property is located on District controlled premises.
- Forceful or unauthorized entry to or occupation of District facilities, including both buildings and grounds.
- ~~Unlawful~~ The use, possession, distribution, or sale of tobacco or nicotine, alcohol, or drugs or other illegal contraband on District property or at school-sponsored functions.
- Conduct or speech that violates commonly accepted standards of the District and that, under the circumstances, has no redeeming social value.
- Failure to comply with the lawful directions of District officials or any other law enforcement officers acting in performance of their duties, and failure to identify themselves to such officials or officers when lawfully requested to do so.
- Violation of District rules and regulations.

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- Engaging in any conduct constituting a breach of any federal, state, or city law or duly adopted policy of the Board.
- Carrying or possessing a weapon on school grounds.

In addition to the general rules set forth above, students shall be expected to obey all policies and regulations focusing on student conduct adopted by the Board. Students shall not engage in any activities prohibited herein, nor shall they refuse to obey any order given by a member of the faculty or staff who is attempting to maintain public order.

Any student who violates these policies and regulations may be subject to discipline up to expulsion, in addition to other civil and criminal prosecution. These punishments may be in addition to any customary discipline that the District presently dispenses.

Local law enforcement shall be notified by the Superintendent regarding any suspected crime against a person or property that is a serious offense, involves a deadly weapon or dangerous instrument or that could pose a threat of death or serious injury to employees, students or others on school property.

The authority of the Superintendent to establish regulations covering students may be delegated to principals for their individual schools.

Adopted: date of manual adoption

LEGAL REF.: 22-5-4.3 NMSA (1978)
 30-20-13 NMSA (1978)
 30-20-16 NMSA (1978)
 30-20-18 NMSA (1978)
 6.11.2.9 NMAC

CROSS REF.: ADB / ADC – Drug, Alcohol, and Tobacco/Nicotine Free Schools
 GBEB - Staff Conduct
 JK - Student Discipline
 JKD - Student Suspension/Expulsion
 KFA - Public Conduct on School Property

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Advisory 255

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

~~TOBACCO USE BY STUDENTS / SMOKING~~

~~The use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood altering substances and illicit drugs is prohibited in the following locations:~~

- ~~• School grounds.~~
- ~~• School buildings.~~
- ~~• School parking lots.~~
- ~~• School playing fields.~~
- ~~• School buses and other District vehicles.~~
- ~~• Transportation pick-up areas.~~
- ~~• Off-campus school-sponsored events.~~

~~The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9. Notice of this policy shall be made a part of the student handbook and a listing of prohibited items will be included in a Tobacco, Drug and Alcohol Free School notice posted at the entrance to school buildings and athletic events.~~

~~The Superintendent may establish procedures necessary to implement this policy. Disciplinary penalties may include, but are not limited to, suspension of the student from school or a recommendation for expulsion when there is evidence of repeated and continuous violation of this policy.~~

~~All District employees are expected to cooperate in the enforcement of this policy. Student violations shall be reported to administrative personnel.~~

~~No school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce this policy.~~

~~*EXCEPTION:* Lawful possession or use by a minor of a tobacco cessation product approved by the United States Food and Drug Administration shall be permitted by students following District policies for student self-administration of medications.~~

~~*Adopted:* date of manual adoption~~

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~~LEGAL REF.: 24-16-3 NMSA et seq., Dec Johnson Clean Air Act
6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083 Pro-Children Act of 1994 (Environmental Tobacco
Smoke).
34 C.F.R. Part 85 Drug Free Workplace Act~~

~~CROSS REF.: GBED Tobacco Use by Staff Members
JK Student Discipline
JKD Student Suspension/Expulsion
JLCD Administering Medications to Students
KF Community Use of School Facilities
KFAA Tobacco Use on School Premises at Public Functions~~

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Advisory 256

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REGULATION**REGULATION****STUDENT DISCIPLINE**

The following are prohibited activities:

- Criminal or delinquent acts;
- Gang related activity;
- Sexual harassment
- Disruptive conduct;
- Refusal to identify self;
- Refusal to cooperate with school personnel; and
- Harassment, bullying or cyberbullying.

A student may be subject to disciplinary action when the student engages in the above or those below:

- Engages in conduct that is disorderly, i.e., intentionally causing public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, by:
 - Fighting or engaging in violent behavior.
 - Making unreasonable noise.
 - Using abusive or obscene language or gestures.
 - Obstructing vehicular or pedestrian traffic.
 - Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- Engages in conduct that is insubordinate, i.e., failing to comply with the lawful directions of a teacher, school administrator, or other school employee in charge of the student.
- Endangers the safety, morals, health, or welfare of others by any act, including but not limited to:
 - Selling, distributing, using, or possessing tobacco or nicotine, alcohol, drugs, or other controlled substances or drug paraphernalia.

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- Selling, distributing, using, or possessing weapons, fireworks, or other dangerous instruments or contraband.
- Selling, using, or possessing obscene materials.
- Using profane, vulgar, or abusive language (including ethnic slurs).
- Gambling.
- Hazing.
- Engaging in lewd behavior;
- Engaging in harassing, cyberbullying or bullying of another student.
- Engages in any of the following forms of academic misconduct:
 - Lateness for, missing, or leaving school or class without permission or excuse.
 - Cheating (including but not limited to copying, using unauthorized assistance in any form, illegally obtaining tests in advance, substituting for a test-taker, and other forms of unauthorized collusion).
 - Plagiarism.
- Engages in conduct violative of the Board's rules and regulations for the maintenance of public order on school property.
- Uses electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.
- Has a record of excessive absenteeism.
- Is believed to have or actually has committed a crime.

Reasonableness of use of physical force in self-defense, defense of others, and defense of property will be considered as a mitigating factor in determining penalties for misconduct. The threat or use of physical force by a student is not reasonable i) when made in response to verbal provocation alone, ii) when assistance from a school staff member is a reasonable alternative, or iii) when the degree of physical force used is disproportionate to the circumstances or exceeds that necessary to avoid injury to oneself or to others or to preserve property at risk.

Permissible Penalties

The range of penalties that may be imposed for violations of student discipline rules include, but are not limited to, the following:

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- Parent-student disciplinary conference.
- Directed reflective activities.
- Anger management training referral.
- Verbal warning.
- Written warning.
- Written notification to parents.
- Probation.
- Detention.
- Suspension from transportation.
- Suspension from athletic participation.
- Suspension from social or extracurricular activities.
- Suspension of other privileges.
- Exclusion from a particular class.
- In-school suspension.
- Involuntary transfer.
- Community service.
- Suspension.
- Expulsion.

Depending upon the nature of the violation, and the surrounding circumstances, student discipline may be progressive, i.e., generally, a student's first violation should merit a lighter penalty than subsequent violations. A District employee or agent should take into account all other relevant factors in determining an appropriate penalty. The above penalties may be imposed either alone or in combination.

Student Disciplinary Proceeding

Any parent, student or other person may report a violation of student disciplinary rules to a school staff member or administrator. The employee will then report this to an administrator who will then make an investigation of the charges as deemed appropriate and will institute appropriate proceedings.

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This information for the maintenance of public order on school property will be publicized on the District web site, in student handbooks and explained to all students and provided in writing to parents as requested. In order to promote effectiveness of student discipline, the assistance of parents in enforcing rules for student discipline shall be invited and encouraged.

Involving Staff Members

The principal is responsible for involving staff members of the school in the development of a positive plan for student discipline. All staff members are responsible for implementing the plan of student discipline for the school.

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EXHIBIT

EXHIBIT

STUDENT DISCIPLINE

A GUIDE TO DISCIPLINARY ACTIONS

Displayed below is a guide to the probable disciplinary measures that may be taken in the event of student misbehavior. Absence from the list of additional misbehaviors that may occur does not preclude disciplinary action from being taken on those misbehaviors, nor does it imply limitations to the disciplinary action.

The actual discipline determined for a given violation will be based upon consideration of a variety of factors, which will include, but are not necessarily limited to, the following elements: the age of the student; the frequency, type, and magnitude of previous misbehaviors by the student; aggravating circumstances associated with the incident; the relative severity of the event; whether the student's behavior violated civil or criminal laws; the degree to which the incident interferes with the educational process; the extent of endangerment to the student, other persons, and property created by the event; special intellectual, psychological, emotional, environmental, and physical characteristics of the student; the student's attitude concerning the event; and the expressed intent concerning the student's own future behavior.

Behaviors that May Result in Student Discipline

Absenteeism:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Alcohol, use or under the influence of:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Arson:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Bomb threat:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Cheating:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Defiance of authority:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Dishonesty:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Disruptive conduct:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Disturbing school meeting or activity:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Dress or appearance violation:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Drug possession:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Drug sale:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Drug use:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Endangerment:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Ethnic slurs:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Extortion:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

False alarm (emergency, fire, security, etc.):

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

False information or identification, giving of:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Fighting:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Firearm/explosive device/knife:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Forgery:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Gambling:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Harassment/threats/verbal abuse:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Hazardous or physically offensive condition, causing:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Hazing:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Improper sexual advances:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Insubordination:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Insult/verbal abuse of a faculty or staff member:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Lewd/lascivious behavior:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Littering:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Malicious mischief:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Obstructing an investigation:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Obstructing traffic, vehicular or pedestrian:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Physical assault:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Plagiarism:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Resisting authority:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Slander:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Tardiness:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Theft of property (school related):

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Tobacco/Nicotine product use:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Unauthorized departure from class, campus, or event:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Unauthorized entry/trespass/loitering:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Vandalism or destruction of property (school related):

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Violation of a Board policy or school rule:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Violation of a local, state, or federal law:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Vulgar or obscene language, gestures, or symbols:

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

Weapon violation (not firearm/explosive device/knife):

<i>Occurrence</i>	<i>Range of Minimum Disciplines</i>	<i>Range of Maximum Disciplines</i>
<i>First</i>		
<i>Subsequent</i>		

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Advisory 257

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ADMINISTERING MEDICINES TO STUDENTS

Under certain circumstances, when it is necessary for a student to take medicine during school hours, the District will cooperate with the health care professional and the parents if the following requirements are met:

- For prescription medication and medical cannabis there must be a written order from the authorized health care professional stating the name of the medicine, the dosage, and the time it is to be given.
- Any order or plan for administering medications shall only be valid during the school year provided and while the student is enrolled.
- There must be written permission from the parent to allow the school or the student to administer the prescription medication, cannabis or over-the-counter medicine. Appropriate forms are available from the school office.
- The medicine must come to the school office in the prescription container or, if it is over-the-counter medication or cannabis, in the original container with all warnings and directions intact.
- A student should not carry medication to and from school unless authorized by the District to self-administer.
- Any and all medications left at the end of the current school year must be inventoried and picked up by the parents within the week following the end of school or they will be destroyed. Clean-up and witnessed destruction of any medical spillage or destruction of soiled medication must be accomplished within the same day in which destruction, spillage or waste occurs.

A responsible adult should bring medications to the school office if necessary. If medications are necessary for emergency use during transportation a written health management plan shall be prepared in consultation with the parents and school authorities indicating where the medication will be located during transportation and who will administer the medication.

In the case of medical cannabis, should there be no licensed school employee who is willing upon designation to administer medication, a written health management plan shall be prepared in consultation with the parents and school authorities indicating the conditions under which the parent may be present to administer the medication. This will include directions on where and how as well as when the medication may be administered.

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The District reserves the right, in accordance with procedures established by the Superintendent, to circumscribe or disallow the use or administration of any medication on school premises if the threat of abuse or misuse of the medicine may pose a risk of harm to a member or members of the student population.

This policy and any related policies or amendments to such policies shall be forwarded to the District liability insurance carrier for review.

Adopted: date of manual adoption

LEGAL REF.: 22-1-2 NMSA
22-5-4.3 NMSA
22-10A-3 NMSA
26-2B-1 NMSA *et seq.*
6.12.2.9 NMAC
6.12.10.1 NMAC *et seq.*
6.41.4.9 NMAC

CROSS REF.: ADB / ADC - Drug, Alcohol, and Tobacco/Nicotine Free Schools
EBC-RC - Emergencies (First Aid)
EEAB - Special Education Student Transportation
(Students with Special Transportation Needs)
GBEC - Drug-Free Workplace
GBECA - Non Medical Use or Abuse of Drugs or Alcohol
JIC - Student Conduct
~~JICG - Tobacco Use by Students~~
KI - Visitors to Schools

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Advisory 258

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EXHIBIT

EXHIBIT

**COMMUNITY USE OF
SCHOOL FACILITIES**

APPLICATION

Application Date: _____ Organization Name ("User"): _____

Commercial Group? _____ Street Address: _____

City State Zip

Date/Dates Requested: _____

Reservation: _____

Contact Person: _____

Facility/Facilities Requested: _____

Phone Number: _____

Event Contact Person: _____

Start Time: _____ [Person responsible for site security during the event.]

Cell Phone Number: _____

End Time: _____

Nature of Proposed Use: _____

Location of Proposed Use: _____ but specifically limited to area outlined in Exhibit "A" attached.

Detailed description of types and number of animals to be involved in the event, **if any**, and in detail what is the event and the means of protecting and separating animals from users or spectators.

Expected Attendance: _____ Is Admission to be Charged? _____

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A/V Equipment Requested? Yes _____ No _____

Will food be served? Yes _____ No _____

Is Set Up Time Required? Yes _____ No _____ If so, date & time requested for set up: _____

We agree to all provisions of the Site Use Agreement and the Exhibits hereto are incorporated herein by reference.

Signed _____

I hereby certify that I am authorized by user to make this Application and to make all representations on behalf of:

_____ day of _____, 20_____

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SITE USE AGREEMENT

1. General Conditions: This Agreement is entered into between:

_____ and _____
("School Facility") ("User")

for the use of _____
(Rooms or Areas to be Used)

between _____ and _____
(Time and Date) (Time and Date)

The above-named User and School Facility agree, in consideration of the promises and representations made by user in the Application, all of which are deemed material and made by the user intending the School Facility to rely on each one and intending to be legally bound, to the Terms and Conditions set forth below. The School Facility does not guarantee the suitability of the facility or of the facility's contents for the uses intended by the User. User agrees that in the event this Permit is canceled by User, or due to User's failure to meet Agreement requirements, refunds of any fees paid by User will be at the discretion of the School Facility. Any change to this Site Use Agreement shall be made in writing at least five (5) business days prior to the date of the event and subject to approval by the School Facility.

2. Lawful Use: The use shall be conducted in compliance with all federal, state and municipal statutes, ordinances, rules and regulations including those with regard to discrimination. School facilities shall not be used for any unlawful purpose and in addition to the safety rules and policies specific to the School Facility, which are attached hereto (*if any*), the User shall not:

- (a) Allow litter or debris and shall keep the premises clean at all times.
- (b) Allow use of alcohol, illegal drugs ~~and~~ or tobacco and nicotine which are prohibited on all school property at all times.
- (c) Allow guns on school property except for those in the possession of duly certified law enforcement personnel.
- (d) Use the facility without providing security as required by the school facility for the type of function they have planned.
- (e) Allow use of swimming pool facilities without having a certified life guard on duty at all times.
- (f) Allow events involving animals unless they are described in detail in the Application for Use and in compliance with any limitations or restrictions written into the Agreement. All animals must be leashed, penned, caged or otherwise properly contained, constrained or under supervision and control at all times. In the event of ambiguity of language in the Application or Agreement, restrictions on use of animals shall be strictly construed against the User.

- (g)** Allow open fires including candles, torches, and bonfires except pursuant to prior approval and permit by the school facility or other official having jurisdiction.
- (h)** Allow building exits to be blocked for any reason.
- (i)** Allow parking except in designated areas.
- (j)** Fail to provide vehicle and pedestrian traffic management sufficient to insure safe and orderly movement of vehicles and people.
- (k)** Allow design, placement or construction of booths, displays, viewing stands, platforms, theater sets, temporary stages or any other structures without adequate precautions for the safety of those building, using and disassembling such structures.
- (l)** Allow non-fire resistant decorations cover more than twenty percent (20%) of the wall area with decorations. Decorations shall never be placed within close proximity to incendiary sources.
- (m)** Create tripping hazards unless tripping hazards are unavoidable due to the nature of the event. Signage adequate to warn participants of obstacles must be provided.
- (n)** Allow hazardous materials, including pyrotechnic devises, fireworks, explosives flammable material or liquids, poisonous materials or plants, strong acids or caustics onto the premises or to be used in any way while occupying the premises except with the approval prior to use by the fire marshal or other authority having jurisdiction.
- (o)** Allow amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, bow and arrow shooting activity or equipment or devises related thereto onto the premises or to be used in any way while occupying the premises except with the express permission of the school facility and on proof of insurance carried by the User written by a company acceptable to the New Mexico Public School Insurance Authority ("Authority") of at least one million dollars (\$1,000,000) per occurrence naming the school facility as an additional insured. All such activities shall be operated and overseen by experienced, trained persons and, if possible, they must be certified to do so.
- (p)** Allow use of playground equipment unless at least one (1) adult supervisor for every fifteen (15) children is in attendance.

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- (q) Use the school facility without appropriate signage to inform participants of the safety rules. A list of emergency agencies and phone numbers shall also be posted.
- (r) Allow access to areas not specified for use in the Site Use Agreement.
- (s) Allow access to any one to School Facilities without securing an Accident Waiver and Release or Liability Form.

3. Notice of Accidents: All users shall give written notice to the school facility of any accident resulting in bodily injury or property damage occurring on school facility premises or in any way connected with the use of the school facility premises within twenty-four (24) hours of the accident. The notice shall include details of the time, place and circumstances of the accident and the names, addresses and phone numbers of any persons witnessing the accident.

4. Damage to User's Property: The School Facility assumes no liability or responsibility for any personal property of the User or of its employees, agents, representatives, guests, volunteers or invitees brought onto the premises during the term of this Agreement.

5. Parking and Security: The School Facility may determine at its sole discretion whether the event requires additional parking arrangements or security staff. If such a determination is made by the School Facility, the User must arrange for and be responsible for payment of personnel or the other arrangements necessary to provide those additional parking and/or security requirements. User must provide proof within five (5) days prior to the event that the arrangements have been made, and that User has guaranteed payment to those providing those additional services. During the event all motor vehicles of participants must be parked in accord with all posted and/or painted restrictions.

6. Insurance: General Liability insurance provided to the School Facility by the Authority shall be excess over any valid and collectible insurance carried by the User. General Liability insurance for the User provided to the School Facility by the Authority is limited to one million dollars (\$1,000,000) per occurrence. The User must carry Workers Compensation insurance if mandated under New Mexico law and Automobile Liability insurance naming the School Facility and its School Board, Board of Trustees or Governing Body as Additional Insured's, with limits no less than one million dollars (\$1,000,000) per occurrence for all motor vehicles owned or rented by User to be used in connection with the event. User shall deliver Certificates of Insurance along with a copy of the Additional Insured endorsement to the School Facility no later than forty-eight (48) hours in advance of the facility use or this Site Use Agreement shall be cancelled.

7. Use by Commercial Groups: Commercial groups shall provide a copy of a current business license. Commercial groups shall inform participants in writing that the activity is not sponsored by the School Facility.

8. Site Security: The User must assure that activity participants and/or guests/spectators only access those site areas designated for the activity. The designated Event Contact Person shall verify that all the areas utilized were properly checked and secured upon departure from the School Facility's premises.

9. Fees: The attached schedule sets forth fees to be paid for use of the School Facility. In addition to the use fee, users may be required to reimburse the School Facility for special services such as setting up tables and chairs, use of school equipment such as projectors or video equipment or abnormal wear and tear on the premises, equipment and other school property. All fees shall be made by check or money order and shall be made payable to the School Facility. It is inappropriate to pay school employees directly for services in kind or in cash. The fees are payable to the School Facility with the Application.

10. Clean Up: Users of school facilities shall provide prompt and thorough clean-up and removal or storage of all special structures within no more than twenty-four (24) hours after the end of the event, but in no case later than the beginning of the next school day or if school is out no later than prior to use of the area by school personnel. Users shall ensure that any furniture and equipment moved during the use of the facilities is replaced.

11. Non-Assignability: This agreement may not be assigned to another party without prior written consent of the School Facility, which consent may be withheld by the School Facility at its sole and absolute discretion.

12. Choice of Law: This agreement is to be governed and interpreted by the laws of State of New Mexico.

13. Entire Understanding: This agreement contains the entire understanding of the parties. There are no representations, covenants or warranties other than those expressly stated herein. No waiver or modification of any of the terms shall be valid unless in writing and signed by both parties.

14. Statement of Information: The undersigned, as a duly authorized representative of the User, states that to the best of his/her knowledge the School Facility, use of which is being applied for, will not be used for the commission of any crime or any act which is prohibited by law. By my signature below, I acknowledge that I am authorized to sign on behalf of the User and bind the User to the terms of this Agreement. I understand and agree to all terms, conditions and Rules in this Agreement.

15. Release: *User accepts School Facility's premises and adjoining areas as is and releases and discharges the School Facility, the Board of Trustees, School Board, or other Governing Body and each of their agents, employees and representatives from any and all liability, claims, judgments or demands, including reasonable attorney's fees and costs, which may arise from all injuries, deaths and damage to property arising directly or indirectly out of this Site Use Agreement including but not limited to User's use of the premises and the adjoining areas,*

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including parking areas. Users, groups and their individual participants shall be required to give waivers of liability and releases for personal injury or property damage on the attached form. User understands that this Site Use Agreement can be cancelled, and the event terminated, if the User fails to comply with the above terms and conditions or if the User has misrepresented the nature or extent of the proposed use in any material way.

User's Authorized Representative's Signature: _____

Name of Representative (Please Print): _____

Title: _____

Approved By: _____
(Representative of School Facility)

Title: _____

Fee for Use: _____

Application-permit (NMPSIA) Rev. 7/2/10

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Advisory 259

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PUBLIC CONDUCT ON SCHOOL PROPERTY

A person commits interference with or disruption of an educational institution by doing any of the following:

- Willfully interfering with or disruption of the normal operations of an educational institution by either:
 - Threatening to cause physical injury to any employee or student of an educational institution or any person on the property of an educational institution.
 - Threatening to cause damage to the District, the property of the District, or the property of any person attending the District.
- Willfully entering or remaining on the property of an educational institution for the purpose of interfering with or denying lawful use of the property to others.
- Refuse to obey a lawful order given by the Superintendent or a person designated to maintain order.

Restitution for any financial loss caused by a violation of the policy may be required. Furthermore, an individual who interferes with or disrupts an educational institution may be subject to misdemeanor or felony charges.

A person may also interfere with or disrupt the District function by committing any of the following:

- Any conduct intended to obstruct, disrupt, or interfere with teaching, research, service, administrative, or disciplinary functions or any activity sponsored or approved by this Board.
- Physical or verbal abuse or threat of harm to any person on property owned or controlled by the District or at supervised functions sponsored by the District.
- Forceful or unauthorized entry to or occupation of District facilities, including both buildings and grounds.
- ~~Use~~ Use, possession, distribution, or sale of tobacco or nicotine, alcohol, or drugs, other controlled substances, or other illegal contraband on District property or at school-sponsored functions.
- Use of speech or language that is offensive or inappropriate to the limited forum of the public school educational environment.

- Failure to comply with the lawful directions of District officials or of District security officers or other law enforcement officers acting in performance of their duties, and failure to identify oneself to such officials or officers when lawfully requested to do so.
- Knowing violation of a District rule and regulation. Proof that an alleged violator has a reasonable opportunity to become aware of such rules and regulations shall be sufficient proof that the violation was done knowingly.
- Any conduct constituting an infraction of any federal, state, or city law or policy or regulation of the Board.
- Carrying or possessing a weapon on school grounds unless the individual is a peace officer or has obtained specific authorization from the appropriate school administrator.

Additional Requirements of the General Public

The definition of *general public* is anyone who does not come under the definition of student, faculty member, staff member, or employee.

- No person shall visit or audit a classroom or other school activity, nor shall any person come upon or remain upon school premises, without approval by the principal or the principal's authorized representative. Nor shall any person conduct or attempt to conduct any activity on school premises without prior approval by the Superintendent or the Superintendent's authorized representative.
- Any member of the general public considered by the Superintendent, or a person authorized by the Superintendent, to be in violation of these rules shall be instructed to leave the property of the District. Failure to obey the instruction may subject the person to criminal proceedings and to any other applicable civil or criminal proceedings, or to tribal ordinance.
- Persons attending special functions shall confine themselves to the specific part of the facility assigned in the permit.
- Persons who engage in disorderly conduct of any kind may be subject to removal and exclusion from the facility.
- The use of facilities shall be granted only for legitimate purposes. Therefore, the permit holder shall assume full responsibility for any unlawful act committed during the exercise of the permit.

Adopted: date of manual adoption

<p><i>Note:</i> This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.</p>

LEGAL REF.: 30-20-13 NMSA (1978)
30-20-16 NMSA (1978)
30-20-18 NMSA (1978)
6.11.2.9 NMAC

CROSS REF.: GBEB - Staff Conduct
GCQF - Discipline, Suspension, Termination and Discharge
of Professional Staff Members
GDQD - Discipline, Suspension, Termination and Discharge
of Support Staff Members
JIC - Student Conduct
JK - Student Discipline

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Advisory 260

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~~TOBACCO USE / SMOKING ON SCHOOL PREMISES~~

~~The use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood altering substances and illicit drugs is prohibited in the following locations:~~

- ~~• School grounds.~~
- ~~• School buildings.~~
- ~~• School parking lots.~~
- ~~• School playing fields.~~
- ~~• School buses and other District vehicles.~~
- ~~• Off campus school sponsored events.~~

~~The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9. Notice and a listing of prohibited items will be included in a Tobacco, Drug and Alcohol Free School notice posted at the entrance to school buildings and athletic events.~~

~~All District employees are expected to cooperate in the enforcement of this policy. Members of the public using or blatantly flaunting prohibited products on school premises and failing to respond to a verbal warning shall be requested to leave the premises by school supervisory personnel in accord with laws on trespass. Law enforcement may be notified to assist with enforcement.~~

~~No school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce this policy.~~

~~The prohibitions do not apply to an adult when possession or use of the prohibited products are for demonstration purposes as a necessary instructional component of a tobacco prevention or cessation program that is approved by the school.~~

~~*Adopted:*— date of manual adoption~~

~~LEGAL REF.:— 24-16-3 NMSA *et seq.*, Dee Johnson Clean Air Act
6.11.2.9 NMAC
6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083 Pro-Children Act of 1994 (Environmental Tobacco
Smoke).
34 C.F.R. Part 85 Drug Free Workplace Act~~

~~CROSS REF.:— GBED Tobacco Use by Staff Members
JICG Tobacco Use by Students~~

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REGULATION**REGULATION****~~TOBACCO USE / SMOKING
ON SCHOOL PREMISES~~****~~(At Public Functions)~~**

~~All entrances to buildings and athletic facilities will be posted with a notice that these facilities are tobacco, alcohol and drug free and that use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises is prohibited. Announcements will be made at school activities and events.~~

~~All District employees are expected to cooperate in the enforcement of this policy. Student violations shall be reported to administrative personnel. Public and community violators should be given a verbal warning. If there is continued violation or a second violation of the prohibition by public or community persons, supervisory personnel must be notified for appropriate corrective action.~~

~~Members of the public using or blatantly flaunting prohibited products on school premises and failing to respond to a verbal warning shall be requested to leave the premises by school supervisory personnel in accord with laws on trespass. Law enforcement may be notified to assist if required.~~

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RELEVANT SUPPORT MATERIALS

NMSA 22-11-25.1

<https://nmonesource.com/nmos/nmsa/en/item/4368/index.do#!fragment/zoupio-Toc184744413/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAOAFgHYegjgGYAlABpk2UoQgBFRIVwBPAAHI14iITC4ECpao1adekAGU8pAEKqASgFEAMg4BqAQQByAYQfjSYABG0KTsoqJAA>

NMAC 2.82.5.15 – 18

<https://nmonesource.com/nmos/nmac/en/item/18059/index.do#!fragment/zoupio-Toc185868085/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAOAVi4DYuABl4BKADTJspQhACKiQrgCe0AORrxEQmFwIFS1Rq069IAMp5SAIVUALAKIAZBwDUAggDkAwg-GkwACNoUnZRUSA>

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