

# WHITEWATER SCHOOL DISTRICT

**R = required**

## **5000 SERIES PERSONNEL**

### **TABLE OF CONTENTS**

|                       |  |
|-----------------------|--|
| 5000                  | Board Goal/Personnel   |
| <b>R</b> 5002         | Accommodating Individuals With Disabilities  |
| <b>R</b> 5010         | Equal Employment Opportunity and Non-Discrimination  |
| <b>R</b> 5012         | Sexual Harassment/Sexual Intimidation in the Workplace                                     |
| 5015                  | Bullying/Harassment/Intimidation   |
| 5120                  | Hiring Process and Criteria  |
| 5121                  | Applicability of Personnel Policies  |
| 5122                  | Fingerprints and Criminal Background Investigations  |
| 5122F                 | Authorization to Release Information, Including Consent to<br>Fingerprint Background Check |
| 5130                  | Staff Health   |
| 5140                  | Classified Employment and Assignment   |
| 5210                  | Assignments, Reassignments, Transfers  |
| 5213                  | Vacancies  |
| 5221                  | Work Day   |
| <b>R</b> 5222         | Evaluation of Non-Administrative Staff   |
| 5223                  | Personal Conduct   |
| 5224                  | Political Activity   |
| 5225                  | Tobacco Free Policy  |
| 5226                  | Drug-Free Workplace  |
| <b>R</b> 5228 - 5228P | Drug and Alcohol Testing for School Bus and Commercial Vehicle<br>Drivers                  |
| 5230                  | Prevention of Disease Transmission   |
| 5231 - 5231P          | Personnel Records  |
| 5232                  | Abused and Neglected Child Reporting   |
| 5232F                 | Report of Suspected Child Abuse or Neglect   |
| <b>R</b> 5240 - 5240P | Resolution of Staff Complaints/Problem-Solving   |
| 5250                  | Non-Renewal of Employment/Dismissal From Employment  |
| 5251                  | Resignations   |
| 5253                  | Retirement Programs for Employees  |
| 5254                  | Payment of Employer Contributions and Interest on Previous<br>Service                      |
| 5255                  | Disciplinary Action  |
| 5256                  | Reduction in Force   |
| 5314                  | Substitutes  |
| 5321                  | Leaves of Absence  |
| 5321P                 | Conditions for Use of Leave  |

|                       |  |
|-----------------------|--|
| 5322                  | Military Leave   |
| <b>R</b> 5325         | Breastfeeding Workplace                                      |
| <b>R</b> 5328 - 5328P | Family Medical Leave   |
| 5329 - 5329P          | Long-Term Illness/Temporary Disability/Maternity Leave       |
| 5331                  | Insurance Benefits for Employees                             |
| 5333                  | Holidays   |
| 5334 - 5334P          | Vacations  |
| <b>R</b> 5336         | Compensatory Time and Overtime for Classified Employees      |
| 5337                  | Workers' Compensation Benefits                               |
| 5338                  | Absence Due to Illness or Injury                             |
| 5420                  | Teachers' Aides/Paraeducators                                |
| 5430                  | Volunteers   |
| 5440                  | Student Teachers/Interns                                     |
| 5450                  | Employee Electronic Mail and On-Line Services Usage          |
| 5500                  | Payment of Wages Upon Termination                            |
| <b>R</b> 5510         | HIPAA  |
| 5510F                 | HIPAA Form   |
| 5630                  | Employee Use of Cellular Phones and Other Electronic Devices |

## **Whitewater School District**

### **PERSONNEL**

5000

#### Board Goal/Personnel

The human resources of the District are valuable and significant in creating an effective educational program and learning environment. Schools function most efficiently and successfully when highly qualified individuals are employed to staff the needs of the District. Opportunities for staff development should be provided periodically. Supervision is a necessary, ongoing function of the District's leadership. The board seeks to promote an efficient and positive school climate in all educational endeavors, in order that students may work toward their greatest potential, and the community will be proud of its investment.

Nothing contained in the policies or administrative procedures included herein is intended to limit the legal rights of the Board or its agents except as expressly stated.

Should any provision of Board policy or administrative procedure be held to be illegal by a court of competent jurisdiction, all remaining provisions shall continue in full force and effect.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5002

#### Accommodating Individuals With Disabilities

Individuals with disabilities shall be provided a reasonable opportunity to participate in all school-sponsored services, programs, or activities on an equal basis to those without disabilities and will not be subject to illegal discrimination. The District will provide auxiliary aids and services where necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity.

Each service, program, or activity operated in existing facilities shall be readily accessible to, and useable by, individuals with disabilities. New construction and alterations to facilities existing before January 26, 1992, will be accessible when viewed in their entirety.

The Superintendent is designated the Americans With Disabilities Act, Title II Coordinator and, in that capacity, is directed to:

1. Oversee the District's compliance efforts, recommend necessary modifications to the Board, and maintain the District's final Title II self-evaluation document and keep it available for public inspection.
2. Institute plans to make information regarding Title II's protection available to any interested party.

Individuals with disabilities should notify the Superintendent or building administrator if they have a disability which will require special assistance or services and, if so, what services are required. This notification should occur as far as possible before the school-sponsored function, program, or meeting.

Cross Reference: 5240P Uniform Grievance Procedure

Legal Reference : Americans with Disabilities Act, 42 U.S.C. §§ 12111, et seq., and 12131, et seq.; 28 C.F.R. Part 35.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5010

#### Equal Employment Opportunity and Non-Discrimination

The District shall provide equal employment opportunities to all persons, regardless of their race, color, religion, creed, national origin, sex, age, ancestry, marital status, military status, citizenship status, use of lawful products while not at work, physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodations, and other legally protected categories.

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

Inquiries regarding discrimination should be directed to the Title IX Coordinator. Specific written complaints should follow the Uniform Grievance Procedure.

Cross Reference: 5240P Uniform Grievance Procedure

Legal Reference: Age Discrimination in Employment Act, 29 U.S.C. §§ 621, et seq.  
Americans with Disabilities Act, Title I, 42 U.S.C. §§ 12111, et seq.  
Equal Pay Act, 29 U.S.C. § 206(d)  
Montana Constitution, Art. X, § 1  
Immigration Reform and Control Act, 8 U.S.C. §§ 1324(a), et seq.  
Rehabilitation Act of 1973, 29 U.S.C. §§ 791, et seq.  
Title VII of Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R., Part 1601  
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, et seq., 34 C.F.R., Part 106  
§ 49-2-101, et. al., MCA      Human Rights Act  
§ 49-3-102, MCA              Freedom from discrimination

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5012  
page 1 of 2

#### Sexual Harassment/Sexual Intimidation in the Workplace

The District shall do everything in its power to provide employees an employment environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, as defined and otherwise prohibited by state and federal law.

District employees shall not make sexual advances or request sexual favors or engage in any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms "intimidating", "hostile", or "offensive" include, but are not limited to, conduct which has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all of the circumstances.

A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action, up to and including discharge.

Aggrieved persons who feel comfortable doing so, should directly inform the person engaging in sexually harassing conduct or communication, that such conduct or communication is offensive and must stop.

Employees who believe they may have been sexually harassed or intimidated should contact the Title IX coordinator or an administrator, who will assist them in filing a complaint. An individual with a complaint alleging a violation of this policy shall follow the Uniform Grievance Procedure.

Cross Reference:                   3215   Uniform Grievance Procedure

Legal Reference: Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R.  
§ 1604.11  
Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.  
Montana Constitution, Art. X, § 1  
§ 49-2-101, MCA Human Rights Act  
Harris v. Fork Lift Systems, 114 S.Ct. 367 (1993)

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

Bullying/Harassment/Intimidation

The Board will strive to provide a positive and productive working environment. Bullying, harassment, intimidation, between employees or by third parties, are strictly prohibited and shall not be tolerated. This includes bullying, harassment, or intimidation via electronic communication devices (“cyberbullying”).

Definitions

4. “Third parties” include but are not limited to coaches, school volunteers, parents, school visitors, service contractors or others engaged in District business, such as employees of businesses or organizations participating in cooperative work programs with the District, and others not directly subject to District control at inter-district and intra-District athletic competitions or other school events.
5. “District” includes District facilities, District premises, and non-District property if the employee is at any District-sponsored, District-approved, or District-related activity or function, such as field trips or athletic events, where the employee is engaged in District business.
6. “Harassment, intimidation, or bullying” means any act that substantially interferes with an employee’s opportunities or work performance, that takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation, or anywhere conduct may reasonably be considered to be a threat or an attempted intimidation of a staff member or an interference with school purposes or an educational function, and that has the effect of:
  - a. Physically harming an employee or damaging an employee’s property;
  - b. Knowingly placing an employee in reasonable fear of physical harm to the employee or damage to the employee’s property; or
  - c. Creating a hostile working environment.
7. “Electronic communication device” means any mode of electronic communication, including but not limited to computers, cell phones, PDAs, or the internet.

Reporting

All complaints about behavior that may violate this policy shall be promptly investigated. Any employee or third party who has knowledge of conduct in violation of this policy or feels he/she has been a victim of harassment, intimidation, or bullying in violation of this policy is encouraged to immediately report his/her concerns to the building principal or the District Administrator, who have overall responsibility for such investigations. Complaints against the



building principal shall be filed with the Superintendent. Complaints against the Superintendent or District Administrator shall be filed with the Board.

The complainant shall be notified of the findings of the investigation and, as appropriate, that remedial action has been taken.

### Responsibilities

The District Administrator shall be responsible for ensuring that notice of this policy is provided to staff and third parties and for the development of administrative regulations, including reporting and investigative procedures, as needed.

### Consequences

Staff whose behavior is found to be in violation of this policy will be subject to discipline up to and including dismissal. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the District Administrator or the Board. Individuals may also be referred to law enforcement officials.

### Retaliation and Reprisal

Retaliation is prohibited against any person who reports or is thought to have reported a violation, files a complaint, or otherwise participates in an investigation or inquiry. Such retaliation shall be considered a serious violation of Board policy, whether or not a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Legal Reference:      10.55.701(3)(g), ARM      Board of Trustees  
                                 10.55.801(1)(d), ARM      School Climate

### Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

## **Whitewater School District**

### **PERSONNEL**

5021

#### Applicability of Personnel Policies

Except where expressly provided to the contrary, personnel policies apply uniformly to the employed staff of the District. However, where there is a conflict between the terms of a collective bargaining agreement and the District's policy, the law provides that the terms of the collective bargaining agreement shall prevail for the staff covered by that agreement.

When a matter is not specifically provided for in an applicable collective bargaining agreement, the policies of the Board to effectively and efficiently manage the District shall govern.

Legal Reference: § 39-31-102, MCA Chapter not a limit on legislative authority

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5120

#### Hiring Process and Criteria

The Superintendent is responsible for recruiting personnel, in compliance with Board policy, and making hiring recommendations to the Board. Educational support personnel applicants are initially screened by the building administrator. The District shall hire the best-qualified personnel, consistent with budget and staffing requirements, and shall comply with Board policy and state law on equal employment opportunities and veterans' preferences. All applicants must complete a District application form in order to be considered for employment.

Each applicant must provide a written authorization for a criminal background investigation. The Superintendent will keep a conviction record confidential as required by law and District policy. Each newly hired employee must complete an Immigration and Naturalization Service form, as required by federal law.

#### Certification

The District shall require that its contracted certificated staff hold a valid Montana Teacher or Specialist Certificate endorsed for the role and responsibilities for which they are employed. Failure to meet this requirement shall be just cause for termination of employment. No salary warrants may be issued to the staff member unless a valid certificate for the role to which the teacher has been assigned has been registered with the County Superintendent within sixty (60) calendar days after the term of service begins. Each contracted teacher and administrator shall bring their current, valid certificate at the time of each renewal of certification as well as at the time of initial employment to the personnel office.

The personnel office shall register all certificates, noting the class and endorsement and updating the permanent record card as necessary. In addition, the personnel office will retain a copy of each contracted certificated employee's valid certificate in the employee's personnel file.

Cross Reference:                      5122    Fingerprinting and Criminal Background Investigations

Legal Reference:      10.55.302, ARM      Certificates  
                                 § 20-4-202, MCA      Teacher and specialist certification registration  
                                 § 39-29-102, MCA      Point preference or alternative preference in initial hiring for certain applicants - - substantially equivalent selection procedure

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5121

#### Applicability of Personnel Policies

Except where expressly provided to the contrary, personnel policies apply uniformly to the employed staff of the District. However, where there is a conflict between terms of a collective bargaining agreement and District policy, the law provides that the terms of the collective bargaining agreement shall prevail for staff covered by that agreement.

Board policies will govern when a matter is not specifically provided for in an applicable collective bargaining agreement.

Legal Reference: § 39-31-102, MCA Chapter not limit on legislative authority

#### Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

**PERSONNEL**

Fingerprints and Criminal Background Investigations

It is the policy of the Board that any finalist recommended for hire to a paid or volunteer position with the District involving regular unsupervised access to students in schools, as determined by the Superintendent, shall submit to a name-based and/or fingerprint criminal background investigation conducted by the appropriate law enforcement agency prior to consideration of the recommendation for employment or appointment by the Board. The results of the name-based check shall be presented to the Board concurrent with the recommendation for employment or appointment. Any subsequent offer of employment or appointment may be contingent upon results of the fingerprint criminal background check, which must be acceptable to the Board in its sole discretion.

The following applicants for employment, as a condition for employment, shall be required as a condition of any offer of employment to authorize, in writing, a name-based and/or fingerprint criminal background investigation to determine if he or she has been convicted of certain criminal or drug offenses:

- \* a certified teacher seeking full- or part-time employment within the District;
- \* an educational support personnel employee seeking full- or part-time employment within the District;
- \* an employee of a person or firm holding a contract with the District if the employee is assigned to the District;
- \* a volunteer assigned within the District who has REGULAR unsupervised access to students.

Any requirement of an applicant to submit to a fingerprint background check shall be in compliance with the Volunteers for Children Act of 1998 and applicable federal regulations. If an applicant has any prior record of arrest or conviction by any local, state, or federal law enforcement agency for an offense other than a minor traffic violation, the facts must be reviewed by the Superintendent, who shall decide whether the applicant shall be declared eligible for appointment or employment. Arrests resolved without conviction shall not be considered in the hiring process unless the charges are pending.

|                  |   |  |
|------------------|---|--|
| Legal Reference: | § 44-5-301, MCA                                 | Dissemination of public criminal justice information   |
|                  | § 44-5-302, MCA                                 | Dissemination of criminal history record information that is not public criminal justice information |
|                  | § 44-5-303, MCA                                 | Dissemination of confidential criminal justice information   |
|                  | Public Law 105-251, Volunteers for Children Act |  |

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**AUTHORIZATION TO RELEASE INFORMATION**

TO WHOM IT MAY CONCERN:

I, \_\_\_\_\_, am seeking employment or volunteer assignment with the Whitewater School District. I acknowledge that a complete investigation into my background is necessary to protect the safety and welfare of the children in the Whitewater School District. I hereby expressly and voluntarily give the Whitewater School District the right to make a thorough investigation of my past employment, education, and activities. I specifically authorize the release of any and all information of a confidential or privileged nature, **including confidential criminal justice information as defined in Section 44-5-103(3), MCA**, to the staff of the Whitewater School District and its agents. I understand that the Whitewater School District reserves the right to use any lawful method of investigation that, in its sole discretion, it deems reasonable and necessary.

I hereby release the Whitewater School District and any organization, company, institution, or person furnishing information to the District and its agents as expressly authorized above, from any liability for damage which may result from any dissemination of the information requested, subject to the provisions of Title 44, Chapter 5, Part 3, MCA.

This document is effective until revoked in writing by me.

\_\_\_\_\_  
SIGNATURE DATE

Print Full Name: \_\_\_\_\_

Print Full Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Birth Date: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

STATE OF MONTANA )  
 : ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary public of the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person named in the foregoing Release, and acknowledged to me that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public, State of Montana  
County of \_\_\_\_\_  
My commission expires \_\_\_\_\_

## **Whitewater School District**

### **PERSONNEL**

5130  
page 1 of 2

#### Staff Health

##### Medical Examinations

Through its overall safety program and various policies pertaining to school personnel, the Board shall promote the safety of employees during working hours and assist them in the maintenance of good health. It shall encourage all its employees to maintain optimum health through the practice of good health habits.

Under the circumstances defined below, the Board may require physical examinations of its employees. Results of such physical examinations shall be maintained in separate medical files and not in the employee's personnel file and may be released only as permitted by law.

##### Physical Examinations

If the work is of a physically demanding nature, subsequent to a conditional offer of employment and prior to a commencement of work, the District may require an applicant to have a medical examination and to meet any other health requirements that may be imposed by the State. The District may condition an offer of employment on the results of such examination, if all entering employees in the applicable job category are subject to such examination. If approved by personnel services, a thirty-(30)-day grace period beginning from the date of employment may be allowed for the employee to obtain the required medical examination.

All bus drivers, including full-time, regular part-time or temporary part-time drivers, are required by state law to have a satisfactory medical examination prior to employment.

##### Communicable Diseases

If a staff person has a communicable disease and has knowledge that a person with compromised or suppressed immunity attends the school, the staff person must notify the school nurse or other responsible person designated by the Board that he has a communicable disease which could be life threatening to an immune compromised person. The school nurse or other responsible person designated by the Board must determine, after consultation with and on the advice of public health, if the immune compromised person needs appropriate accommodation to protect their health and safety.

An employee with a communicable disease shall not report to work during the period of time in which the employee is infectious. An employee afflicted with a communicable disease capable of being readily transmitted in the school setting (e.g., airborne transmission of tuberculosis) shall be encouraged to report the existence of the illness in case there are precautions that must

be taken to protect the health of others. The District reserves the right to require a statement from the employee's primary care provider prior to the employee's return to work.

### Confidentiality

In all instances, District personnel shall respect the individual's right to privacy and treat any medical diagnosis as confidential information. Any information obtained regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as confidential information. Only those individuals with a legitimate need to know (i.e., those persons with a direct responsibility for the care of or for determining work place accommodation for the staff person) will be provided with necessary medical information.

Supervisors and managers may be informed of the necessary restrictions on the work or duties of the employee and necessary accommodations. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

Legal Reference:      29 U.S.C. 794, Section 504 of the Rehabilitation Act  
                             29 CFR, Section 1630.14(c)(1)(2)(3)  
                             41 U.S.C. 12101, et seq.      Americans with Disabilities Act  
                             Title 49, Chapter 4, MCA      Rights of the Handicapped  
                             Title 49, Chapter 2, MCA      Illegal Discrimination  
                             § 20-10-103(4), MCA  
                             24.9.1401, et seq., ARM  
                             16.28.1005, ARM

### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## Whitewater School District

### PERSONNEL

5140

#### Classified Employment and Assignment

Each permanent classified employee shall receive a letter of initial notification of employment signed by the Superintendent and a contract for a specified term. The District reserves the right to change employment conditions affecting the employee's duties, assignment, supervisor or grade.

The Board shall determine the salary and wages for classified personnel.

Legal Reference:     Whidden v. Nerison, 294 Mont. 346, 981 P.2d 271 (1999)  
                          Bowden v. The Anaconda Co., 38 St. Rep. 1974 (D.C. Mont. 1981)  
                          Scott v. Eagle Watch Inv., Inc., 251 Mont. 191, 828 P.2d 1346 (1991)  
                          Prout v. Sears, Roebuck & Co., 236 Mont. 152, 722 P2d 288 (1989)

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5210

#### Assignments, Reassignments, Transfers

All staff shall be subject to assignment, reassignment and/or transfer of position and duties by the Superintendent. Teachers shall be assigned at the levels and in the subjects for which their certificates are endorsed. The Superintendent shall provide for a system of assignment, reassignment and transfer of classified staff, including voluntary transfers and promotions. Nothing in this policy shall prevent the reassignment of a staff member during the school year.

#### Classified Staff

The right of assignment, reassignment and transfer shall remain that of the District. Written notice of a reassignment or involuntary transfer shall be given the employee. Opportunity shall be given for the staff member to discuss the proposed transfer or reassignment with the Superintendent.

#### Teaching

All teachers shall be given notice of their teaching assignments relative to grade level, building and subject area before the beginning of the school year. All employees of the District who are assigned extracurricular activities as a contract obligation must honor this obligation as a condition of employment unless released from this responsibility by the Board.

Provisions governing vacancies, promotions and voluntary or involuntary transfers may be found in negotiated agreements or employee handbooks.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5213

#### Vacancies

When the District determines that a vacancy exists, that vacancy may be posted in each school building or, during the summer, outside the office.

Vacancies may be advertised in-District only or they may be advertised in-District and through job service, Career Services at a college or university, local public advertising and, where appropriate, if time permits, through a broader regional and/or national basis. A vacancy need not be advertised as determined by the Superintendent.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5221

#### Work Day

##### Length of Work Day - Certified

All conditions pertaining to the certified work day, preparation periods, lunches, etc., are found in the current collective bargaining agreement. Arrival time shall generally be as directed by the building administrator or as stipulated in the agreement.

##### Length of Work Day - Classified

The length of a classified work day is governed by the number of hours for which the employee is assigned. A "full-time" employee shall be considered to be an eight-(8)-hour per day/forty (40)-hour per week employee. The work day is exclusive of lunch but inclusive of breaks unless otherwise and specifically provided for by the individual contract. The schedule will be established by the supervisor. Normal office hours in the district will be 8:00 a.m. to 4:00 p.m.

#### Breaks

A daily morning and afternoon rest period of fifteen (15) minutes may be available to all full-time, classified employees. Hourly personnel may take one (1) fifteen-(15)-minute rest period for each four (4) hours that are worked in a day. Breaks will normally be taken approximately in mid-morning and mid-afternoon and should be scheduled in accordance with the flow of work and with the approval of the employee's supervisor.

#### Legal Reference:

|                         |                                  |            |
|-------------------------|----------------------------------|------------|
|                         | 29 USC 201 to 219                | Fair Labor |
|                         | Standards Act of 1985            |            |
| 29 CFR 516, et seq.     | FLSA Regulations                 |            |
| § 39-4-107, MCA         | State and municipal governments, |            |
|                         | school districts (first class)   |            |
| § 39-3-405, MCA         | Overtime compensation            |            |
| 10.55.209, ARM          | Standard School Day              |            |
| 10.65.103(2), ARM       | Program of Approved Pupil        |            |
|                         | Instruction-Related Days         |            |
| 24.16.102, et seq., ARM | Wages and hours                  |            |

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5222

#### Evaluation of Non-Administrative Staff

Each non-administrative staff member's job performance shall be evaluated by the staff member's direct supervisor. The evaluation process includes scheduled annual evaluations, on forms applicable to the job classification and description, and day-to-day appraisals. Certified staff members may be evaluated according to the terms stated in the current collective bargaining agreement.

The supervisor shall provide a copy of the completed evaluation to the staff member and shall provide an opportunity to discuss the evaluation. The original should be signed by the staff member and filed with the Superintendent. If the staff member refuses to sign the evaluation, the supervisor should note the refusal and submit the evaluation to the Superintendent.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5223

#### Personal Conduct

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

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

Further, employees should hold confidential all information deemed to be not for public consumption as determined by state law and Board policy. Employees shall also respect the confidentiality of people served in the course of the employee's duties and use information gained in a responsible manner. Discretion should be employed even within the school system's own network of communication.

Administrators and supervisors may set forth specific rules and regulations governing an employee's conduct on the job within a particular building.

Legal Reference:           § 20-1-201, MCA           School officers not to act as agents

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5224

#### Political Activity - Staff Participation

The Board recognizes its individual employees' rights of citizenship, including, but not limited to, engaging in political activities. An employee of the District may seek an elective office, provided that the staff member does not campaign on school property during working hours, and provided all other legal requirements are met. The District assumes no obligation beyond making such opportunities available. In the event the staff member is elected to office, the employee is entitled to take a leave of absence without pay in accordance with the provisions of § 2-18-620, MCA.

No person may attempt to coerce, command or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

No District employee may solicit support for, or opposition to, any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at his place of employment. However, nothing in this section is intended to restrict the right of a District employee to express his personal political views.

#### Legal Reference:

|                  |   |
|------------------|---|
| § 2-18-620, MCA  | 5 USC 7321, et seq. Hatch Act<br>Mandatory leave of absence of public employees attending training camp or similar training program |
| § 13-35-226, MCA | Unlawful acts of employers and employees  |

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5225

#### Tobacco Free Policy

The District maintains tobacco free buildings and grounds. Use of tobacco will not be allowed in any buildings or grounds nor will employees be allowed to use tobacco while on duty. New employees of the District will be hired with the understanding that they will be directed not to use tobacco in school buildings or grounds. Limitations or prohibitions on tobacco use are applicable to all hours.

Legal Reference: § 20-1-220, MCA                      Use of tobacco product in public school  
building or property prohibited  
§§ 50-40-101, et seq., MCA      Montana Clean Indoor Act of 1979

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## Whitewater School District

### PERSONNEL

5226  
page 1 of 2

#### Drug-Free Workplace

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

- Unlawful manufacture, dispensing, distribution, possession, use, or being under the influence of a controlled substance while on District premises or while performing work for the District.
- Distribution, consumption, use, possession, or being under the influence of alcohol while on District premises or while performing work for the District.

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

- not legally obtainable;
- being used in a manner different than prescribed;
- legally obtainable, but has not been legally obtained; or
- referenced in federal or state controlled substance acts.

As a condition of employment, each employee shall:

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

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

- provide each employee with a copy of the District Drug- and Alcohol-Free Workplace policy;
- post notice of the District Drug- and Alcohol-Free Workplace policy in a place where other information for employees is posted;
- enlist the aid of community and state agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees; and
- inform employees of available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs.

District Action Upon Violation of Policy

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

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

Should District employees be engaged in the performance of work under a federal contract or grant, or under a state contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate state or federal agency from which the District receives contract or grant moneys of the employee's conviction, within ten (10) days after receiving notice of the conviction.

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5228

#### Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

The District shall adhere to federal law and regulations requiring a drug and alcohol testing program for school bus and commercial vehicle drivers.

This program shall comply with the requirements of the Code of Federal Regulations, Title 49, §§ 382, et seq. The Superintendent shall adopt and enact regulations consistent with the federal regulations, defining the circumstances and procedures for the testing.

Legal Reference: 49 U.S.C. § 2717, Alcohol and Controlled Substances Testing (Omnibus Transportation Employee Testing Act of 1991)  
49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled Substance and Alcohol Use and Testing), and 395 (Hours of Service of Drivers)

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5228P  
page 1 of 5

#### Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

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

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

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

#### Pre-Employment Tests

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

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

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

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

#### Post-Accident Tests

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

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

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

No such driver shall use alcohol for eight (8) hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

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

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

#### Random Tests

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

#### Reasonable Suspicion Tests

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

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

A supervisor or District official who makes observations leading to a controlled substance

reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### Enforcement

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

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

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

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

### Return-to-Duty Tests

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

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

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

### Follow-Up Tests

A driver who violates the District's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall

be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions.

### Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

### Notifications

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

1. the person designated by the District to answer driver questions about the materials;
2. the categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
3. sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. specific information concerning driver conduct that is prohibited by Part 382;
5. the circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. the procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver;
7. the requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. an explanation of what constitutes a refusal to submit to a drug or alcohol test and

- the attendant consequences;
9. the consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation, and treatment;
  10. the consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; and
  11. information concerning the effects of drugs and alcohol on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

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

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

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

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

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

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

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

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## **Whitewater School District**

### **PERSONNEL**

5230

#### Prevention of Disease Transmission

All District personnel shall be advised of routine procedures to follow in handling body fluids. These procedures shall provide simple and effective precautions against transmission of diseases to persons exposed to the blood or body fluids of another. These procedures shall be standard health and safety practices. No distinction shall be made between body fluids from individuals with a known disease or infection and from individuals without symptoms or with an undiagnosed disease.

The administration shall develop, in consultation with public health and medical personnel, procedures to be followed by all staff. The procedures shall be distributed to all staff, and training on the procedures shall occur on a regular basis. Training and appropriate supplies shall be available to all personnel, including those involved in transportation and custodial services.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5231

Personnel Records

The District maintains a complete personnel record for every current employee and former employee. The employees' personnel records shall be maintained in the District's administrative office, under the Superintendent's direct supervision. An employee will be given access to his or her personnel records, according to the guidelines developed by the Superintendent.

In addition to the Superintendent or other designees, a committee or member of the Board, when authorized through Board action, may have access to cumulative personnel files. Counsel retained by the Board or the employee shall also have access to a cumulative personnel file, when specifically authorized by the Board or Superintendent, respectively.

Access to information contained in the personnel records of District employees is governed by Policy 4340.

Cross Reference:                   4340   Public Access to District Records

Legal Reference:                 10.55.701, ARM       Board of Trustees

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5231P  
page 1 of 2

#### Personnel Records

The District shall maintain a cumulative personnel file in the administrative office for each of its employees, as required by the Office of Public Instruction and current personnel policies. These records are not to leave the administrative office except as specifically authorized by the Superintendent, and then only by signed receipt. Payroll records are maintained separately.

#### Contents of Personnel Files

A personnel file may contain, but is not limited to, transcripts from colleges or universities, information allowed by statute, a record of previous employment (other than college placement papers for periods beyond active candidacy for a position), evaluations, copies of contracts, and copies of letters of recommendation requested by an employee. All material in the personnel file must be related to the employee's work, position, salary, or employment status in the District. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel file of the participants.

No material derogatory to an employee's conduct, service, character, or personality shall be placed in the file, unless such placement is authorized by the Superintendent, as indicated by his initials, and unless the employee has had adequate opportunity to read the material. For the latter purpose, the Superintendent shall take reasonable steps to obtain the employee's initials or signature verifying the employee has received a copy of the material. If the employee refuses to sign the document indicating they have had an opportunity to read it, the Superintendent will place an addendum to the document, noting that the employee was given a copy but refused to sign. The Superintendent will date and sign the addendum.

#### Disposition of Personnel Files

An employee, upon termination, may request transcripts of college and university work. Any confidential college or university placement papers shall be returned to the sender or destroyed at the time of employment. All other documents shall be retained and safeguarded by the District for such periods as prescribed by law.

#### Record Keeping Requirements Under the Fair Labor Standards Act

1. Records required for ALL employees:
  - A. Name in full (same name as used for Social Security);
  - B. Employee's home address, including zip code;
  - C. Date of birth if under the age of 19;

- D. Sex (may be indicated with Male/Female, M/F, Mr./Mrs./Miss);
  - E. Time of day and day of week on which the employee's work week begins;
  - F. Basis on which wages are paid (such as \$5/hour, \$200/week, etc.);
  - G. Any payment made which is not counted as part of the "regular rate";
  - H. Total wages paid each pay period.
2. Additional records required for non-exempt employees:
- A. Regular hourly rate of pay during any week when overtime is worked;
  - B. Hours worked in any work day (consecutive twenty-four-(24)-hour period);
  - C. Hours worked in any work week (or work period in case of 207[k]);
  - D. Total daily or weekly straight-time earnings (including payment for hours in excess of forty (40) per week, but excluding premium pay for overtime);
  - E. Total overtime premium pay for a work week;
  - F. Date of payment and the pay period covered;
  - G. Total deductions from or additions to wages each pay period;
  - H. Itemization of dates, amounts and reason for the deduction or addition, maintained on an individual basis for each employee;
  - I. Number of hours of compensatory time earned each pay period;
  - J. Number of hours of compensatory time used each pay period;
  - K. Number of hours of compensatory time compensated in cash, the total amount paid and the dates of such payments;
  - L. The collective bargaining agreements which discuss compensatory time, or written understandings with individual non-union employees.

All records obtained in the application and hiring process shall be maintained for at least two years.

|                  |                         |                          |
|------------------|-------------------------|--------------------------|
| Legal Reference: | 29 USC 201, et seq.     | Fair Labor Standards Act |
|                  | § 2-6-101, et seq., MCA | Public Records           |
|                  | 24.9.805, ARM           | Employment Records       |

Procedure History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5232

Abused and Neglected Child Reporting

A District employee who has reasonable cause to suspect that a student may be an abused or neglected child shall report such a case to the Montana Department of Family Services. The employee shall notify the Superintendent or building administrator that a report has been made by the employee. An employee does not discharge the obligation to personally report by notifying the Superintendent or building administrator.

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

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

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

5232F

**PERSONNEL**

Whitewater School District  
Report of Suspected Child Abuse or Neglect

*Original to:* Department of Family Services

*Copy to:* Superintendent

From: \_\_\_\_\_

Title: \_\_\_\_\_

School: \_\_\_\_\_

Phone: \_\_\_\_\_

Persons contacted:  Superintendent  Teacher  School Nurse

Other \_\_\_\_\_

Name of Minor: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

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

Date of Report \_\_\_\_\_

Attendance Pattern: \_\_\_\_\_

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

Phone: \_\_\_\_\_

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

Phone: \_\_\_\_\_

**Guardian or**

Step-Parent: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Any suspicion of injury/neglect to other family members: \_\_\_\_\_

\_\_\_\_\_

Nature and extent of the child's injuries, including any evidence of previous injuries, and any other information which may be helpful in showing abuse or neglect, including all acts which lead you to believe the child has been abused or neglected: \_\_\_\_\_

\_\_\_\_\_

Previous action taken, if any: \_\_\_\_\_

\_\_\_\_\_

Follow-up by Department of Family Services (DFS to complete and return copy to the Superintendent):

Date Received: \_\_\_\_\_ Date of Investigation: \_\_\_\_\_

## **Whitewater School District**

### **PERSONNEL**

5240

#### Resolution of Staff Complaints/Problem-Solving

As circumstances allow, the District will attempt to provide the best working conditions for its employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question is answered quickly and accurately by District supervisors or administration.

The District will endeavor to promote fair and honest treatment of all employees. Administrators and employees are all expected to treat each other with mutual respect. Each employee has the right to express his or her views concerning policies or practices to the administration in a businesslike manner, without fear of retaliation. Employees are encouraged to offer positive and constructive criticism.

Each employee is expected to follow established rules of conduct, policies, and practices. Should an employee disagree with a policy or practice, the employee can express his or her disagreement through the District's grievance procedure. No employee shall be penalized, formally or informally, for voicing a disagreement with the District in a reasonable, businesslike manner, or for using the grievance procedure. An employee filing a grievance under a collective bargaining agreement is required to follow the grievance procedure for that particular agreement.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5240P  
page 1 of 2

#### Uniform Grievance Procedure

All individuals should use this grievance procedure if they believe that the Board, its employees or agents have violated their rights guaranteed by the State or federal constitution, State or federal statute, or Board policy.

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

#### Level 1: Informal

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

#### Level 2: Superintendent

If the complaint is not resolved at Level 1, the grievant may file a written grievance stating: 1) the nature of the grievance and 2) the remedy requested. It must be signed and dated by the grievant. The Level 2 written grievance must be filed with the Superintendent within sixty (60) days of the event or incident, or from the date the grievant could reasonably become aware of such occurrence.

If the complaint alleges a violation of Board policy or procedure, the Superintendent shall investigate and attempt to resolve the complaint. If either party is not satisfied with the decision of the Superintendent, the Board is the next avenue for appeal. A written appeal must be submitted to the Board within fifteen (15) days of receiving the Superintendent's decision. The Board is the policy-making body of the school, however, and appeals to that level must be based solely on whether or not policy has been followed. Any individual appealing a decision of the Superintendent to the Board bears the burden of proving a failure to follow Board policy.

If the complaint alleges a violation of Title IX, Title II, Section 504 of the Rehabilitation Act, or sexual harassment, the Superintendent shall investigate the complaint and complete a written investigative report within thirty (30) days after receipt of the written grievance. The Superintendent may hire an outside investigator, if necessary. The



Superintendent's recommendation will be implemented unless the party is not satisfied, in which case the party may make a written appeal, within fifteen (15) days of receiving the report of the Superintendent, to the Board for a hearing.

Level 3: The Board

Upon receipt of a written appeal of the decision of the Superintendent, and assuming the appeal alleges a failure to follow Board policy, the matter shall be placed on the agenda of the Board for consideration not later than their next regularly scheduled meeting. A decision shall be made and reported in writing to all parties within thirty (30) days of that meeting. The decision of the Board will be final, unless appealed within the period provided by law.

Level 4: County Superintendent

If the case falls within the jurisdiction of the County Superintendent of Schools, the decision of the Board may be appealed to the County Superintendent by filing a written appeal within thirty (30) days after the final decision of the Board, pursuant to the Rules of School Controversy.

Procedure History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5250

Non-Renewal of Employment/Dismissal From Employment

The non-renewal or termination of certificated and classified staff shall be determined by the Board after receiving the recommendation of the Superintendent in conformity with state statutes and applicable District policy.

Cross Reference: 5140 Classified Employment and Assignment

Legal Reference: § 20-4-204, MCA Termination of tenure teacher services  
§ 20-4-206, MCA Notification of nontenure teacher reelection - acceptance -  
termination.  
§ 20-4-207, MCA Dismissal of teacher under contract

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5251

#### Resignations

Certified and classified personnel will generally be expected to fulfill the terms of their contract unless (1) there are clearly compelling, mitigating circumstances which prevent the certified or exempt individual from doing so; and (2) until such time as the Board releases the certified individual from the terms of the contract upon the recommendation of the Superintendent.

Classified employees not under contract are expected to give due written notice that will permit the District to conduct a search for a suitable replacement. Generally speaking, the Board expects a two-(2)-week notice.

All resignations should be in writing. Requests for resignation shall be transmitted to the Board as part of the regular personnel report.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5253

Retirement Programs for Employees

All employees of the District shall participate in the retirement programs under the Federal Social Security Act and either the Teachers' Retirement System or the Public Employees' Retirement System according to state retirement regulations.

Certified employees who intend to retire at the end of the current school year should notify the Superintendent in writing prior to April 1 of that year.

Those employees intending to retire who are not contractually obligated to complete the school year should notify the Superintendent as early as possible and no less than sixty (60) days prior to their retirement date.

The relevant and most current negotiated agreements for all categories of employees shall specify severance stipends and other retirement conditions and benefits.

The District will contribute to the PERS whenever a classified employee is employed for more than the equivalent of one hundred twenty (120) full days (960 hours) in any one (1) fiscal year. Part-time employees who are employed for less than 960 hours in a fiscal year may elect PERS coverage, at their option and in accordance with § 19-3-412, MCA.

|                  |                           |                                     |
|------------------|---------------------------|-------------------------------------|
| Legal Reference: | Title 19, Chapter 1, MCA  | Social Security                     |
|                  | Title 19, Chapter 3, MCA  | Public Employees' Retirement System |
|                  | Title 19, Chapter 20, MCA | Teachers' Retirement System         |

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5254

#### Payment of Employer Contributions and Interest on Previous Service

A Public Employees' Retirement System (PERS) member may purchase: (1) all or a portion of the member's employment with an employer prior to the time the employer entered into a contract for PERS coverage; and (2) all or a portion of the member's employment for which optional PERS membership was declined (both of which are known as previous service).

The member must file a written application with the PERS Board to purchase all or a portion of the employment for service credit and membership service. The application must include salary information certified by the member's employer or former employer.

The District has the option to pay, or not to pay, the employer's contributions due on previous service and the option to pay, or not to pay, the outstanding interest due on the employer's contributions for the previous service.

It is the policy of this District to **not pay** the employer's contributions due on previous service.

It is also the policy of this District to **not pay** the outstanding interest due on the employer's contributions for the previous service.

This policy will be applied indiscriminately to all employees and former employees of this District.

Legal Reference:      § 19-3-505, MCA      Purchase of previous employment with employer

#### Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

**Whitewater School District**

**PERSONNEL**

5255

Disciplinary Action

District employees who fail to fulfill their job responsibilities or follow the reasonable directions of their supervisors or who conduct themselves on or off the job in ways that affect their effectiveness on the job or in other such ways that the law determines to be good cause shall be subject to discipline. Behavior, conduct or action which may institute disciplinary action or dismissal may include, but is not limited to, reasonable job-related grounds based on a failure to satisfactorily perform job duties, disruption of the District's operation, or other legitimate business reason.

Discipline shall be reasonably appropriate to the circumstance and shall include, but is not limited to, the supervisor's right to reprimand and the Superintendent's right to suspend with or without pay or impose other appropriate disciplinary sanctions. In accordance with Montana law, only the Board may terminate or non-renew an employee.

The Superintendent is authorized to suspend a staff member immediately.

|                  |                 |                                     |
|------------------|-----------------|-------------------------------------|
| Legal Reference: | § 20-3-324, MCA | Powers and duties                   |
|                  | § 20-4-207, MCA | Dismissal of teacher under contract |
|                  | § 20-3-210, MCA | Controversy appeals and hearings    |
|                  | § 39-2-903, MCA | Definition of good cause            |

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## **Whitewater School District**

### **PERSONNEL**

5314

#### Substitutes

The Board authorizes the use of substitute teachers as necessary to replace teachers who are temporarily absent. The administrative secretary shall arrange for the substitute to work for the absent teacher. Under no condition is a teacher to select or arrange for a private substitute.

The Board annually establishes a daily rate of pay for substitute teachers. No fringe benefits are given to substitute teachers.

Substitutes for classified positions will be paid by the hour. When a classified employee is called upon to substitute for a teacher, the teacher sub rate shall apply unless the classified rate of pay is higher.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## **Whitewater School District**

### **PERSONNEL**

5321  
page 1 of 2

#### Leaves of Absence

##### Sick and Bereavement Leave

Certified employees shall be granted sick leave according to the terms of the current collective bargaining agreement.

Classified employees shall be granted paid sick leave benefits in accordance with § 2-18-618, MCA. For classified staff, "sick leave" means a leave of absence, with pay, for a sickness suffered by an employee or his or her immediate family. "Immediate family" shall mean the employee's spouse and children residing in the employee's household. Nothing in this policy guarantees approval of the granting of such leave in any instance. Each request will be judged by the District in accordance with this policy and the governing collective bargaining agreements.

It is understood that seniority shall accumulate while a teacher or employee is utilizing accumulated sick leave credits. Seniority will not accumulate unless an employee is in a paid status. Abuse of sick leave is cause for discipline up to and including termination.

An employee who has a death in the immediate family shall be eligible for unpaid bereavement leave. The Superintendent shall have the authority to give bereavement leave for up to five (5) days. Bereavement leave of greater than five (5) days must be approved by the Board. Such leave shall not exceed three (3) months, unless prescribed by a physician.

##### Personal and Emergency Leave

Teachers will be granted personal and emergency leave according to the terms of the current collective bargaining agreement. Upon recommendation of the Superintendent, and in accordance with law and District policy, classified staff may be granted personal leave pursuant to the following conditions:

1. Leave will be without pay unless otherwise stated. If leaves are to include expenses payable by the District, the leave approval will so state.
2. Leave will only be granted in units of half or full days.
3. Notice of at least one (1) week is required for any personal leave of less than one (1) week. Notice of one (1) month is required for any personal leave exceeding one (1) week.
4. The Superintendent, with approval of the Board, shall have the flexibility, in unusual or exceptional circumstances, to grant personal leave to employees not covered by sick or annual leave. During any personal leave of greater than fifteen (15) days, the employee will not receive fringe benefits. During the leave, the employee may pay the District's share of any insurance benefit program in order to maintain those benefits, provided that

such is acceptable to the insurance carrier. Staff using personal leave shall not earn any sick leave or annual leave credit or any other benefits during the approved leave of absence.

Civic Duties Leave

Leaves for service on either a jury or in the legislature shall be granted in accordance with state and federal law. A certified staff member hired to replace one serving in the legislature does not acquire tenure.

Legal Reference:

§ 2-18-601(10), MCA  
§ 2-18-618, MCA  
§ 49-2-310, MCA  
§ 49-2-311, MCA

42 USC 2000e Equal Employment  
Opportunities  
Definitions  
Sick leave  
Maternity leave - unlawful acts of  
employer  
Reinstatement to job following  
pregnancy - related to leave of absence

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5321P  
page 1 of 2

#### Conditions for Use of Leave

Certified staff may use sick leave for those instances listed in the current collective bargaining agreement. Classified staff may use sick leave for illness; injury; medical disability; maternity-related disability, including prenatal care, birth, miscarriage, abortion; quarantine resulting from exposure to contagious disease; medical, dental, or eye examination or treatment; necessary care of or attendance to an immediate family member or, at the District's discretion, another relative for the above reasons until other attendants can reasonably be obtained, and death or funeral attendance for an immediate family member. Leave without pay may be granted to employees upon the death of persons not included on this list.

#### Accrual and Use of Sick Leave Credits

Certified employees shall accrue and may use their sick leave credits according to the current collective bargaining agreement.

Classified employees serving in positions that are permanent full-time, seasonal full-time, or permanent part-time are eligible to earn sick leave credits. Sick leave credits accrue from the first day of employment. A classified employee must be continuously employed for the qualifying period of ninety (90) calendar days in order to use sick leave. Sick leave may not be advanced nor may leave be taken retroactively. Unless there is a break in service, an employee only serves the qualifying period once. After a break in service, an employee must again complete the qualifying period to use sick leave. A seasonal classified employee's accrued sick leave credits may be carried over to the next season if management has a continuing need for the employee or, alternatively, may be paid out as a lump sum to the employee when the season ends, in accordance with ARM 2.21.141.

Persons, whether classified or certified, simultaneously employed in two (2) or more positions, will accrue sick leave credits in each position according to the number of hours or the proration of the contract (in the case of certified) worked. Leave credits will be used only from the position in which the credits are earned and with the approval of the supervisor or appropriate authority for that position. Hours in a pay status paid at the regular rate will be used to calculate leave accrual. Sick leave credits will not accrue for those hours exceeding forty (40) hours in a work week that are paid as overtime hours or are recorded as compensatory time hours. A full-time employee shall not earn less than or more than the full-time sick leave accrual rate provided classified employees.

When an employee who has not worked the qualifying period for use of sick leave takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time on leave of absence will not count toward completion of the qualifying period. The approved leave of absence exceeding fifteen (15) working days is not a break in service, and

the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of fifteen (15) working days or less will be counted as time earned toward the ninety-(90)-day qualifying period.

#### Calculation of Sick Leave Credits

Certified employees shall earn sick leave credits at the rate stated in the current collective bargaining agreement.

Full-time classified employees shall earn sick leave credits at the rate of twelve (12) working days for each year of service. Sick leave credits shall be prorated for part-time employees who have worked the qualifying period. The payroll office will refine this data by keeping records per hour worked.

#### Sick Leave Banks

Donation and use of sick leave credits to the sick leave bank are governed by the terms of the current collective bargaining agreement.

#### Lump Sum Payment Upon Termination for Classified Employees

When a classified employee terminates from the District, the employee is entitled to cash compensation for unused sick leave credit equal to one-fourth (1/4) of the compensation the employee would have received if the employee had used the credits, provided the employee has worked the qualifying period. The value of unused sick leave is computed based on the employee's salary rate at the time of termination.

#### Industrial Accident

An employee who is injured in an industrial accident may be eligible for Workers' Compensation benefits. Use of sick leave must be coordinated with receipt of Worker's Compensation benefits on a case-by-case basis by contacting the Montana Schools Group Workers' Compensation Risk Retention Program (WCRRP).

#### Sick Leave Substituted for Annual Leave

A classified employee who qualifies for use of sick leave while taking approved annual vacation leave, may be allowed to substitute accrued sick leave credits for annual leave credits. Medical certification of the illness or disability may be required.

#### Procedure History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5322

#### Military Leave

Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Montana Military Service Employment Rights, the Superintendent shall grant military leave to employees for voluntary or involuntary service in the uniformed services of the United States, upon receipt of the required notice. Benefits shall be maintained for these employees as required by law and/or collective bargaining agreements. A service member who returns to the District for work following a period of active duty must be reinstated to the same or similar position and at the same rate of pay unless otherwise provided by law.

Time spent in active military service shall be counted in the same manner as regular employment for purposes of seniority or District service unless otherwise provided in a collective bargaining agreement.

The District will not discriminate in hiring, reemployment, promotion, or benefits based upon membership or service in the uniformed services.

All requests for military leave will be submitted to the Superintendent, in writing, accompanied by copies of the proper documentation showing the necessity for the military leave request.

When possible, all requests for military leave will be submitted at least one (1) full month in advance of the date military service is to begin.

Persons returning from military leave are asked to give the Superintendent notice of intent to return, in writing, as least one (1) full month in advance of the return date.

The District shall post notice of the rights, benefits, and obligations of the District and employees in the customary place for notices.

|                  |                        |  |
|------------------|------------------------|--|
| Legal Reference: | 38 U.S.C. §§ 4301-4334 | The Uniformed Services Employment and Reemployment Act of 1994                   |
|                  | §10-1-1004, MCA        | Rights under federal law   |
|                  | §10-1-1005, MCA        | Prohibition against employment discrimination                                    |
|                  | §10-1-1006, MCA        | Entitlement to leave of absence  |
|                  | §10-1-1007, MCA        | Right to return to employment without loss of benefits – exceptions – definition |
|                  | §10-1-1009, MCA        | Paid military leave for public employees   |

#### Policy History:

Adopted on: November 14, 2000

Reviewed on: February 13, 2012

Revised on:

Breastfeeding Workplace

Recognizing that breastfeeding is a normal part of daily life for mothers and infants and that Montana law authorizes mothers to breastfeed their infants where mothers and children are authorized to be, the District will support women who want to continue breastfeeding after returning from maternity leave.

The District shall provide reasonable unpaid break time each day to an employee who needs to express milk for the employee's child, if breaks are currently allowed. If breaks are not currently allowed, the District shall consider each case and make accommodations as possible. The District is not required to provide break time if to do so would unduly disrupt the District's operations. Supervisors are encouraged to consider flexible schedules when accommodating employees' needs.

The District will make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee can express the employee's breast milk. The available space will include the provision for lighting and electricity for the pump apparatus. If possible, supervisors will ensure that employees are aware of these workplace accommodations prior to maternity leave.

Legal Reference: Title 39, Chapter 2, Part 2, MCA General Obligations of Employers

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

**PERSONNEL**

Family Medical Leave

In accordance with provisions of the Family Medical Leave Act of 1993 (FMLA), a leave of absence of up to twelve (12) weeks during a twelve-(12)-month period may be granted to an eligible employee for the following reasons: 1) birth of a child; 2) placement of a child for adoption or foster care; 3) a serious health condition which makes the employee unable to perform functions of the job; 4) to care for the employee's spouse, child, or parent with a serious health condition;

Servicemember Family Leave

Subject to Section 103 of the FMLA of 1993, as amended, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve-(12)-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single twelve-(12)-month period.

An employee is eligible to take FMLA leave, if the employee has been employed for at least twelve (12) months and has worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) months immediately prior to the date leave is requested, and there have been at least fifty (50) District employees within seventy-five (75) miles for each working day during twenty (20) or more workweeks in the current or preceding calendar year.

Employees will (not) be required to use appropriate paid leave while on FMLA leave. Workers' compensation absences will (not) be designated FMLA leave.

The Board has determined that the twelve-(12)-month period during which an employee may take FMLA leave is July 1 to June 30.

The Superintendent has discretion to require medical certification to determine initial or continued eligibility under FMLA as well as fitness for duty.

NOTE: This provision applies to school districts with fifty (50) or more employees. Those districts with less than fifty (50) employees must comply with notice and record retention but are not obligated to provide the leave as a benefit of any employee's employment.

Legal Reference: 29 CFR 825, 29 USC 2601, et seq. - Family and Medical Leave Act of 1993  
§§2-18-601, et seq., MCA Leave Time  
§§49-2-301, et seq., MCA Prohibited Discriminatory Practices  
Section 585 – National Defense Authorization Act for FY 2008, Public Law [110-181]

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:



PERSONNEL

Family Medical Leave

Who Is Eligible

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

Benefit

Under certain conditions, eligible employees, if qualified, may be entitled to up to twelve (12) weeks or twenty-six (26) weeks leave with continuing participation in the District's group insurance plan.

Reasons for Taking Leave

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

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

Substitution of Paid Leave

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

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

## Military Family Leave

- a. Military caregiver leave
  1. An eligible employee who is a relative of a servicemember can take up to twenty-six (26) weeks in a twelve-(12)-month period in order to care for a covered servicemember who is seriously ill or injured in the line of duty, or a veteran who is undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five (5) years preceding the date of treatment.
  
- b. Qualified exigency leave (applies to eligible employees with family members who are in the National Guard or Reserves, and Regular Armed Forces)
  1. An eligible employee can take up to the normal twelve (12) weeks of leave, if a family member who is a member of the National Guard or Reserve is called up to active duty on a contingency mission.
  
  2. Qualifying exigencies include:
    - a. Short-notice deployment;
    - b. Military events and related activities;
    - c. Childcare and school activities;
    - d. Financial and legal arrangements;
    - e. Counseling;
    - f. Rest and recuperation;
    - g. Post-deployment activities; and
    - h. Additional activities agreed to by the employer and the employee.

## Limitations on husband and wife of “Same Employer”

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

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

### Employee Notice Requirement

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

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

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

### Notice for Leave Due to Active Duty of Family Member

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

### Requests

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

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

### Medical Certification

The District will require medical certification to support a request for leave or any other absence because of a serious health condition (at employee expense) and may require second (2<sup>nd</sup>) or

third (3<sup>rd</sup>) opinions (at the employer's expense) and a fitness-for-duty report or return-to-work statement.

#### Intermittent/Reduced Leave

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

#### Insurance

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

#### Return

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

#### Recordkeeping

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

#### Summer Vacation

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

### ***SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES***

#### Leave More Than Five (5) Weeks Before End of Term

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

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

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

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

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

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

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

#### Intermittent or Reduced Leave

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

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

#### Procedure History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

## Whitewater School District

### PERSONNEL

5329

#### Long-Term Illness/Temporary Disability/Maternity Leave

Employees may use sick leave for long-term illness or temporary disability, and upon the expiration of sick leave, the Board may grant eligible employees leave without pay if requested. Medical certification of the long-term illness or temporary disability may be required at the Board's discretion.

Long-term illness or temporary disability shall be construed to include pregnancy, miscarriage, childbirth and recovery therefrom. Maternity leave includes only continuous absence immediately prior to delivery, absence for delivery, and absence for post-delivery recovery, or continuous absence immediately prior to and in the aftermath of miscarriage or other pregnancy-related complications. Such leave shall not exceed six (6) weeks unless prescribed by a physician.

Leave without pay arising out of any long-term illness or temporary disability, including pregnancy, miscarriage, childbirth and recovery therefrom, shall commence only after sick leave has been exhausted. The duration of leaves, extensions, and other benefits for privileges such as health and long-term illness or temporary disability plans in the event of maternity leave, shall apply under the same conditions as other long-term illness or temporary disability leaves.

The Superintendent shall devise procedures within the intent of Title VII of the 1964 Civil Rights Act as amended in 1978 by the Pregnancy Discrimination Act, and within the scope of applicable law and court rulings in the state of Montana.

|                  |                 |   |
|------------------|-----------------|---|
| Legal Reference: | § 49-2-310, MCA | Maternity leave   |
|                  | § 49-2-311, MCA | Reinstatement to job following pregnancy-related leave of absence |

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5329P

#### Long-Term Illness/Temporary Disability/Maternity Leave

The following procedures will be used when an employee has a long-term illness or temporary disability, including maternity.

1. When any illness or temporarily disabling condition is “prolonged”, an employee will be asked by the administration to produce a written statement from a physician stating that the employee is temporarily disabled and is unable to perform the duties of his/her position until such a time.
2. Maternity leave will be treated as any other disability. Generally, unless mandated otherwise by a physician, maternity leave does not exceed six (6) weeks. As a disabling condition, maternity leave is not available to fathers.
3. In the case of any other extended illness, procedures for assessing the probable duration of the temporary disability will vary. The number of days of disability will vary according to different conditions, individual needs and the assessment of individual physicians. Normally, however, the employee should expect to return on the date indicated by the physician unless complications develop which are further certified by a physician.

#### Procedure History:

Adopted on: February 13, 2012

Revised on:

Reviewed on:

**Whitewater School District**

**PERSONNEL**

5331

Insurance Benefits for Employees

Newly hired employees will be eligible for insurance benefits offered by the District for the particular bargaining unit to which the employee belongs. Other employees will be offered benefits consistent with the District's benefit plan.

If an eligible employee wishes to discontinue or change health insurance coverage, it is incumbent upon the employee to initiate the action by contacting the personnel office and completing the appropriate forms. A medical examination at the expense of the employee may be required if the employee elects to join the District health insurance program after initially refusing coverage during the "open season", which is in July.

Anniversary dates of the health and dental insurance policies for the District shall be July 1<sup>st</sup> through June 30<sup>th</sup>.

Legal Reference:       § 2-18-702, MCA   Group insurance for public employees and officers  
                              § 2-18-703, MCA   Contributions

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012



## Whitewater School District

### PERSONNEL

5333

#### Holidays

Holidays for certified staff are dictated in part by the school calendar. Temporary employees shall not receive holiday pay. Part-time employees shall receive holiday pay on a prorated basis.

The holidays required for classified staff, by § 20-1-305, MCA, are:

1. Independence Day
2. Labor Day
3. Thanksgiving Day
4. Christmas Day
5. New Year's Day
6. Memorial Day
7. State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process of the polling place.

In those cases where an employee, as defined above, is required to work any of these holidays, another day shall be granted in lieu of such holiday unless the employee elects to be paid for the holiday in addition to the employee's regular rate of pay for all time worked on the holiday.

In cases where one of the above holidays falls on Sunday, the following Monday shall not be a holiday. In those cases where one of the above holidays falls on Saturday, the preceding Friday shall not be a holiday.

If a holiday occurs during the period in which vacation is being taken by an employee, the holiday shall not be charged against the employee's annual leave.

Legal Reference: § 20-1-305, MCA School holidays

#### Policy History:

Adopted on: February 13, 2012

Revised on:

Reviewed on:

**Whitewater School District**

**PERSONNEL**

5334

Vacations

The classified and 12-month administrative employees shall accrue annual vacation leave benefits in accordance with §§ 2-18-611, 2-18-612, 2-18-614 through 2-18-617 and 2-18-621, MCA. Nothing in this policy guarantees approval of the granting of specific days as annual vacation leave in any instance. Each request will be judged by the District in accordance with staffing needs.

Employees of less than six (6) months duration will not accrue vacation benefits.

|                  |                 |                       |
|------------------|-----------------|-----------------------|
| Legal Reference: | § 2-18-611, MCA | Annual vacation leave |
|                  | § 2-18-612, MCA | Rate earned           |
|                  | § 2-18-617, MCA | Accumulation of leave |

Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## Whitewater School District

### PERSONNEL

5334P

#### Vacations

All classified employees, except those in a temporary status, serving more than six (6) months, are eligible to earn vacation leave credits retroactive to the date of employment. Leave credits may not be advanced nor may leave be taken retroactively. A seasonal employee's accrued vacation leave credits may be carried over to the next season, if management has a continuing need for the employee, or paid out as a lump-sum payment to the employee when the season ends (generally in June). The employee may request a lump sum payment at the end of each season.

Vacation is earned according to the following schedule:

#### RATE EARNED SCHEDULE

| <u>Years of<br/>Employment</u> | <u>Working Days<br/>Credit per Year</u> |
|--------------------------------|---|
| 1 day - 10 years               | 15                                      |
| 10 - 15 years                  | 18                                      |
| 15 - 20 years                  | 21                                      |
| 20 years on                    | 24                                      |

Time as an elected state, county or city official, as a school teacher or as an independent contractor, does not count toward the rate earned. For purposes of this paragraph, an employee of the District or the university system is eligible to have school district or university employment time count toward the rate earned schedule if that employee was eligible for annual leave in the position held with the school district or university system.

#### Maximum Accrual of Vacation Leave

All full-time and part-time employees serving in permanent and seasonal positions may accumulate two (2) times the total number of annual leave credits they are eligible to earn per year, according to the rate earned schedule.

#### Lump-Sum Payment of Accrued Benefits

An employee may choose to be paid cash compensation for unused vacation leave on an annual basis in lieu of the accumulation of leave in accordance with administrative procedure.

An employee who terminates employment for reasons not reflecting discredit on the employee shall be entitled, upon the date of such termination, to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying periods set forth in § 2-18-611, MCA. The District shall not pay accumulated leaves to employees who have not worked the qualifying period.

#### Procedure History:

Adopted on: November 14, 2000

Revised on: May , 2001

Reviewed on: February 13, 2012

PERSONNEL

5336

Compensatory Time and Overtime for Classified Employees

Non-exempt classified employees who work more than forty (40) hours in a given workweek may receive overtime pay of one and one-half (1½) times the normal hourly rate, unless the District and the employee agree to the provision of compensation time at a rate of one and one-half (1½) times all hours worked in excess of forty (40) hours in any workweek. The Superintendent must approve any overtime work of a classified employee.

Under Montana law and the Federal Fair Labor Standards Act, a classified employee may not volunteer to work without pay in an assignment similar to the employee's regular work.

A non-exempt employee who works overtime without authorization may be subject to disciplinary action.

***NOTE:** Please be advised that comp time is not required. If a district adopts a comp time policy, there are basically two (2) types of employees: 1) Those who are covered before the policy was adopted need to be treated on a case-by-case basis, and the agreement to allow comp time must be entered into before the work is performed. 2) Those hired after the policy is in place – the Department of Labor has determined that the employee agreed to the policy. Some experts have said comp time is a credit card, not a savings account. The employee has broad latitude to decide when the time will be taken.*

Legal Reference: 29 USC 201, et seq. Fair Labor Standards Act

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

## Whitewater School District

### PERSONNEL

5337

#### Workers' Compensation Benefits

All employees of the District are covered by Workers' Compensation benefits. In the event of an industrial accident, an employee should:

1. attend to first aid and/or medical treatment if emergency prevails;
2. correct, or report as needing correction, the hazardous situation as soon as possible after the emergency is stabilized;
3. report the injury or disabling condition (whether actual or possible) to the immediate supervisor within forty-eight (48) hours on the Employers First Report of Occupational Injury or Disease; and
4. call or visit the administrative office after medical treatment if needed to complete the necessary report of accident and injury, the Occupational Injury or Disease Form.

The administrator shall notify the immediate supervisor of the report, and shall include the immediate supervisor in completing the report as required.

An employee who is injured in an industrial accident may be eligible for Workers' Compensation benefits. By law, use of sick leave must be coordinated with receipt of Workers' Compensation benefits on a case-by-case basis by contacting the Workers' Compensation Division, Department of Labor and Industry.

The District will not automatically and simply defer to a report of industrial accident. The District shall investigate as it deems appropriate to determine (1) whether continuing hazardous conditions exist that need to be eliminated, and (2) whether in fact an accident attributable to the District's working environment did occur as reported. The District may require the employee to authorize the employee's physician to release pertinent medical information to the District or to a physician of the District's choice, should an actual claim be filed against the Workers' Compensation Division which could result in additional fees levied against the District.

Legal Reference:

§ 39-71-101, et seq., MCA Workers'  
Compensation Act

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5338

Payment of Interest on Employer Contributions for Workers' Compensation Time

An employee absent because of an employment-related injury entitling the employee to workers' compensation payments may, upon the employee's return to service, contribute to the retirement system an amount equal to the contributions that would have been made by the employee to the system on the basis of the employee's compensation at the commencement of the employee's absence plus regular interest accruing from one (1) year from the date after the employee returns to service to the date the employee contributes for the period of absence.

The District has the option to pay, or not pay, the interest on the employer's contribution for the period of absence based on the salary as calculated. If the employer elects not to pay the interest costs, this amount must be paid by the employee.

It is the policy of this District to (pay) (not pay) the interest costs associated with the employer's contribution.

Legal Reference: §§ 19-3-504, MCA Absence due to illness or injury.

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

## **Whitewater School District**

### **PERSONNEL**

5420

#### Aides

Aides, as defined in the appropriate job descriptions, are under the supervision of a building administrator, and a teacher to whom the building administrator may have delegated responsibility for close direction. The nature of the work accomplished by aides will encompass a variety of tasks that may be inclusive of “limited instructional duties.”

Aides are employed by the District mainly to assist the teacher. An aide is an extension of the teacher, who legally has the direct control and supervision of the classroom or playground and responsibility for control and the welfare of the students.

It is the responsibility of each building administrator and teacher to provide adequate training for an aide. This training should take into account the unique situations in which an aide works, and should be designed to cover the general contingencies that might be expected to pertain to that situation.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

## **Whitewater School District**

### **PERSONNEL**

5430  
page 1 of 2

#### Volunteers

The District recognizes the valuable contributions made to the total school program by members of the community who act as volunteers. By law, a volunteer is an individual who:

1. Has not entered into an express or implied compensation agreement with the District;
2. Is excluded from the definition of “employee” under appropriate state and federal statutes;
3. May be paid expenses, reasonable benefits, and/or nominal fees in some situations; and
4. Is not employed by the District in the same or similar capacity for which he/she is volunteering.

District employees who work with volunteers shall clearly explain duties for supervising children in school, on the playground, and on field trips. An appropriate degree of training and/or supervision of each volunteer shall be administered commensurate with the responsibility undertaken.

Volunteers who have unsupervised access to children are subject to the District’s policy mandating background checks.

#### Chaperones

The Superintendent may direct that appropriate screening processes be implemented to assure that adult chaperones are suitable and acceptable for accompanying students on field trips or excursions.

When serving as a chaperone for the District, the parent(s)/guardian(s) or other adult volunteers, including employees of the District, assigned to chaperone, shall not use tobacco products in the presence of students, nor shall they consume any alcoholic beverages or use any illicit drug during the duration of their assignment as a chaperone, including during the hours following the end of the day’s activities for students. The chaperone shall not encourage or allow students to participate in any activity that is in violation of District policy during the field trip or excursion, including during the hours following the end of the day’s activities. Chaperones shall be given a copy of these rules and sign a letter of understanding verifying they are aware of and agree to these District rules before being allowed to accompany students on any field trip or excursion.

Any chaperone found to have violated these rules shall not be used again as a chaperone for any District-sponsored field trips or excursions and may be excluded from using District-sponsored transportation for the remainder of the field trip or excursion and be responsible for their own



transportation back home. Employees found to have violated these rules may be subject to disciplinary action.

Cross Reference: 5122 Fingerprints and Criminal Background Investigations

Policy History:

Adopted on: November 14, 2000

Reviewed on: February 13, 2012

Revised on:



## **Whitewater School District**

### **PERSONNEL**

5450

#### Employee Electronic Mail and On-Line Services Usage

Electronic mail (“e-mail”) is defined as a communications tool whereby electronic messages are prepared, sent and retrieved on personal computers. On-line services (i.e., the Internet) are defined as a communications tool whereby information, reference material and messages are sent and retrieved electronically on personal computers.

Because of the unique nature of e-mail/Internet, and because of the District’s desire to protect its interest with regard to its electronic records, the following rules have been established to address e-mail/Internet usage by all employees:

The District e-mail and Internet systems are intended to be used for educational purposes only. Use for informal or personal purposes is permissible within reasonable limits. All e-mail/Internet records are considered District records and should be transmitted only to individuals who have a need to receive them. Additionally, District records, e-mail/Internet records are subject to disclosure to law enforcement or government officials or to other third parties through subpoena or other process. Consequently, employees should always ensure that the educational information contained in e-mail/Internet messages is accurate, appropriate and lawful. E-mail/Internet messages by employees may not necessarily reflect the views of the District. Abuse of the e-mail or Internet systems, through excessive personal use, or use in violation of the law or District policies, will result in disciplinary action, up to and including termination of employment.

While the District does not intend to regularly review employees’ e-mail/Internet records, employees have no right or expectation of privacy in e-mail or the Internet. The District owns the computer and software making up the e-mail and Internet system and permits employees to use them in the performance of their duties for the District. E-mail messages and Internet records are to be treated like shared paper files, with the expectation that anything in them is available for review by the Superintendent.

#### Policy History:

Adopted on: November 14, 2000

Revised on:

Reviewed on: February 13, 2012

**Whitewater School District**

**PERSONNEL**

5500

Payment of Wages Upon Termination

If a District employee quits, is laid off, or is discharged, wages shall be paid on the next regular pay day for the pay period in which the employee was separated, or fifteen (15) days, whichever occurs first.

In the case of an employee discharged for allegations of theft connected to the employee's work, the District may withhold the value of the theft, provided:

- The employee agrees in writing to the withholding; or
- Charges have been filed with law enforcement within seven (7) days of separation.

If no charges are filed within fifteen (15) days of the filing of the report with law enforcement, the wages are due within a fifteen-(15)-day period.

Legal Reference:

§ 39-3-205, MCA      Payment of wages when  
employee separated from employment prior to  
payday — exceptions

Policy History:

Adopted on: February 13, 2012

Revised on:

Reviewed on:

## Request for Protected Health Information

This form should be used when release of a patient's protected health information is being made to the health care provider for an employee or student for a purpose other than treatment, payment or health care operations.

I, \_\_\_\_\_, hereby authorize \_\_\_\_\_  
*Name of Employee, Student 18 or older, or Parent/Guardian*                      *Name of Physician/Practice*  
 to use and/or disclose my protected health information described below to  
 \_\_\_\_\_.  
*School District*

My protected health information will be used or disclosed upon request for the following purposes (name and explain each purpose): \_\_\_\_\_

This authorization for use and/or disclosure applies to the following information (please mark those that apply):

- Any and all records in the possession of the above-named physician or physician's practice, including mental health, HIV, and/or substance abuse records. (Please cross out any item you do not authorize to be released.)
- Records regarding treatment for the following condition or injury \_\_\_\_\_ on or about \_\_\_\_\_.
- Records covering the period of time \_\_\_\_\_ to \_\_\_\_\_.
- Other (Specify and include dates.) \_\_\_\_\_.

I understand that I have the right to revoke this authorization, in writing, at any time by sending such written notification to above-named physician/practice. I also understand that my revocation is not effective to the extent that the persons I have authorized to use and/or disclose my protected health information have acted in reliance upon this authorization.

I understand that I do not have to sign this authorization and that the above-named physician/practice may not condition treatment or payment on whether I sign this authorization.

I understand that information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal laws and regulations regarding the privacy of my protected health information.

This authorization expires on the following date or event: \_\_\_\_\_.

I certify that I have received a copy of this authorization.

\_\_\_\_\_  
*Signature of Patient or Personal Representative*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Name of Patient or Personal Representative*

\_\_\_\_\_  
*Personal Representative's Authority*

PERSONNEL

HIPAA

Note:

*(1) Any school district offering a group “health care plan” for its employees is affected by HIPAA. School districts offering health plans that are self-insured will be entirely responsible for compliance with HIPAA, despite a third party administrator managing the plan. School districts may also be subject to HIPAA as a “health care provider” by either having a school-based health center or a school nurse. School-based health centers staffed and serviced by a hospital or local health department are responsible for complying with HIPAA if there is a sharing of records containing health information. For those districts providing the services of a school nurse, HIPAA regulations issued in 2000 commented that an “educational institution that employs a school nurse is subject to [the] regulations as a health care provider if the school nurse or the school engaged in a HIPAA transaction.” This transaction occurs when a school nurse submits a claim electronically.*

*(2) Any personally identifiable health information contained in an “education record” under FERPA is subject to FERPA, not HIPAA.*

Background

**Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

The District’s group health plan is a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations, the Standards for the Privacy of Individually Identifiable Information. In order to comply with HIPAA and its related regulations, the District has implemented the following HIPAA Privacy Policy:

**The HIPAA Privacy Rule**

HIPAA required the federal government to adopt national standards for *electronic health care transactions*. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information and determined there was a need for national privacy standards. As a result HIPAA included provisions which mandated the adoption of federal privacy standards for individually identifiable health information.

The standards found in the Privacy Rule are designed to protect and guard against the misuse of individually identifiable health information, with particular concern regarding employers using an employee’s (or dependent’s) health information from the group health plan to make adverse employment-related decisions. The Privacy Rule states that verbal, written, or electronic information that can be used to connect a person’s name or identity with medical, treatment, or health history information is Protected Health Information (PHI) under the HIPAA Privacy Rule.

Under the HIPAA Privacy Rule:

1. Individuals have a right to access and copy their health record to the extent allowed by HIPAA.
2. Individuals have the right to request an amendment to their health record. The plan may deny an individual's request under certain circumstances specified in the HIPAA Privacy Rule.
3. Individuals have the right to an accounting of disclosures of their health record for reasons other than treatment, payment, or healthcare operations.
4. PHI, including health, medical, and claims records, can be used and disclosed without authorization for specific, limited purposes (treatment, payment, or operations of the group health plan). A valid authorization from the individual must be provided for use or disclosure for other than those purposes.
5. Safeguards are required to protect the privacy of health information.
6. Covered entities are required to issue a notice of privacy practices to their enrollees.
7. Violators are held accountable with civil and criminal penalties for improper use or disclosure of PHI.

Compliance

Business Manager has been designated Privacy Officer. The Privacy Officer will oversee all ongoing activities related to the development, implementation, maintenance of, and adherence to the District's policies and procedures covering the privacy of and access to patient health information in compliance with HIPAA, other applicable federal and state laws, and the District's privacy practices.

As required for a Covered Entity under HIPAA, the plan has developed these internal privacy policies and procedures to assure that PHI is protected and that access to and use and disclosure of PHI are restricted in a manner consistent with HIPAA's privacy protections. The policies and procedures recognize routine and recurring disclosures for treatment, payment, and healthcare operations and include physical, electronic, and procedural safeguards to protect PHI. The procedures include safeguards for sending PHI via mail or fax, receiving PHI for plan purposes, and workstation safeguards and procedures for securing and retaining PHI received by the plan. Plan participants are entitled to receive a copy of the plan's policies and procedures upon request.

Designating a limited number of privacy contacts allows the District to control who is receiving

PHI from the contract claims payor for plan operations purposes. The contract claims payor will provide only the minimum PHI necessary for the stated purpose and, as required under the Privacy Rule, will provide PHI only to individuals with a legitimate need to know for plan operations purposes.

The District has distributed a notice of privacy practices to plan participants. The notice informs plan participants of their rights and the District's privacy practices related to the use and disclosure of PHI. A copy of this notice may be obtained by contacting the Privacy Officer.

The District has reviewed how PHI is used and disclosed by the plan and has limited disclosure of that information to employees who have a legitimate need to know or possess the PHI for healthcare operations and functions. The District will make reasonable efforts to use de-identified information whenever possible in the operations of the plan and will only use the minimum PHI necessary for the stated purpose.

Some of the District's employees need access to PHI in order to properly perform the functions of their jobs. The District has identified these employees and has given them training in the important aspects of the HIPAA Privacy Rule, the privacy policy, and procedures. New employees who will have access to PHI will receive training on the HIPAA Privacy Rule and related policies and procedures as soon as reasonably possible after they are employed. Employees who improperly use or disclose PHI or misuse their access to that information may be subject to discipline, as deemed appropriate.

In the event the group health plan must disclose PHI in the course of performing necessary plan operations functions or as required by law or a governmental agency, the District has developed a system to record those disclosures and requests for disclosures. An individual may request a list of disclosures of his or her PHI made by the plan for other than treatment or claims payment purposes. All requests for an accounting of PHI disclosures must be made in writing, and the plan may impose fees for the cost of production of this information. Requests will be responded to within sixty (60) days. If the plan is not able to provide the requested information within sixty (60) days, a written notice of delay will be sent to the requesting individual, with the reasons for the delay and an estimated time for response.

In order to comply with the new privacy regulations, the plan has implemented compliant communication procedures. Except for its use in legitimate healthcare operations, written permission will be required in order for the District to disclose PHI to or discuss it with a third party.

The HIPAA Privacy Rule prohibits the District from disclosing medical information without the patient's written permission other than for treatment, payment, or healthcare operations purposes. An authorization signed by the patient and designating specified individuals to whom the District may disclose specified medical information must be on file, before the plan can discuss a patient's medical information with a third party (such as a spouse, parent, group health plan



representative, or other individual).

The District has taken the following steps to ensure PHI is safeguarded:

6. The District has implemented policies and procedures to designate who has and who does not have authorized access to PHI.
7. Documents containing PHI are kept in a restricted/locked area.
8. Computer files with PHI are password protected and have firewalls making unauthorized access difficult.
9. Copies of PHI will be destroyed when information is no longer needed, unless it is required by law to be retained for a specified period of time.
10. The District will act promptly to take reasonable measures to mitigate any harmful effects known to the group health plan, due to a use or disclosure of PHI in violation of the plan's policies, procedures, or requirements of the HIPAA Privacy Rule.
11. The District will appropriately discipline employees who violate the District's group health plan's policies, procedures, or the HIPAA Privacy Rule, up to and including termination of employment if warranted by the circumstances.

The District has received signed assurances from the plan's business associates that they understand the HIPAA Privacy Rule, applicable regulations, and the Privacy Policy and will safeguard PHI just as the plan would.

The contract claims payor and certain other entities outside the group health plan require access on occasion to PHI, if they are business associates of the group health plan and in that role need to use, exchange, or disclose PHI from the group health plan. The plan requires these entities to sign an agreement stating they understand HIPAA's privacy requirements and will abide by those rules just as the group health plan does, to protect the PHI to which they have access. For example the plan engages a certified public accountant to audit the plan annually and to make sure payments are made in compliance with the Plan Document. In order for the CPA to complete an audit, the auditor reviews a sample of the claims for accuracy.

The District will ensure health information will not be used in making employment and compensation decisions. The HIPAA Privacy Rule and other applicable laws expressly prohibit an employer from making adverse employment decisions (demotions, terminations, etc.) based on health information received from the group health plan. To the extent possible, the District has separated the plan operations functions from the employment functions and has safeguards in place to prevent PHI from the plan from going to or being used by an employee's supervisor, manager, or superior to make employment-related decisions.

Complaints

If an employee believes their privacy rights have been violated, they may file a written complaint with the Privacy Officer. No retaliation will occur against the employee for filing a complaint. The contact information for the Privacy Officer is:

Business Manger  
Whitewater School District  
PO Box 46  
Whitewater, MT 59544

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on:

Employee Use of Cellular Phones and Other Electronic Devices

The Board recognizes that the use of cellular telephones and other electronic communication devices may be appropriate to help ensure the safety and security of District property, students, staff, and others while on District property or engaged in District-sponsored activities. To this end, the Board authorizes the purchase and employee use of such devices, as deemed appropriate by the Superintendent.

District-owned cellular telephones and other devices will be used for authorized District business purposes. Personal use of such equipment may be prohibited except in emergency situations.

Use of cellular telephones and other electronic communication devices in violation of Board policies, administrative regulations, and/or state/federal laws will result in discipline up to and including dismissal.

District employees are prohibited from using cell phones or other electronic communication devices while driving or otherwise operating District-owned motor vehicles, or while driving or otherwise operating personally-owned vehicles when transporting students on school-sponsored activities.

**Emergency Use**

Staff are encouraged to use any available cellular telephone in the event of an emergency that threatens the safety of students, staff or other individuals.

**Use of Personal Cell Phones and Communication Devices**

Employees are strongly discouraged from using their personal cell phone during the school days. When necessary, employees may use their personal cell phones and similar communication devices only during non-instructional time. In no event shall an employee's use of a cell phone interfere with the employee's job obligations and responsibilities. If such use is determined to have interfered with an employee's obligations and responsibilities, the employee may be disciplined in accordance with the terms of the collective bargaining agreement and Board policies.

Policy History:

Adopted on: February 13, 2012

Reviewed on:

Revised on: