

LONE ROCK SCHOOL DISTRICT NO. 13

SCHOOL BOARD POLICY

SECTION V – PERSONNEL

(5000 Series)

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5000 Goals

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: August 2002

Revised:

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 **endeavor** to 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 usable 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 principal 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: August 2002

Revised:

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)
 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 the 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
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 Montana Constitution, Art. X, § 1 - Educational goals and duties
 § 49-2-101, et. al., MCA Human Rights Act
 § 49-3-102, MCA What local governmental units affected

Policy History:

Adopted: August 2002

Revised:

5012 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 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 the Education Amendments, 20 U.S.C. §§ 1681, et seq.
Montana Constitution, Art. X, § 1 - Educational goals and duties
§ 49-2-101, MCA Human Rights Act
Harris v. Fork Lift Systems, 114 S.Ct. 367 (1993)

Policy History:

Adopted: August 2002

Revised:

5021 Application 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: August 2002

Revised:

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 principal. 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 to the personnel office at the time of initial employment as well as at the time of each renewal of certification.

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 Fingerprints and Criminal Background Investigations

Legal Reference: § 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: August 2002

Revised on:

5122 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 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 shall 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 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: August 2002

Revised:

5122f

CONSENT TO FINGERPRINT BACKGROUND CHECK

TO WHOM IT MAY CONCERN:

I, _____, am seeking employment or volunteer assignment with the Sample School District. I hereby expressly 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 Sample School District and its agents.

I have _____ have not _____ been convicted or adjudicated of any crime in any jurisdiction other than minor traffic offenses. Attached, if necessary, is a complete description of the circumstances surrounding the crime(s) of which I have been convicted or adjudicated in any jurisdiction. I acknowledge that I have the right to obtain a copy of the fingerprint background check obtained by the District and to challenge its accuracy if necessary. I further acknowledge that my access to children may be denied prior to completion of the fingerprint background check.

I hereby release the Sample 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. A fingerprint background check will be at my expense and will be deducted from the initial paycheck unless other arrangements are made with the District Office.

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 _____

5130 Staff HealthMedical 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 workplace 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)
	42 U.S.C. 12101, et seq. Americans with Disabilities Act
	Title 49, Chapter 2, MCA Illegal Discrimination
	Title 49, Chapter 4, MCA Rights of Persons with Disabilities
	§ 20-10-103(4), MCA School bus driver qualifications
	16.28.1005, ARM Employee of School – Day Care Facility
	Care Provider

Policy History:

Adopted: August 2002

Revised:

5140 Classified Employment and Assignment

Each classified employee hired on or after (*Insert Date*) shall be employed under written contracts of a specified term within the meaning of § 39-2-912, MCA. Such employees shall have no expectation of continued employment from year to year, and contracts of employment may be renewed or nonrenewed during the summer of each year, at the District's sole option.

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.

There shall be no probationary period for those classified employees employed under and pursuant to a written contract for a specified term.

NOTE: The automatic six-(6)-month probationary period is only applicable to new hires not employed under or pursuant to a written contract for a specified term.

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 P.2d 288 (1989)

Policy History:

Adopted: August 2002

Revised:

5210 Assignment, Reassignments, Transfers

LREA Collective bargaining may supersede this section.

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: August 2002

Revised:

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 and 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: August 2002

Revised:

5221 Work DayLength 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 principal 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
 § 39-3-405, MCA
Overtime compensation § 39-4-107, MCA State and municipal governments, school districts, mines, mills, and smelters
 10.65.103(2), ARM Program of Approved Pupil Instruction- Related Days
 24.16.102, et seq., ARM Wages and Hours

Policy History:

Adopted: August 2002

Revised:

5222 Evaluation of Non-Administration 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: August 2002

Revised:

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. Any employee who discloses confidential and/or private information learned during the course of the employee's duties or learned as a result of participating in a closed (executive) session of the Board, may be subject to discipline up to and including discharge. 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: August 2002

Revised:

5225 Tobacco Free Policy

The District maintains tobacco free buildings and grounds. Tobacco includes, but is not limited to, cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco. 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 Air Act of 1979

Policy History:

Adopted: August 2002

Revised

5226 Drug-Free Workplace

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

1. 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.
2. 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:

1. Not legally obtainable;
2. Being used in a manner different than prescribed;
3. Llegally obtainable, but has not been legally obtained; or
4. Referenced in federal or state controlled-substance acts.

As a condition of employment, each employee shall:

1. Abide by the terms of the District policy respecting a drug- and alcohol-free workplace; and
2. 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:

1. Provide each employee with a copy of the District Drug- and Alcohol-Free Workplace policy;
2. Post notice of the District Drug- and Alcohol-Free Workplace policy in a place where other information for employees is posted;
3. Enlist the aid of community and state agencies with drug and alcohol informational and rehabilitation programs, to provide information to District employees; and
4. 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: August 2002

Revised:

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. § 45101, 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: August 2002

Revised:

5228p Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers

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

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

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

Pre-Employment Tests

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

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

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

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

Post-Accident Tests

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

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

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

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

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

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

Random Tests

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

Reasonable Suspicion Tests

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

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

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

Enforcement

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.

Procedure History:

Adopted: August 2002

Revised:

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: August 2002

Revised:

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: August 2002

Revised:

5231p 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 files 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/Ms.);
 - 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 (2) 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: August 2002

Revised:

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 Public Health and Human Services. The employee shall notify the Superintendent or principal that a report has been made by the employee. An employee does not discharge the obligation to personally report by notifying the Superintendent or principal.

Any District employee who fails to report a suspected case of abuse or neglect to the Department of Public Health and Human 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: August 2002

Revised:

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: August 2002

Revised:

5240p 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 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. If the grievance relates to an issue covered in a collective bargaining agreement, the complainant must use the grievance procedure in the collective bargaining agreement.

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: Principal

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 principal 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 principal shall investigate and attempt to resolve the complaint. If either party is not satisfied with the principal's decision, the grievance may be advanced to Level 3 by requesting in writing that the Superintendent review the principal's decision. This request must be submitted to the Superintendent within fifteen (15) days of the principal's decision.

If the complaint alleges a violation of Title IX, Title II, Section 504 of the Rehabilitation Act, or sexual harassment, the principal shall turn the complaint over to the Nondiscrimination Coordinator who shall investigate the complaint. The District has appointed Nondiscrimination Coordinators to assist in the handling of discrimination complaints. The Coordinator will complete the investigation and file the report with the Superintendent within thirty (30) days after receipt of the written grievance. The Coordinator may hire an outside investigator if necessary. If the Superintendent agrees

with the recommendation of the Coordinator, the recommendation will be implemented. If the Superintendent rejects the recommendation of the Coordinator, and/or either party is not satisfied with the recommendations from Level 2, either party may make a written appeal within fifteen (15) days of receiving the report of the Coordinator to the Board for a hearing.

Level 3: Superintendent

Upon receipt of the request for review, the Superintendent shall schedule a meeting between the parties and the principal. The parties shall be afforded the opportunity to either dispute or concur with the principal's report. The Superintendent shall decide the matter within ten (10) days of the meeting and shall notify the parties in writing of the decision. If the Superintendent agrees with the recommendation of the principal, the recommendation will be implemented. If the Superintendent rejects the recommendation of the principal, the matter may either be referred to an outside investigator for further review or resolved by the Superintendent.

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.

Level 4: The Board

Upon receipt of a written appeal of the decision of the Superintendent, and assuming the individual 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 5: 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: August 2002

Revised:

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 and/or contract language.

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: August 2002
Revised:

5251 Resignation

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: August 2002

Revised:

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:	§ 20-3-210, MCA	Controversy appeals and hearings
	§ 20-3-324, MCA	Powers and duties
	§ 20-4-207, MCA	Dismissal of teacher under contract
	§ 39-2-903, MCA	Definitions

Policy History:

Adopted: August 2002

Revised:

5256 Reduction in Force

The Board has the exclusive authority to determine the appropriate number of employees. A reduction of certified employees may occur as a result of, but not be limited to, changes in the education program, staff realignment, changes in the size or nature of the student population, financial situation considerations, or other reasons deemed relevant by the Board.

The Board shall follow the procedure stated in the current collective bargaining agreement when considering a reduction in force. Generally, the reduction in certified employees, other than administrators, will be done through normal attrition if possible. If normal attrition does not meet the necessary reduction in force required, the Board may terminate certified employees.

The Board shall consider performance evaluations, staff needs, and other reasons deemed relevant by the Board, in order to determine the order of dismissal if it reduces classified staff or discontinues some type of educational service.

Cross Reference: 5250 Non-renewal of Employment/Dismissal from Employment

Legal Reference: § 20-4-206, MCA Notification of non-tenure teacher
reelection – acceptable – termination

Policy History:

Adopted: August 2002

Revised:

5314 Substitutes

The Board authorizes the use of substitute teachers as necessary to replace teachers who are temporarily absent. The principal 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: August 2002

Revised:

5321 Leaves of AbsenceSick 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 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 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.

An employee who is summoned to jury duty or subpoenaed to serve as a witness may elect to receive their regular salary or take annual leave during jury time. If the employee elects not to take annual leave, however, all juror and witness fees and allowances (except for expenses and mileage) must be remitted to the employer. An employer may request the court to excuse an employee from jury duty if he or she is needed for the proper operation of the school.

Legal Reference:	42 USC 2000e	Equal Employment Opportunities
	§ 2-18-601(10), MCA	Definitions
	§ 2-18-618, MCA	Sick leave
	§ 49-2-310, MCA	Maternity leave – unlawful acts of employers
	§ 49-2-311, MCA	Reinstatement to job following pregnancy- related leave of absence

Policy History:

Adopted: August 2002

Revised:

5321p 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 nor 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 nor 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 Workers' 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: August 2002

Revised:

5328 Family Medical Leave

In accordance with the provisions of the Family Medical Leave Act of 1993, 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) the birth of a child; 2) the placement of a child for adoption or foster care; 3) because of a serious health condition that makes the employee unable to perform the functions of the job; or 4) to care for the employee's spouse, child, or parent with a serious health condition.

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 when the leave is requested 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.

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: 1) July 1 to June 30 or other specific dates; 2) the calendar year; 3) twelve (12) months forward from the date of a particular employee's first FMLA leave; or 4) twelve (12) months backward from the date of FMLA Leave. **PICK ONE**

At the discretion of the Superintendent, medical certification may be required to determine FMLA initial or continued eligibility 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

Policy History:

Adopted: August 2002

Revised:

5328p 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 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:

1. To care for the employee's child after birth, or placement for adoption or foster care;
2. To care for the employee's spouse, child, or parent (does not include parents-in-law) who has a serious health condition; or
3. 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:

1. 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.
2. Accumulated vacation/personal leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in (a) above.
3. 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.
4. Whenever appropriate workers' compensation absences shall be designated FMLA leave.

When Both Parents Are District Employees

If both parents of a child are employed by the District, they each are entitled to a total of twelve (12) weeks of leave per year. However, leave may be granted to only one (1) parent at a time,

and only if leave is taken: (1) for the birth of a child or to care for the child after birth; (2) for placement of a child for adoption or foster care, or to care for the child after placement; or (3) to care for a parent (but not a parent-in-law) with a serious health condition.

Advance Notice

Employees must provide thirty (30) days advance notice when the leave is “foreseeable.” In other situations an employee must give notice as soon as practicable. Leave may be allowed in emergency situations when no advance warning is possible. Inexcusable delays in notifying the District may result in the delay or denial of leave.

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.

Medical Certification

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

Intermittent/Reduced Leave

FMLA leave may be taken “intermittently or on a reduced leave schedule” under certain circumstances. Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only with the approval of the District. 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.

Record Keeping

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

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 EMPLOYEESLeave 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:

1. The leave is at least three (3) weeks; and
2. 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:

1. the leave is longer than two (2) weeks; and
2. 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:

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

Procedure History:

Adopted: August 2002

Revised:

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: August 2002

Revised:

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: August 2002

Revised:

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 – cash for unused – transfer

Policy History:

Adopted: August 2002

Revised:

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 Employment</u>	<u>Working Days 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.

Annual Pay-Out

The District may, in its sole discretion and/or subject to the terms of a collective bargaining agreement, provide cash compensation in January of each year for unused vacation leave in lieu of the accumulation of vacation leave.

Lump-Sum Payment Upon Termination

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.

Legal Reference: § 2-18-611 - § 2-18-617, MCA

Procedure History:

Adopted: August 2002

Revised:

5336 Compensatory Time and Overtime/Classified Employees

Classified employees who work more than forty (40) hours in a given work week may receive overtime pay of one and one-half (1½) times the normal hourly rate unless the District and the employee agree to the provisions of compensation time at a rate of one and one-half (1½) times all hours worked in excess of forty (40) hours in any work week. No overtime is authorized for any classified employee without the specific approval of the Superintendent, except as the Superintendent shall otherwise prescribe.

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

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: August 2002

Revised:

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 Employer's 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: August 2002

Revised:

5420 Aides

Aides, as defined in the appropriate job descriptions, are under the supervision of a principal, and a teacher to whom the principal 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 principal 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: August 2002

Revised:

5430 Volunteers

The District recognizes the valuable contributions made to the total school program by members of the community who act as volunteers. A volunteer by law 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 the 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.

Cross Reference: 5122 Fingerprints and Criminal Background Investigations

Policy History:

Adopted: August 2002

Revised:

5440 Student Teachers/Interns

The District recognizes its obligation to assist in the development of members of the teaching profession. The District shall make an effort to cooperate with accredited institutions of higher learning in the education of student teachers and other professionals in training (such as interns) by providing a reasonable number of classroom and other real-life situations each year.

The District and the respective training institutions shall enter into mutually satisfactory agreements whereby the rules, regulations, and guidelines of the practical experiences shall be established.

The Superintendent shall coordinate all requests from cooperating institutions for placement with building principals so that excessive concentrations of student teachers and interns shall be avoided. As a general rule:

1. A student teacher shall be assigned to a teacher or other professional who has agreed to cooperate and who has no less than three (3) years of experience in the profession;
2. A supervising professional shall be assigned no more than one (1) student teacher/intern per school year;
3. The supervising professional shall remain responsible for the class;
4. The student teacher shall assume the same conditions of employment as a regular teacher with regard to meeting the health examination requirements, length of school day, supervision of co-curricular activities, staff meetings, and in-service training; and
5. The student teacher shall be subject to the District policy regarding background checks, if the student teacher has unsupervised access to children.

Cross Reference: 5122 Fingerprints and Criminal Background Investigations

Legal Reference: § 20-4-101(2) and (3), MCA System and definitions of teacher and specialist certification – student teacher exception

Policy History:

Adopted: August 2002

Revised:

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: August 2002

Revised:

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:

- I. The employee agrees in writing to the withholding; or
- II. 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: August 2002

Revised: