

## SECTION G: Personnel

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Section G of the EPS/NSBA policy classification system provides a repository for personnel policies. This section has three main subdivisions: subsection GB presents policy topics that pertain to all employees; subsection GC is for policies that pertain to professional personnel who must hold certification by the state to serve in their positions; subsection GD is for policies pertaining to support, or non-certificated, personnel.

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GDN	Evaluation of Staff
GDO	Staff Promotions
GDPA	Reduction in Staff Work Force
GDPB	Resignation of Staff Members
GDPD	Suspension and Dismissal of Support Staff Members

**PERSONNEL GOALS**

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The Board recognizes that a dynamic and efficient staff dedicated to education is necessary to maintain a constantly improving educational program. The Board is interested in its personnel as individuals, and it recognizes its responsibility for promoting the general welfare of the staff.

The Board's specific personnel goals are:

1. To recruit, select, and employ the best qualified personnel to staff the school system.
  2. To provide staff compensation and benefit programs sufficient to attract and retain qualified employees.
  3. To provide programs for all employees to improve their performance and the overall rate of retention and promotion of staff.
  4. To conduct an employee appraisal program that will contribute to the continuous improvement of staff performance.
  5. To deploy personnel so as to ensure their skills are used as effectively as possible.
  6. To develop the quality of human relationships necessary to obtain maximum staff performance and satisfaction.
  7. To help all employees realize that the efficient and courteous performance of their assignment has a positive impact on the public support of education in the district.
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## EQUAL OPPORTUNITY EMPLOYMENT

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The Board subscribes to the fullest extent to the principle of the dignity of all people and of their labors and will take action to ensure that applicants are employed, assigned, and promoted without regard to their age, race, creed, color, sex, marital status, political affiliation, or national origin. Every available opportunity will be taken in order to assure that each applicant for a position is selected on the basis of qualifications, merit and ability.

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### State References

SDCL 13-43-17	Practices and standards commission created
SDCL 13-43-17.1	Operation within department
SDCL 13-43-20	Election of officers
SDCL 13-43-20.1	Appointment of executive secretary
SDCL 13-43-21	Meetings of Professional Teachers
SDCL 13-43-23	Administrative expenses
SDCL 13-43-25	Rules of Commission

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## VETERAN'S PREFERENCE

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If a veteran possesses the qualifications necessary to discharge the duties of the position involved, the veteran shall receive preference for employment and promotion.

For the purposes of this policy, the term "veteran" means any person who:

1. Has served the full obligation for active duty, reserve, or National Guard service in the military, or received an early discharge for a medical condition, hardship, reduction in force, or at the convenience of the military; and
2. Has been separated or discharged from such service honorably or under honorable conditions.

In order to determine if the veterans' preference applies, each applicant for employment shall complete an employment application on which the applicant is asked if the applicant is a veteran. All veterans are subject to criminal background check requirements as set forth in state law.

Age, loss of limb, or other physical impairment which does not in fact incapacitate does not disqualify the veteran. A veteran who has a service-connected disability shall be given a preference over a nondisabled veteran.

The unmarried spouse of a veteran who died while in service, or later died from a service connected cause, is entitled to the preference given to the veteran if the spouse possesses the qualifications and business capacity necessary to discharge the duties of the position involved. If a veteran disabled due to a service connected cause is unable to exercise the right to a veteran employment preference due to the disability, the veteran's spouse is entitled to the preferences given to the veteran if the spouse possesses the qualifications and business capacity necessary to discharge the duties of the position involved.

If a veteran applies for appointment for employment under this policy, the District shall, before employing anyone to fill the position, investigate the qualifications of the applicant. If the applicant possesses at least the minimum qualifications necessary to fill the position, the officer, board, or person shall interview the applicant. However, nothing within this policy requires the school district to hire a veteran interviewed. At the conclusion of the hiring procedure and protocol, should a veteran and nonveteran be equally qualified for the position the veteran shall be granted veteran's preference and shall be offered employment in the position.

A veteran may be removed for incompetency or misconduct shown after a hearing, upon due notice, upon stated changes, and with the right of the employee or appointee to a review pursuant to law.

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**State References**

SDCL 13-10-12	Criminal background investigation
SDCL 3-3-1	Veterans preferred in public employment
SDCL 3-3-4	Restrictions on removal of veteran from employment – hearing and review – burden of proof
SDCL 3-3-6	Confidential and policy-making positions exempt from chapter
SDCL 3-3-7	Unmarried spouse of deceased veteran – entitlement to preference under certain conditions
SDCL 3-3-8	Spouse of disabled veteran – entitlement to preference under certain conditions
SDCL 33A-2-1	Veteran defined

**Federal Reference**

USC Title 38 §4301-4335	Employment and reemployment rights of members of the Uniformed Services
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**STAFF ETHICS**

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School employees hold positions of public trust. High standards of honesty, integrity, and fairness are to be exhibited by each school district employee when involved in any school district activity. Ethical behavior by staff is required and expected at all times while fulfilling one's employment responsibilities and when at all school functions.

District employees are required and expected to:

1. treat students, parents, fellow employees, and community members with respect. Conduct which is prohibited includes, but is not limited to:
  - inappropriate verbal, visual or physical conduct, including jokes that demean an individual or group of individuals, spreading gossip about any individual, threatening another individual and all types of bullying behavior;
  - without proper authorization and authority violating another person's right of privacy and/or intentionally invading another person's personal space;
  - knowingly falsely blame an individual for conduct not done by the person.
2. promote a safe, nurturing, and positive school and work environment. Conduct which is prohibited includes, but is not limited to:
  - any conduct that is severe and objectively offensive so that it creates or results in an intimidating, hostile or offensive work or learning environment or has the purpose or effect of substantially or unreasonably interfering with an employee's or student's performance;
  - threatening, harassing, punishing or retaliating behavior against students and/or other employees.
3. maintain confidentiality concerning students, families and employees.
4. act in a manner consistent with District policies, legal and contractual standards, responsibilities, and obligations.
5. model and promote appropriate dress and language.
6. report to a school administrator knowledge of mismanagement, waste of funds, misuse of school property, abuse of authority, threats to safety, violations of policies and regulations, or other conduct that damages integrity or reputation of the school district.

7. refrain from using school employment to promote personal political and/or religious views.

In addition to the foregoing, the District, within this policy, adopts and incorporates into this policy as if set forth in full, the South Dakota Department of Education Professional Teachers Ethics as set forth in ARSD 24:08:03. The Professional Teachers Ethics as incorporated into this policy applies to:

- Teachers - a person charged with responsibility in the field of education and certified by the secretary of the Department of Education as a teacher or other specialist employed or contracted to provide services in an educational setting,
- Education Specialists - a person with specialized training or licensure, not serving as a classroom teacher, but employed or contracted to provide services in an educational setting, and
- Noncertified Educators - a person charged with responsibility in the field of education who is not certified by the secretary of the Department of Education as a teacher, administrator, or other education specialist, but who is employed or contracted to provide services in an educational setting.

Furthermore, the District, within this policy, adopts and incorporates into this policy as if set forth in full, the South Dakota Department of Education Professional Administrators Ethics as set forth in ARSD 24:11:03. The Professional Administrators Ethics as incorporated into this policy applies to:

- the Superintendent,
- the Business Manager, and
- all other educational administrators.

Any employee who believes a staff member has engaged in conduct which violates the code of conduct shall immediately report the alleged misconduct to their immediate supervisor. If the concern/complaint involves the individual's immediate supervisor, the complaint may be filed with any administrator within the school district.

All complaints will be investigated and should the investigation result in a determination of unethical behavior by a school employee such unethical behavior shall constitute just cause for discipline, up to and including termination of employment. A complaint reported which was intentionally and knowingly false will result in disciplinary action being taken against the person or persons involved in the false complaint being made.

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### **State References**

ARSD 24:08

Professional Teachers Ethics

ARSD 24:11

Professional Administrators Ethics



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## STAFF CONFLICT OF INTEREST

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Employees of the Board will not engage in nor have a financial interest, directly or indirectly, in any activity that conflicts (or raises a reasonable question of conflict) with their duties and responsibilities in the school system.

Employees will not engage in work of any type where information concerning customer, client, or employer originates from any information available to them through school sources.

Employees will not sell textbooks, instructional supplies, equipment, reference books, or any other school products to the schools in the district. They will not furnish the names of students or parents to anyone selling.

### Nepotism

In order that there is no conflict of interest in the supervision and evaluation of employees, no person will directly supervise a member of his/her immediate family employed in a continuing capacity by the Tea Area School District, except by unanimous vote by the Board.

### Definitions

Immediate Family: spouse, father, stepfather, father-in-law, stepfather-in-law, mother, stepmother, mother-in-law, stepmother-in-law, son, stepson, son-in-law, stepson-in-law, daughter, stepdaughter, daughter-in-law, stepdaughter-in-law, brother, half-brother, stepbrother, brother-in-law, stepbrother-in-law, sister, half-sister, stepsister, stepsister-in-law, nephew, nephew-in-law, niece, niece-in-law, grandparent, grandchild, or person living in the household.

Continuing Capacity: any position that is eligible for benefits.

### Application

Should a marriage or cohabitation, the hiring of a supervisor or District reorganization create a situation in violation of the policy, the violation will be remedied by the transfer of one immediate family member as soon as practical to a vacancy for which he or she is qualified with no loss in pay.

No member of the Superintendent or School Board Member's immediate family will be hired in any continuing capacity by the district during the employment of the superintendent or term of office of the Board member without unanimous vote by the Board of Education. If a family member is currently employed at the inception of this policy, hiring of the Superintendent or election of a Board member, the family member will be ineligible for promotion or transfer without unanimous vote of the Board of Education.

Employees as of the initial date of this policy may remain in their current assignments.

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### **State References**

Constitution of the State of South Dakota, Art. VIII, Sec. 17

SDCL 13-20-2.1 Interest of school district officer or employee in sale of school equipment as misdemeanor - Exception

SDCL 13-43-1 Employment of school board member in same district prohibited

SDCL 6-1-1 Local officer's interest in public purchase of contract unlawful – Contract void

**NOTE:** \* *Under the prior statute the Attorney General Opinion that a teacher under continuing contract does not lose that status if a spouse is elected, A.G. Opinion #77-22. It is the intention of this policy to avoid any appearance of undue favoritism in the initial hire of a board member's spouse.*

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**STAFF CONDUCT**

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All staff members have a responsibility to familiarize themselves with and abide by the laws of the State as these affect their work, the policies of the Board, and the regulations designed to implement them.

In the area of personal conduct, the Board expects that teachers and others will conduct themselves in a manner that not only reflects credit to the school district, but also sets forth a model worthy of emulation by students.

All staff members will be expected to carry out their assigned responsibilities with conscientious concern.

Essential to the success of ongoing school operations and the instructional program are the following specific responsibilities, which will be required of all personnel:

1. Faithfulness and promptness in attendance at work.
2. Support and enforcement of policies of the Board and regulations of the school administration in regard to students.
3. Diligence in submitting required reports promptly at the times specified.
4. Care and protection of school property.
5. Concern for and attention to their own and the school district's legal responsibility for the safety and welfare of students, including the need to ensure that students are under supervision at all times.

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**State References**

SDCL 13-8-44     Destruction, falsification or failure to deliver records as misdemeanor  
SDCL 13-43-28     Reprimand or disciplinary action for teacher misconduct -- Procedure

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**FREEDOM OF EXPRESSION**

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Employees have the Constitutional right of freedom of speech to speak on matters of public concern. However, the freedom of speech is limited for public employees when on duty or attending a school function, and also when discussing certain employment and student matters.

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**State References**

ARSD 24:08

ARSD 24:11

Professional Teachers Ethics

Professional Administrators Ethics

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## SEARCH AND SEIZURE

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### Vehicle Searches

Employees are permitted to park on District premises as a matter of privilege, not a right. The District retains authority to conduct routine patrols of parking lots and inspections of the exterior of vehicles parked on those lots. The interior of an employee's vehicle on District premises may be searched by a District administrator if administration has reasonable suspicion to believe items that are unauthorized according to District policy or state or federal law related to public schools (e.g. prohibition against bringing weapons on public school property) are contained inside. Whenever possible, the employee shall be informed of the search. The employee has the right to Association representation. However, emergency situations may necessitate a search with or without the employee's knowledge or representation. All searches shall be conducted in the presence of another adult witness.

### Law Enforcement Involvement

Any search and/or seizure by law enforcement officials will occur only when law enforcement officials properly advise District administration and provide documentation of the lawful authority to conduct the search and/or seizure.

All district property, including, but not limited to, real estate, buildings, offices, desks, storage areas, lockers, computer systems and equipment, voice-mail, and vehicles, is owned by the district, and is intended for educational purposes, and district business, at all times.

Individuals using district-owned property (system users) shall have no expectation of privacy when using school property. The district reserves the right to monitor, inspect, copy, review and store (at any time and without notice) all usage of district property including computer and computer systems, including all internet and electronic communications access and transmission/receipt of materials and information. All material and information accessed and/or received through district computers and computer systems shall remain the property of the school district.

System users have no right of privacy and should have no expectation of privacy in materials sent, received, or stored in district-owned computers or on the district system or within the physical area of the district. School officials reserve the right to review district system/property use at any time to determine if such use meets the criteria set forth in school board policies and district regulations. Routine maintenance and monitoring of the system and physical plant may lead to the discovery that the user has or is violating district policy or law. Once a problem is discovered, an individual search may be conducted. The search/investigation will be reasonable and will be in keeping with the nature of the alleged misconduct.

Employees or students violating acceptable use of district property, or policy, may be subject to disciplinary action by the Superintendent or designee, depending on the nature of the violation

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**State References**

SDCL 13-5-1

School districts defined

SDCL 13-8-39

Management of schools by board – general powers

**Federal Reference**

US CONST 4<sup>th</sup> Amd.

Search and Seizure

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## **SOCIAL NETWORKING POLICY / STAFF-STUDENT RELATIONS**

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Employees are prohibited from establishing personal relationships with students that are unprofessional and thereby inappropriate. Examples of unprofessional relationships include, but are not limited to: employees fraternizing or communicating with students as if employees and students were peers such as writing personal letters or emails; “texting” students; calling students on cell phones or allowing students to make personal calls to them unrelated to school functions; sending inappropriate pictures to students; discussing or revealing to students personal matters about their private lives or inviting students to do the same (other than professional counseling by a school counselor); and engaging in sexualized dialogue, whether in person, by phone, via the Internet, or in writing.

Employees who post information on social media that include inappropriate personal information such as, but not limited to: provocative photographs, sexually explicit messages, use of alcohol, drugs, or anything students are prohibited from doing must understand that if students, parents or other employees obtain access to such information, their case will be investigated by school and district officials and if warranted will be disciplined up to and including termination, depending upon the severity of the offense.

Additionally, certified personnel (to include paraprofessionals) depending upon the severity of the offense, may have their case forwarded to the South Dakota Department of Education for review and possible further sanctions.

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**ETHICAL USE OF DISTRICT, PUBLIC,  
OR PRIVATE TECHNOLOGY RESOURCES**

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Ethical behavior requires that District staff and students show consideration and respect whenever using computers or electronic communication/technology/devices/resources.

When interacting with each other, District staff and students shall:

- (a) not include in electronic communication between staff, students and/or parents/guardians, comments or content that would not be acceptable in a face-to-face communication;
- (b) not disclose, use, or disseminate unauthorized personal information of another person;
- (c) distinguish between personal social networking sites and professional social networking sites. Staff shall ensure propriety when initiating or accepting current District students, except for the staff person's relatives, into any social networking sites;
- (d) evaluate all information for its accuracy, reliability, and authority; and
- (e) respect the privacy rights of students, families, and staff by ensuring that all professional and personal comments or posts adhere to applicable state and local statutes (including FERPA) as well as established educational protocol. For example, a teacher should not share personally identifiable information about students in his/her class on a personal website such as Facebook.

Disciplinary action may be taken against staff or students whose off-site communication causes a substantial disruption to the education environment or substantially interferes with another's rights. Criminal action may be taken if the off-site communication constitutes a threat.

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**STAFF HEALTH AND SAFETY**

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Worker's Compensation

In case of injury while pursuing duties in keeping with the employee's contract, the employee will receive compensation and expenses as prescribed by the worker's compensation law of South Dakota.

Any employee who receives an injury while at work should immediately report this injury to the business office and request the necessary forms to make application for payment under this law.

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**State References**

SDCL 13-10-9      Liability insurance for protection of employees  
SDCL 62-1-2      Employer defined  
SDCL 62-3-3      Employer and employee bound by provisions of title -- Exceptions

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## EMPLOYEE COMMUNICABLE DISEASES

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The board recognizes its responsibility to provide a clean and healthy environment for students and school employees.

The determination of whether an infected employee be excluded from work activities shall be made on a case-by-case basis, under the direction of the principal/building administrator or designee.

In situations where the decision requires additional knowledge and expertise, the principal will refer the case to an advisory committee for assistance in determining the proper course of action.

The advisory committee may be composed of:

1. a representative from the State Health Department;
2. the employee's physician;
3. the employee and/or designee;
4. the school nurse ;
5. the superintendent or designee; and
6. other appropriate school personnel.

In making the determination, the advisory committee shall consider:

1. the physical condition of the school employees;
2. the expected type(s) of interaction with others in the school setting;
3. the impact on both the infected school employee and others in that setting;
4. the South Dakota Department of Health guidelines and policies;
5. the status of certification of the employee as is promulgated in state law
6. the recommendation of the County Health Officer, which may be controlling;
7. information regarding the infected employee, which is, deemed part of his or her personnel records, therefore is classified as "Confidential" as required by state law.

The advisory committee may officially request assistance from the State Department of Health.

If employment of an infected employee is to be interrupted or discontinued, the employee will be entitled to use available medical leave and receive available benefits. Public information will not be revealed about the employee who may be infected. If the employee is permitted to remain in the school setting the following procedure will be followed by the principal:

Information will be provided, as appropriate to school employees who have regular contact with the employee, as to the employee's medical condition and other factors needed for consideration in carrying out job responsibilities.

Health guidelines for work attendance are established and interpreted with the context of the case. The guidelines are not inclusive but are available to be used as a resource. School personnel will refer to school health professionals for specific judgments in interpreting the guidelines.

Instructions in appropriate handling of blood and body fluids will be provided. Hand washing after contamination, food preparation and health/hygiene care performed in different sink and work areas, maintenance cleaning and other personal hygiene measures are part of creating a healthy environment.

Specific health concerns may require the advisory committee to make a determination on school attendance or participation in school activities.

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**State References**

SDCL 1-27-3      Records declared confidential or secret

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## EMPLOYEE COMMUNICABLE DISEASE GUIDELINES

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Health guidelines for work attendance are established and interpreted with the context of the situation. The guidelines are not inclusive but are available to be used as a resource. Specific needs will be addressed individually. School personnel will refer to school health professionals for specific judgments in interpreting the guidelines.

Disease and Incubation Period*	Rules for Work Attendance
Acquired Immune process Deficiency Syndrome (AIDS) 6 months-five years	Determination should be made by the team as outlined in the Communicable Disease Policy. The State Department of Health guidelines on AIDS shall be used as reference.
Chicken Pox *14-21 days	The employee may attend work after all pox are dry and scabbed.
Cytomegalovirus (CMV) Salivary Gland Viruses	The employee may attend work. Precautions should be taken by contacts with immunosuppression as anti-cancer or organ transplants as well as anyone with suspected or known pregnancy. Good hand washing in all cases should eliminate risk of transfer of infection.
Giardiasis and Infectious Enteric Diseases *5-25 days or longer	The employee may attend work. Food handlers must remain at home until they have three negative stool specimens. Good hand washing in all cases should eliminate risk of transfer of infection.
Herpes Simplex *2-12 days	The employee may attend work during an active case. Good hand washing in all cases should eliminate risk of transfer of infection.
Impetigo variable *4-10 days	The employee may attend school if under treatment and dry.
Infectious Hepatitis *15-40 days (Average 25 days)	The employee may attend work as directed by the physician. Appropriate personal hygiene precautions should eliminate risk of transfer of infection.

Measles (Red, Hard, Rubeola, 7-day) *8-14 days	The employee may attend work after a minimum of seven days. Employees who have had contact with measles may attend work if the employee has had the measles or if immunization is up to date.
Infectious Mononucleosis (Glandular Fever) *2-6 weeks	The employee may attend work as directed by the physician.
Mumps *12-21 days	The employee may attend work after swelling has disappeared.
Pediculosis (Lice,)	The employee may attend work after treatment.
Pink Eye (Conjunctivitis) * 5-12 days	The employee may attend work after the eye is clear, under treatment or with physician's written permission.
Plantar's Warts	The employee may attend work.
Ring Worm (Scalp, Body, Athlete's Foot)	The employee may attend work if area is under treatment.
Rubella (3-day, German Measles) *14-21 days	The employee may attend work after a minimum of four days. Prevent exposure of pregnant women.
Scabies (7-year itch, Mites)	The employee may attend work after treatment.
Streptococcal Infections (Scarlet Fever, Scarletina, Strep Throat) *1-3 days	The employee may attend work 24 hours after initiating oral antibiotic therapy, and clinically well.

All communicable and chronic disease should be reported to Health Services.

\*Time interval between initial contact with an infectious agent and the first sign of symptom of the disease.

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## DRUG-FREE WORKPLACE

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The Tea Area School District requires a drug-free learning and working environment. The District will comply with the Drug-Free Workplace Act. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the work place is prohibited.

As a condition of employment with the District, all employees are required to comply with this policy.

1. The District supports rehabilitation of employees with drug abuse problems except in those circumstances where drug use has created or could create the risk of injury or death to other employees or to students. Employees may use benefits and leave for which they regularly qualify, in order to meet rehabilitation needs except in the cases governed by Regulation GBECA-R.
2. Drug-free awareness programs will be established to inform employees of this policy as well as the dangers of drug abuse in the work place and any available resources for counseling, rehabilitation and employee assistance programs.
3. Employees must notify the Human Resources Department in writing no later than five calendar days of any criminal conviction for a drug statute violation occurring in the work place.
4. The District will notify any granting agency in writing within 10 calendar days after receiving notice of a conviction for a drug statute violation occurring in the work place from the employee or otherwise receiving actual notice of the drug conviction.
5. Employees in safety sensitive positions, or positions in which driving is an essential function of the position, must notify the Human Resources Department in writing no later than the start of the next work day of any arrest for drug-related violations.
6. Discipline will be imposed for violations of this policy which may include a reprimand, suspension, termination or requiring satisfactory participation in a drug abuse or rehabilitation program, in accordance with the respective working agreement as well as a referral for prosecution, if appropriate.
7. The District will make a good faith effort, on a continuing basis, to maintain a drug-free work place.
8. Employees have access to the full policy and regulation on the District website. Annually, employees will sign a form indicating their acknowledgment of responsibility for reviewing and understanding the policies and procedures of the District.

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**State References**

SDCL 22-42-19 Drug free zones created – violation as felony

**Federal References**

41 U.S.C. §702 et seq. Drug Free Workplace Act of 1988 (as amended)

21 U.S.C. § 811 Controlled Substances Act of 1970 (CSA)

29 CFR Part 94 – Government wide Requirements for Drug-Free Workplace

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## DRUG-FREE WORKPLACE - DEFINITIONS

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“Legal drug” includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

“Illegal drug” means any drug (a) which is not legally obtainable or (b) which is legally obtainable but has not been legally obtained. All substances listed in the Federal Controlled Substance Act, so called “designer drugs” which have not been included in the Federal Controlled Substances Act, and the misuse of other non-drug substances, such as glue, are covered by this definition. The term also includes prescribed drugs legally obtained but not being used for prescribed purposes.

“Under the influence” means for the purpose of this policy that the employee is affected by a drug, or the combination of a drug and alcohol, in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior or to obvious impairment of physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by professional opinion, a scientifically valid test and, in some cases such as alcohol, by a lay person’s opinion.

“Possession” means the presence, after confirmation testing by a Medical Review Officer (MRO) (an entity trained in the detection of substance misuse), of any detectable amount of any drug.

“Reasonable suspicion” means a determination based on objective facts and inferences drawn from those facts as well as personal observations that suggest an employee is under the influence of drugs.

“Work place” includes Tea Area School District property including motor vehicles, parking areas and sidewalks surrounding the building. Work place also includes any site for the performance of work as a District employee, including but not limited to, student activities.

### Assistance

If an employee has a drug problem and voluntarily seeks help to overcome the problem, assistance is available to the employee either through the District insurance plan, if the employee is an enrolled participant, or the District’s Employee Assistance Plan if available. An employee’s decision to seek assistance will not be used as a basis for disciplinary action, nor will it be a defense to or a mitigating factor in the imposition of appropriate disciplinary action, including termination, where facts indicating a violation of this policy are obtained independent of the employee’s pursuit of assistance.

The District has information available to all employees regarding resources available to assist with drug problems including counseling or rehabilitation assistance.

1. Reasonable Suspicion. The District may request a District employee to undergo drug testing if there is reasonable suspicion that the employee is under the influence of drugs during normal business hours or during a work assignment. There shall be no "random" testing. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:
  - A pattern of abnormal or erratic behavior which is so unusual that it warrants summoning a supervisor, department head or someone else for assistance.
  - Information provided by a reliable and credible source with personal knowledge.
  - Direct observation of drug use.
  - Presence of the physical symptoms of drug use, i.e., glassy or bloodshot eyes, slurred speech, poor coordination and/or reflexes, abrupt swings in mood or energy level, or excessive irritability and emotional outbursts.
  - Possession of substances in violation of District policy GBEC.
  - Involvement in a work-related accident or incident, excessive absenteeism, severe and prolonged reduction in productivity or performance.
2. Supervisors are required to detail in writing the basis for their determination that reasonable suspicion existed to warrant the testing of an employee, including, but not limited to, the specific facts, symptoms or observations and a description of any evidence obtained after searching District property or the employee's personal property brought onto District property.

### Test Procedures

The employee may be asked to submit to testing by a qualified entity at District expense and on District time. An association representative may be present during the discussion of the request for testing, if the employee so requests. However, if an association representative is not available, to avoid time delays, the employee can elect to have another staff member serve as a witness to the testing discussion. Prior to testing, all persons to be tested are required to complete and sign the employee consent form and a statement allowing the hospital/physician to release medical information to the District.

All positive tests will be reviewed by a qualified MRO. After receiving notice of positive test results from the MRO, the employee has 72 hours to request, in writing, to have the original sample sent to an alternate lab to be re-tested. The cost of a re-test requested by the employee is the employee's responsibility.

Any employee refusing to submit to a drug test will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, failure to execute the consent form,

abusive language to the supervisor or personnel performing the test, or tampering with any sample, container, equipment or documentation of the sampling process.

An employee suspected of being under the influence will be driven to and from the testing site by a District representative. If the testing results are not immediately available, the employee will not be permitted to return to work, but placed on paid leave until the results are available. The employee may arrange for transportation from the testing site or transportation home shall be provided by the District representative.

A positive result from the drug test may result in disciplinary action or a requirement of satisfactory participation in a drug abuse or rehabilitation program, in accordance with the respective working agreement, as well as a referral for prosecution, if appropriate.

### Confidentiality

Information obtained on individuals pursuant to this policy will be disclosed only to those persons having legitimate need for it. Medical records pertaining to drug use are confidential, and access to such records shall be in accordance with District policy. Medical records are not kept in the personnel file.

### Special Provision for “Commercial Drivers”

The provisions of this regulation shall not apply to “commercial drivers” as defined in Policy GBECA. Testing and discipline of “commercial drivers” will be governed by Policy/Regulation GBECA/GBECA-R.

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### **State References**

SDCL 22-42-19 Drug free zones created – violation as felony

### **Federal References**

41 U.S.C. §702 et seq. Drug Free Workplace Act of 1988 (as amended)

21 U.S.C. § 811 Controlled Substances Act of 1970 (CSA)

29 CFR Part 94 – Government wide Requirements for Drug-Free Workplace

Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017

**DRUG AND ALCOHOL TESTING FOR COMMERCIAL DRIVERS**

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The Tea Area School District requires a drug and alcohol-free working environment.

The District will make every effort to see that District employees requiring a commercial driver's license (CDL) are operating vehicles in a safe manner.

A "driver" for purposes of this policy is defined as an employee who is required, as a condition of employment, to have a commercial driver's license.

The Federal Motor Carrier Safety Administration of the U.S. Department of Transportation mandates that drivers who are required to have a commercial driver's license undergo drug and alcohol testing. In response to this mandate, the District maintains a drug and alcohol testing program for these drivers.

It is the intent of the School Board that all requirements of federal mandates for driver safety, as it applies to drugs and alcohol, be covered by this policy.

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**Federal References**

49 CFR Part 40      Procedures for transportation workplace drug and alcohol testing programs

Federal Motor Carrier Safety Administration Regulation Part 382

Original Adopted Date: November 2017

Reviewed: November 2017

Revised: November 2017

**DRUG-FREE AND ALCOHOL FREE WORK PLACE  
DRUG AND ALCOHOL TESTING FOR COMMERCIAL DRIVERS**

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To carry out the Tea Area School District's drug and alcohol testing program for employees whose positions require the possession of a commercial driver's license, the following guidelines will be used:

All District employees required to have a commercial driver's license shall be subject to drug and alcohol testing. All drug and alcohol testing will be conducted in accordance with U.S. Department of Transportation guidelines and regulations. There will be five circumstances in which drug and alcohol testing may occur for employees subject to the DOT regulations:

1. Pre-enrollment/pre-employment testing  
All applicants must submit to a urine drug test prior to employment.
2. Post accident testing  
Post accident testing for drugs and alcohol will occur when any driver is involved in an accident where there is a fatality. In addition, post accident testing will occur whenever the driver receives a citation and the accident results in an injury requiring medical attention away from the scene or if any vehicle involved in the accident has to be transported away from the scene by a tow truck or other vehicle.
3. Random testing  
All drivers will be subject to random testing with a minimum of 50 percent of the average number of driver positions being tested for drugs and 25 percent of the average number of driver positions being tested for alcohol.
4. Reasonable suspicion testing  
Reasonable suspicion testing will occur when a driver exhibits physical or behavioral symptoms or reactions commonly attributed to the use of alcohol or a controlled substance, as witnessed by at least one supervisor trained in compliance with the regulation.
5. Return-to-duty and follow up  
A driver who has violated the alcohol use policy must submit to unannounced follow up tests. At least six (6) tests must be conducted in the first twelve (12) months after the driver returns to duty. Follow up testing may be extended for up to 60 months following return to duty. No provision for repeat testing will be made for a driver whose test results indicate the presence of a controlled substance.

All drivers must submit to urine drug tests and breath alcohol tests. There are no exceptions. Consideration will not be given to prospective employees if they refuse to submit to tests or if they fail the tests.

The following behavior constitutes a refusal to test: Inability to provide sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation; tampering with or attempting to adulterate the specimen; interfering with the collection process; not immediately reporting to a collection site; failing to remain at the collection site until the collection process is complete; having a test result reported by a Medical Review Officer as adulterated or substituted; or leaving the scene of an accident without a valid reason before the tests have been conducted.

Refusal to test or failing a drug or alcohol test on the part of an employee will be grounds for termination. Such termination shall be made in accordance with policies of the District and will, where permitted or required by applicable law or regulation, result in immediate suspension, which shall be suspension without pay.

Employees subject to this policy shall not consume alcohol while on duty, four hours prior to on duty time, and up to eight hours after an accident or until the employee undergoes a post-accident test, whichever occurs first. A driver who has an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform any safety-sensitive functions until 24 hours following administration of the test.

A driver shall not report to work or remain on duty when the driver uses any controlled substance.

A driver who has a verified positive controlled substance test result or an alcohol test result of 0.04 or greater will be immediately removed from any safety sensitive function. The driver with these results, or who refuses to submit to a test, will be evaluated by a substance abuse professional.

Those who test positive will be provided with the names of qualified substance abuse professionals.

Designated District supervisors will be certified on drug and alcohol awareness as required by federal regulation.

The District retains the authority to determine whether to terminate an employee for a positive drug or alcohol test.

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### **Federal References**

49 USC Transportation §31306	Omnibus Transportation Employee Testing Act of 1991
49 CFR Part 40	Procedures for transportation workplace drug and alcohol testing programs
21 U.S.C. §802	Comprehensive Drug Abuse Prevention and Control Act of 1970
Federal Motor Carrier Safety Administration Regulation Part 382	

Original Adopted Date: November 2017

Reviewed: November 2017  
Revised: November 2017

**ALCOHOL-FREE WORK PLACE**

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The Tea Area School District requires an alcohol-free learning and working environment.

The unlawful manufacture, distribution, dispensation, possession, or use of alcohol in the work place is prohibited.

As a condition of employment with the District, all employees are required to comply with this policy.

The District supports rehabilitation of employees with alcohol problems except in those circumstances where alcohol use has created or could create the risk of injury or death to other employees or to students. Employees may use benefits and leave for which they regularly qualify, in order to meet rehabilitation needs except in the cases governed by Regulation GBECA-R.

Employees in safety sensitive positions, or positions in which driving is an essential function of the position, must notify the Human Resources Department in writing no later than the start of the next work day of any arrest for an alcohol-related moving violation.

Discipline will be imposed for violations of this policy which may include a reprimand, suspension, or termination in accordance with the respective working agreement as well as a referral for prosecution, if appropriate.

Employees have access to the full policy and regulation on the District website. Annually, employees will sign a form indicating their acknowledgment of responsibility for reviewing and understanding the policies and procedures of the District.

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Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017



## ALCOHOL-FREE WORK PLACE DEFINITIONS

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“Under the influence” means for the purpose of this policy that the employee is affected by an alcoholic substance, or the combination of a drug and alcohol, in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior or to obvious impairment of physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by professional opinion, a scientifically valid test and, in some cases such as alcohol, by a lay person’s opinion.

“Possession” means the physical presence, or presence after testing by a Medical Review Officer (MRO) (an entity trained in the detection of substance misuse), of any detectable amount of any alcohol.

“Reasonable suspicion” means a determination based on objective facts and inferences drawn from those facts as well as personal observations that suggest an employee is under the influence of alcohol.

“Work place” includes Tea Area School District property including motor vehicles, parking areas and sidewalks surrounding the building. Work place also includes any site for the performance of work as a District employee, including but not limited to, student activities.

### Assistance

If an employee has an alcohol problem and voluntarily seeks help to overcome the problem, assistance is available to the employee either through the District insurance plan, if the employee is an enrolled participant, or the District’s Employee Assistance Plan, if available. An employee’s decision to seek assistance will not be used as a basis for disciplinary action, nor will it be a defense to or a mitigating factor in the imposition of appropriate disciplinary action, including termination, where facts indicating a violation of this policy are obtained independent of the employee’s pursuit of assistance.

The District has information available to all employees regarding resources available to assist with alcohol problems, including counseling or rehabilitation assistance.

### Reasonable Suspicion

1. The District may request a District employee to undergo alcohol testing if there is reasonable suspicion that the employee is under the influence of alcohol during normal business hours or during a work assignment. There shall be no random testing. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- A pattern of abnormal or erratic behavior which is so unusual that it warrants summoning a supervisor, department head or someone else for assistance.
  - Information provided by a reliable and credible source with personal knowledge.
  - Direct observation of alcohol use.
  - Presence of the physical symptoms of alcohol use, i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, abrupt swings in mood or energy level, or excessive irritability and emotional outbursts.
  - Possession of alcohol in the work place.
  - Involvement in a work-related accident or incident, excessive absenteeism, severe and prolonged reduction in productivity or performance.
2. A positive result from the alcohol analysis may result in disciplinary action as identified in the negotiated agreement. Any employee refusing to submit to an alcohol test will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, failure to execute the consent form, abusive language to the supervisor or personnel performing the test, or tampering of any sample, container, equipment or documentation of the sampling process.
  3. Supervisors are required to detail in writing the basis for their determination that reasonable suspicion existed to warrant the testing of an employee, including, but not limited to, the specific facts, symptoms or observations and a description of any evidence obtained after searching District property or the employee's personal property brought onto District property.

### Test Procedures

The employee may be asked to submit to alcohol testing by a qualified medical physician or hospital at District expense and on District time. An association representative may be present during the discussion of the request for testing, if the employee so requests. However, if an association representative is not available, to avoid time delays, the employee can elect to have another staff member serve as a witness to the testing discussion. Prior to testing, all persons to be tested are required to complete and sign the employee consent form and a statement allowing the hospital/physician to release medical information to the District.

Any employee refusing to submit to an alcohol test will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, failure to execute the consent form, abusive language to the supervisor or personnel performing the test, or tampering with any sample, container, equipment or documentation of the sampling process.

An employee suspected of being under the influence will be driven to and from the testing site by a District representative. If the testing results are not immediately available, the employee will not be permitted to return to work, but placed on paid leave until the results are available. The employee may arrange for transportation from the testing site or transportation home shall be provided by the District representative.

A positive result from alcohol test may result in disciplinary action or a requirement of satisfactory participation in a rehabilitation program, in accordance with the respective working agreement, as well as a referral for prosecution, if appropriate.

## Confidentiality

Information obtained on individuals pursuant to this policy will be disclosed only to those persons having legitimate need for it. Medical records pertaining to alcohol use are confidential, and access to such records shall be in accordance with District policy. Medical records are not kept in the personnel file.

## Special Provision for “Commercial Drivers”

The provisions of this regulation shall not apply to “commercial drivers” as defined in Policy GBECA. Testing and discipline of “commercial drivers” will be governed by Policy/Regulation GBECA/GBECA-R.

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Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017

**TOBACCO-FREE SCHOOLS/USE BY EMPLOYEES PROHIBITED**

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The Tea Area School District is dedicated to providing a healthy, comfortable, and productive environment for staff, students, and citizens. The Board is concerned about the health of its employees and also recognizes the importance of adult role modeling for students during formative years.

The use of tobacco and/or carrying any lighted tobacco product by District employees is prohibited on District property. This includes all enclosed indoor areas under the control of the District including work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways as well as District grounds, parking areas, sidewalks surrounding buildings, and District-owned vehicles.

Any employee who violates this policy will be subject to disciplinary action.

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**State References**

SDCL 34-46-14 Smoking in public or place of employment prohibited

Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017

**STAFF PARTICIPATION IN POLITICAL ACTIVITIES**

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The Board recognizes that employees of the district have the same fundamental civic responsibilities and privileges as other citizens, among these are campaigning for elective public office and holding an elective or appointive public office.

Any employee who intends to campaign for an elective public office will notify the superintendent, in writing at the earliest possible moment, of the office which he or she intends to seek, together with the decision as to whether he or she wishes to continue employment and under what terms and conditions.

The superintendent will meet with and discuss these matters with the employee involved and will present a proposed solution to the Board for consideration. The essential element to be determined by the Board is whether the activities proposed by the employee are compatible with the time requirements for fulfilling the employee's responsibilities to the district.

In connection with his or her campaigning, no employee will use school system facilities, equipment, or supplies; nor will the employee discuss his or her campaign with students or with school personnel during the working day; nor will the employee use any time during the working day for campaigning purposes.

An employee seeking an extended leave of absence for campaigning, office-holding, or other time-consuming activities connected with government service will apply for such leave in writing. The Board will provide the employee with a written answer to a request for political leave including salary arrangements.

If not elected, the employee may return to the position previously held.

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**State References**

SDCL 13-43-15.1      Right of employee to run for office

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## **DISTRICT INVOLVEMENT IN POLITICAL ACTIVITY**

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The Board believes in the importance of democracy in American society and advocates political participation as an act of self-governance. In this spirit, the Board recognizes the rights of district employees, as private citizens, to be involved in local, state and federal political activities, and encourages politically related material, discussions and projects in the classroom with the intent to teach students about democracy.

For the purpose of educating voters and lawmakers, the Board will also provide information on ballot questions. The Board authorizes the superintendent or superintendent's designee to communicate such information to citizens, media sources, public officials or candidates running for office as the superintendent or designee deems appropriate.

### **SCHOOL AS POLLING PLACE**

In the case that a public school building is used as a public polling place, candidates, their representatives, members of a political party or political action committee or citizens acting in support or opposition to a ballot question may hand out literature or speak with prospective voters as long as this is done outside a 100-foot radius of the entrance to the polling place.

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Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017

## STAFF GIFTS AND SOLICITATIONS

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### Gifts

The routine of giving of gifts will not be encouraged at any time.

The presentation of gifts to and the arrangement of social affairs for, employees leaving the system for reasons other than retirement will be governed by the following policy:

1. Each building principal will appoint, or the employees may volunteer, for a small social committee to plan social affairs.
2. Any gifts to be presented to departing employees by their respective groups will be at the discretion of the group involved.

### Solicitations

The superintendent will annually approve all solicitations that are to be permitted in the schools. No organization may solicit funds of staff members in the schools, nor may anyone distribute flyers or other materials related to fund drives through schools, without the approval of the superintendent.

Employees may not be engaged in the sale of products to the schools, even if the proceeds of such sales are intended for charitable or civic purposes; nor will staff members collect any money or distribute any fund-raising literature without the express approval of the superintendent.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## SMOKING ON SCHOOL PREMISES

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The School Board recognizes that smoking represents a health and safety hazard, which can have serious consequences for the smoker and nonsmoker and the safety of the District. In order to protect the students, staff, employees, visitors and guests of the District from an environment that may be harmful to them, and because of possible harm to personal well-being, the Board hereby prohibits smoking by staff members, employees, visitors, or guests in all District buildings, on grounds, and in all school vehicles at all times.

For the purpose of this policy, "smoking" will mean all uses of tobacco and nicotine, including but not limited to cigars, chewing tobacco, cigarettes, and pipes.

It is understood that this policy will be in addition to other Board policies concerning the prohibition of smoking by students on school property and buses.

This smoking prohibition will be in effect 24 hours a day, seven days a week, and will apply to anyone present in District buildings, on District grounds, including the athletic stadium.

The Board hereby directs the superintendent to formulate the necessary rules and procedures to ensure the enforcement and implementation of this nonsmoking policy.

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### Resource

NSBA (1987). No Smoking: a Board Member's Guide to Nonsmoking Policies for the Schools. 1680 Duke Street, Alexandria, VA 22314

### State References

SDCL 34-46-2      Unlawful actions  
SDCL 34-46-14    Smoking in public or place of employment prohibited

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



## PERSONNEL RECORDS

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Superintendent will develop and implement a comprehensive and efficient system of personnel records, under the following guidelines:

1. A personnel folder for each employee will be accurately maintained in the district office.
2. In addition to the application for employment and references, personnel folders will contain records and information relative to compensation, payroll deductions, evaluations, and such other information as may be required by the state or considered pertinent.
3. All personnel records of individual employees of the Board will be considered confidential. They will not be open for public inspection; access will be limited to the chief executive officer (CEO) / superintendent, the appropriate building principal, and central office personnel authorized by the chief executive officer (CEO) / superintendent. The chief executive officer (CEO) / superintendent will take the necessary steps to safeguard unauthorized use of all confidential material.
4. Each employee will have the right, upon request, to review the contents of his own personnel file, excluding confidential references. Employment and medical references, recommendations, and reports provided to the district on a confidential basis will not be provided to subsequent or prospective employers, except upon written request of the employee or former employee and upon execution of a waiver of the right of inspection, as provided. An employee's request to review the personnel file shall be made to the chief executive officer (CEO) / superintendent and scheduled for a time convenient for the parties involved.
5. Employees may make written objections to any information contained in the file. Any written objection must be signed by the staff member and will become part of his/her personnel file. Anonymous material or material from an unidentified source will not be placed in a staff member's file unless it is signed by the person making the comment and the staff member is informed of the comment and afforded the opportunity to include a written response in the file.
6. Lists of district employees' names and home addresses will be released only to governmental agencies as required for official reports.

### References and Recommendations

Requests for information concerning a former employee by prospective or subsequent employers or any other person will be considered. If requested in writing, all responses to written requests for references or recommendations concerning employees or former employees will be in writing. Violation of this policy may result in employee discipline.

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**State References**

SDCL 60-4-12      Presumption of good faith disclosure of employment information to prospective employers

Original Adopted Date: July 2003

Reviewed: October 2017

Revised: November 2017

## STAFF COMPLAINTS AND GRIEVANCES

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The Board will encourage the administration to develop effective means for resolving differences that may arise among employees and between employees and administrators; reduce potential areas of grievances; and establish and maintain recognized channels of communication between the staff, administration, and the Board.

Grievance procedures should provide for prompt and equitable adjustment of differences at the lowest possible administrative level, and each employee should be assured opportunity for an orderly presentation and review of complaints and concerns. Channels established will provide for the following:

1. That teachers and other employees may appeal a ruling of a principal or other administrator to the superintendent.
2. That all school employees may appeal a ruling of the superintendent to the Board.

The procedures established for the resolution of grievances in agreements negotiated with recognized employee bargaining units will apply only to "grievances" as defined in the particular agreement.

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### State References

SDCL 3-18-1	Employees subject to chapter – Excluded officers and employees – Rights preserved to excluded persons
SDCL 3-18-1.1	Grievance defined
SDCL 3-18-15	Right of employee or representative to expression or communication of grievance not limited
SDCL 3-18-15.1	Grievance procedures to be established
SDCL 3-18-15.2	Appeal to department – Investigation, hearing, and order by department – Summary disposition of certain claims – Board of Regents employees
SDCL 3-18-15.3	Grievance procedure adopted in absence of agency action

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**STAFF COMPLAINTS AND GRIEVANCES  
(GRIEVANCE PROCEDURE)**

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Article I

Definitions:

- A. A "grievance" is a complaint by a person or group of persons employed by the Tea Area School District #41-5, made either individually or by a duly authorized and recognized employee association through its representative, that there has been a violation, misinterpretation or inequitable application of any existing agreement, contract, policy, rule, or regulation of the School Board. Negotiations for, or a disagreement over, a non-existing agreement, contract, policy, rule, or regulation is not a "grievance."
- B. An "aggrieved person" is the person or group of persons filing the grievance.
- C. "Board" means the School Board of the district.
- D. "Days" shall mean calendar days unless otherwise specified.

Article II

Purpose:

- A. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may from time to time arise between employees and the district and to facilitate this purpose these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.
- B. Nothing herein contained shall be construed as limiting the rights of any employee having a grievance to discuss the matter informally with any appropriate member of the administration, and having the grievance adjusted without the intervention of the employee association, provided the adjustment is not inconsistent with the terms of any settlement with the employee association then in effect. The employee or the administrator involved in the grievance may be represented by a representative at such an informal discussion only by the mutual consent of the employee and the appropriate member of the administration.

Article III

Procedure:

- A. It is important the grievances be processed as rapidly as possible. The number of days indicated at each level shall be the maximum and every effort should be made to expedite the process.
- B. If appropriate action is not taken by the employee within the time limit specified the grievance will be deemed settled on the basis of the disposition at the preceding level. The time limits specified herein may be extended by mutual agreement, provided the time extension is requested within the time limits provided in the Article.
- C. If an employee does not file a grievance in writing with the principal or other supervisor within 10 calendar days after the employee knew, or should have known, of the act or condition on which the grievance is based, the grievance shall be considered as having been waived.
- D. A supply of the grievance forms shall be on file with the building principal, and/or the immediate supervisor.

#### Article IV

##### Informal Procedures:

If an employee feels he or she has a grievance, he or she shall first discuss the matter with his or her supervisor, principal or other administrator, to whom he or she is directly responsible in an effort to resolve the problem.

#### Article V

##### Formal Procedures:

##### LEVEL ONE - School Principal, Immediate Supervisor or Other Administrator

- A. If an aggrieved person is not satisfied with the disposition of his or her problem through informal procedures, he or she shall submit his or her grievance in writing.
- B. Signed copies of the written grievance shall be delivered by the employee to the supervisor, principal or other administrator.
- C. An employee who is not directly responsible to a building principal may submit his or her formal written grievance to the administrator or supervisor to whom he or she is directly responsible.
- D. The administrator, within ten days of the filing of the grievance shall render his or her decision in writing to the aggrieved person.

##### LEVEL TWO - Superintendent of Schools

- A. If an aggrieved person is not satisfied with the decision concerning his or her grievance at Level One, or if no written decision has been rendered within ten days, he or she shall, within three days after the decision is rendered, or within thirteen

days after filing at level one, resubmit his or her grievance in writing to the superintendent.

- B. The superintendent shall within ten days from the filing of the written grievance meet with the aggrieved person for the purpose of resolving the grievance. The superintendent shall, within ten days after this meeting, render his or her decision in writing to the aggrieved person.

#### LEVEL THREE - Board of Education

- A. If the aggrieved person is not satisfied with the disposition of the grievance at Level Two, or if no written decision has been rendered within the time period set forth in the preceding paragraph, he or she shall within ten days thereafter resubmit the grievance to the business manager and the president of the Board.
- B. At a time mutually agreed upon by the parties, the Board or its designated agent shall hold a hearing on the grievance. The decision of the Board shall be rendered in writing within five days after the hearing.

#### LEVEL FOUR

If the aggrieved person is not satisfied with the disposition of the grievance at Level Three or if no written decision has been rendered within the time period set forth in the preceding paragraph, he or she may, within ten days after receipt of the written decision is due, whichever is earlier, appeal to the Department of Labor, pursuant to statute. The inclusion of this paragraph in this grievance procedure shall not constitute a waiver by either party of its rights to dispute the authority of the Department of Labor to hear the appeal and/or render any particular decision.

#### Article VI

##### Miscellaneous:

- A. If, in the course of investigation of any grievance by representatives of the complainant, such investigation requires their presence in a school building; they shall report immediately to the principal of such building being visited and state the purpose of the visit.
- B. Interruption of regularly assigned classes or activities shall be avoided and students shall not be included in any phase of the grievance procedure except with the mutual consent of both parties.
- C. Any party or parties in interest shall appear and may be represented at formal Levels One and Two of the grievance procedure by one representative. When the representative is not a member of the employee organization, the employee organization may have the right to have one spokesperson present and to have that spokesperson state its views at the formal Levels One and Two of the grievance procedure except when the aggrieved person specifically requests the exclusion of all but the parties in interest and their respective representatives. At Level Three a

maximum of three representatives, one of whom will be the spokesperson, may represent the aggrieved person or persons involved in a grievance.

- D. If, in the judgment of the employee organization a grievance affects a group or class of employees, the organization may submit such grievance in writing to the superintendent directly and the processing of such a grievance shall be commenced at Level Two. The employee organization shall designate not more than two spokespersons for the organization in processing such a grievance through the remaining levels of the grievance procedure. Provided, however, that the employee organization shall not be permitted to file or process a grievance with respect to an incident or occurrence on which an employee or group has already initiated a grievance.
- E. Meetings and hearings under this procedure shall not be conducted in public and shall include such parties and only such parties in interest and their designated or selected representatives heretofore referred to in this grievance procedure. The vote on the Board's decision on Level Three grievances shall be made in open session but the name of the aggrieved party shall not be disclosed.
- F. When it is necessary for a party or parties in interest to attend a board meeting or a hearing called during the working day, the superintendent's office shall so notify the party or parties in interest, principals or immediate supervisor, and the party or parties in interest shall be released without loss of pay for such time as their attendance is required at such meeting or hearing.
- G. At all hearings conducted under this procedure, the aggrieved person and the administrative representative may call witnesses and present evidence that is relevant to the matter being considered. The Board may request that other witnesses be called for questioning by the parties.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**ALL EMPLOYEE POSITIONS**

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All professional staff positions in the school district will be created initially by the Board. It is the Board's intent to activate a sufficient number of positions to accomplish the school district's goals and objectives and to provide for the equitable staffing of each school building. Although such positions may remain temporarily unfilled, only the Board may abolish a position it has created.

Each time a new position is established by the Board, the superintendent will present for the Board's approval a job description for the position, which specifies the job holder's qualifications and the job's performance responsibilities. The superintendent will maintain a comprehensive set of job descriptions for all positions.

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**State References**

SDCL 13-43-16 Declaration of teaching as profession – Persons included

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



## PROFESSIONAL STAFF AND/OR SALARIED STAFF CONTRACTS AND COMPENSATION PLANS

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To provide fair and equitable employment, a teacher will not be employed by the Board until a written contract, signed by the teacher, the Board president, and the business manager is developed.

The written contract will confirm a teacher's employment, and the salary for the ensuing year. It will also specify the number of days of employment and any additional compensation that will be afforded to the teacher for services rendered. The written contract will be issued on or before May 1 for all professional staff.

The Board will annually review and set salaries for the superintendent and other professional employees who are not members of a recognized collective bargaining unit. Otherwise, regularly employed professional staff members will be compensated on the basis of hiring schedules established through master agreements.

The master agreements with the recognized organizations will be considered appendices to this manual and will have the full force of Board policy.

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### State References

SDCL 13-43-4	Written contract required – Execution
SDCL 13-43-5	Certificate required before contract signed – Exception when academic training being completed
SDCL 13-43-5.1	Employment of person with revoked or suspended certificate prohibited
SDCL 13-43-6	Contents of contract of employment – Distribution of copies – Duration
SDCL 13-43-6.1	Just cause for termination or nonrenewal of teacher
SDCL 13-43-6.2	Written notice of intention to recommend nonrenewal – Opportunity for hearing – Time limitations
SDCL 13-43-6.3	Nonrenewal of teacher's contract
SDCL 13-43-6.4	Nonrenewal due to staff reduction
SDCL 13-43-6.5	Termination not caused by amount of compensation
SDCL 13-43-6.6	Right to termination on statutory grounds not limited by collective bargaining agreement – Protection of teacher not limited

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL STAFF HIRING SCHEDULES**

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The Board will adopt hiring schedules for its professional staff, and each staff member will be placed on the schedule at a salary level that is commensurate with, but not limited to, the staff member's educational training, prior experience, and experience in the district. The schedule adopted by the Board will remain in effect until changed or modified by the Board.

Salary increments may be conditional upon evidence of the continued professional growth of the teacher. Employees who do not comply with the requirements of the Board and/or the state may not be granted salary increases or may not be retained on the staff.

Placement on the salary schedule will be in accordance with requirements developed by the administration and approved by the Board.

Salaries will be reviewed annually, prior to the organizational meeting of the Board in July. The superintendent will be responsible for surveying other school systems to determine salaries being paid for comparable positions in each district.

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**State References**

SDCL 6-1-10            Publication of payroll information

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL STAFF AND/OR SALARIED STAFF  
SUPPLEMENTARY PAY PLANS**

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Certain assignments require extra responsibility or extra time over and above that required of other staff members who are in the same position on the basic salary schedule. When such supplemental assignments require extra time and responsibility beyond that regularly expected of teachers, extra compensation will be rewarded.

Assignments that are to be accorded extra compensation will be designated by the Board. Recommendations for appointments to such positions will be made to the Board by the superintendent. The amount of compensation for the position will be established by the Board at the time of appointment.

A teacher who is offered and undertakes a supplemental pay assignment will enter into a one-year limited contract with the Board. The terms and salary for this assignment will be specified in an Extra Duty Contract, which is signed by the employee, Board president and school district business manager.

Termination of the Extra Duty Assignment will be made in writing, prior to the expiration of the contract.

If the assignment is terminated by the Board or by the employee, prior to the end of the contract, the compensation will cease.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## EMPLOYEE FRINGE BENEFITS

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Benefits in addition to basic salary are recognized by the Board as an integral part of the total compensation plan for staff members. The benefits extended to the staff will be designed to promote their present and future economic security and provide incentive for professional growth and development that will be of benefit to the district.

All full-time salaried and regular full-time employees are eligible to receive fringe benefits, which will include a comprehensive insurance program, retirement benefits, vacations, and holidays.

Full-time employees not covered by a negotiated agreement will be extended fringe benefits, which are at least equal to those of employee's included in bargaining units.

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### State References

SDCL 3-11	Social Security
SDCL 3-12	South Dakota Retirement System
SDCL 3-10-3	Accounting for funds deducted from salaries – Trust funds – Wage assignment restrictions not applicable
SDCL 3-10-4	Participation in tax-sheltered annuities authorized – Salary deductions
SDCL 3-10-6	Purchase of life insurance to guarantee retirement annuities
SDCL 3-10-7	Transfer of previously owned annuity to payment by public employer
SDCL 3-10-8	Payroll deductions authorized by officer or employee – Adoption of rules

Original Adopted Date: July 2003  
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Revised: November 2017

**PROFESSIONAL STAFF AND/OR SALARIED STAFF  
LEAVES AND ABSENCES**

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The Board believes that the provision of leaves helps to attract and retain faculty who will continue to grow professionally, maintain their physical health, and have a feeling of security. This is done by:

1. Providing the employee with an opportunity for continued professional growth.
2. Encouraging the employee to take the necessary time to recuperate from illnesses.
3. Providing the employee with income in the event of illness or accident.
4. Providing a way for the employee to arrange for absence in the event of an emergency.
5. Cooperating with the employee in arranging time for the performance of certain obligations or for other personal purposes that can be accomplished only during school time.

Leave requests will be made to the superintendent or designee. All requests for long-term leaves of absence will be governed by the master agreements, state and federal law.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**EMPLOYEE JURY LEAVE**

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Any employee called for jury duty during school hours, or who is subpoenaed to testify in a hearing during school hours on a matter in which he or she is not a named party, will be granted leave with pay for the days or parts of days such absence is required. Payment received for service to the judicial system will be submitted to the District if the employee received their regular compensation during judicial service. Reimbursable expenses received are not submitted to the District. . An employee will notify their supervisor as soon as practical to make the necessary arrangements for a substitute teacher when jury leave must be taken.

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**State References**

SDCL 16-13-41      Duty of jurors to appear when summoned

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**MILITARY LEAVE OF ABSENCE**

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

If military pay is greater than the employee's wages, the employee shall not receive employment wages while on military leave. If daily military pay is less than the employee's regular daily pay, the employee shall be paid the difference by the District. This compensation will only occur on days the employee has been contracted.

If an employee is on active duty for more than 31 days, health and dental insurance coverage will terminate. If the employee enrolls in military health and/or dental insurance, the District will reimburse the employee up to the contracted District contribution amount.

The District will not discriminate in hiring, reemployment, promotion or benefits based upon membership or service in the uniformed services. The Superintendent may enact rules to implement this policy.

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

Unless otherwise impossible, all requests for military leave will be submitted at least one full month in advance of the date military service is to begin. Persons returning from military leave are asked to give notice of intent to return to the Superintendent, in writing, at least one full month in advance of the return date.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**FAMILY AND MEDICAL LEAVE**

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The District shall comply with the mandatory provisions of the Family and Medical Leave Act of 1993. The Superintendent shall administer leave policies adopted by the Board, setting forth the rights and procedures granted by the Act, and shall ensure compliance with those policies personally, by delegation, or by some combination of personal oversight and delegation. An eligible employee must have been employed by the District for at least one thousand two hundred fifty (1,250) hours during the previous twelve (12) months, or as current law requires.

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**Federal Reference**

P.L. 103-3, "Family and Medical Leave Act of 1993."

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



## **FAMILY AND MEDICAL LEAVE – PROCEDURES (REGULATION)**

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### REASONS

In compliance with the Family and Medical Leave Act of 1993 and under procedures developed by the Superintendent, leave shall be granted to eligible employees for the following reasons:

1. For the birth and care of an employee's newborn child or for placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child, or parent who has a serious health condition, as defined by federal law;
3. For an employee's own serious health condition, as defined by federal law, that makes the employee unable to perform the employee's job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the active duty or call to active duty of a covered family member (spouse, son, daughter, parent or next of kin) who serves in a reserve component or as a retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered family member (spouse, son, daughter, parent or next of kin) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces that may render the family member medically unfit to perform duties of his/her office, grade, rank or rating.

### NOTICES AND DEADLINES

Employees who may be eligible for or who request leave for any of the above reasons shall be provided an FMLA notice of eligibility and rights and responsibilities. Requests for family and medical leave should be made in writing but verbal requests may be made to the immediate supervisor or other designated administrator who shall then document the request. The District may require that a request for leave be supported by a certification for health care or military-related situations as permitted by federal law, but such requirements must be set out in the required notice.

Deadline for Notice to be Provided: Absent extenuating circumstances, within five (5) business days of District receipt of a request or the District being made aware of a potentially qualifying reason.

The District shall designate an employee's leave, paid or unpaid, as FMLA-qualifying and shall provide a designation notice indicating whether the request is approved or if additional information is needed. Leave may be delayed if the employee does not

provide proper notice (30 days advance notice for a foreseeable leave); otherwise, notice as soon as the need becomes known.

Deadline for Notice to be Provided: Absent extenuating circumstances, within five (5) business days of learning that an FMLA reason supports the leave.

## ELIGIBILITY

Employees are eligible for up to twelve (12) workweeks of family and medical leave for a 12 month period measured forward from the date of the first FMLA leave usage, if they have been employed by the District for twelve (12) months, have worked at least 1,250 hours during the twelve (12) months preceding the start of the leave, and otherwise qualify for family and medical leave. When family and medical leave is taken to care for a service member's recovery from a serious illness or injury sustained in the line of duty, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve-month period.

Full-time teachers are presumed to have worked at least 1,250 hours during a school year. In determining whether returning veterans meet the minimum 1,250 hour standard, hours actually worked for the District during the twelve-month period are to be combined with hours they would have worked for the District had they not been called for military service.

In situations involving both the Americans with Disabilities Act (ADA) and FMLA, the District shall apply the law affording the employee the greater benefit.

## RESTRICTIONS

To the extent that an employee is entitled to any paid leave, such leave shall be taken and it shall run concurrently with family and medical leave. However, when an employee's work-related injury/medical state qualifies as a serious health condition, worker's compensation leave shall run concurrently with the twelve (12) work week entitlement.

Paid leave used by the employee as required under this policy shall count, as applicable, against the twelve (12) or twenty-six (26) FMLA workweek entitlement. Entitlement to family and medical leave for the birth and care of a newborn child or placement of a child shall expire twelve (12) months after the date of such birth or placement.

When both husband and wife are employed by the District, the combined amount of family and medical leave for reasons other than personal illness or illness of a child shall be limited to twelve (12) workweeks. In cases of personal illness or illness of a child, each spouse is entitled to twelve (12) workweeks of family and medical leave.

Exception: The limit on the combined amount of family and medical leave shall be twenty-six (26) workweeks when both an eligible husband and wife are employed by the District and are eligible for leave that involves a covered Armed Forces service member.

Depending on the date family and medical leave is to begin, instructional employees as designated by federal regulation may be required to continue on leave until the end of the school term to avoid disruption.

Unused family and medical leave shall not accumulate.

### INTERMITTENT LEAVE / REDUCED HOURS

Family and medical leave may be taken intermittently (when medically necessary) or on a reduced hours basis.

### CONTINUATION OF BENEFITS

While on family and medical leave, employees shall be entitled to all employment benefits accrued prior to the date on which the leave commenced. Health insurance for an employee on family and medical leave shall continue to be provided by the District on the same basis had the employee not taken leave. Other employment benefits and seniority shall not accrue during unpaid family and medical leave.

### RETURN TO WORK

As noted by the required notice of eligibility and rights and responsibilities when family and medical leave is taken due to an employee's own serious health condition, the employee shall provide fitness-for-duty certification before returning to work. This may include certification by the health care provider that the employee is able to perform essential functions specific to the job.

Upon return to work, the employee shall be entitled to his/her same position (or an equivalent position with equivalent pay) with corresponding benefits and other terms and conditions of employment.

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### **Federal Reference**

P.L. 103-3, "Family and Medical Leave Act of 1993."

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## PROFESSIONAL STAFF VACATIONS AND HOLIDAYS

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The school calendar, as adopted by the Board, will establish the school recess periods and holidays for all professional staff members employed on a school-year basis.

Except as holidays have been declared for the school district or vacations days have been scheduled, all professional staff member employed on a 12-month basis (260 work days per year) will be expected to work during the recess periods of the school year.

### Vacations

All professional staff members employed on a 12-month basis will receive a vacation during the school year according to their contract.

All requests for vacation will be submitted to the superintendent for approval. Vacations will be allowed provided they do not hinder the operation of the schools.

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### **State Reference**

SDCL 1-5-1           Holidays enumerated

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## PROFESSIONAL STAFF RECRUITING

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The Board desires the superintendent to develop and maintain a continuous recruitment program designed to attract and hold the best possible professional personnel in the district's schools.

It is the responsibility of the superintendent, with the assistance of other district administrators, to determine the personnel needs of the district and the individual schools, and to locate suitable candidates to recommend for employment.

The search for good teachers and other professional employees will extend to a wide variety of educational institutions and geographical areas. It will take into consideration the diversified characteristics of the district and the need for a diverse faculty and staff. Recruitment procedures will not overlook the talents and potential of individuals already employed by the district. Any present employee of the District may apply for any position for which he or she has certification and meets other stated requirements.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL STAFF HIRING**

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All professional staff members of the district will be appointed by the Board upon the recommendation of the superintendent. Should a person nominated by the superintendent be rejected by the Board, it will be the superintendent's duty to make another nomination.

The superintendent will assure that all persons nominated for employment meet state certification requirements and the qualifications established for the particular position.

Interviewing and selection procedures will assure that the principal or other administrator to be directly responsible for the work of the staff member has an opportunity to aid in his or her selection; however, the final recommendation to the Board will be made by the superintendent.

No candidates will be hired without a personal interview.

All candidates will be considered on the basis of their merits, qualifications, and the needs of the district. In each instance, the superintendent and others playing a role in the selection will seek to hire the best-qualified person for the job.

Upon approval by the Board, a teacher will receive a written contract to be signed by the teacher, Board president, and school district business manager.

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**State Reference**

ARSD 24:15	Certification
SDCL 13-10-2	General power of school boards to employ personnel
SDCL 13-13-17	Employment of certified teachers required for funds
SDCL 13-42	Certification and evaluation of teachers, principals & superintendents
SDCL 13-43	Employment of teachers
SDCL 3-3-1	Veterans preferred in public employment

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**RESIDENCE REQUIREMENTS FOR STAFF**

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The Tea Area School Board recognizes the value of having all school employees committed to being an integral part of the community. The board believes that this commitment to the community can best be exemplified by having employees live within the Tea Area School District.

The Board bases this belief on the following:

1. It will aid in hiring staff that is highly motivated and deeply committed to the kind of education the community expects for its children.
2. Staff will be more likely to be involved in school and community activities.
3. Staff will have a better understanding and greater sympathy for the social, economic, and geographic problems of the children of the district and the taxpayers who support the school.

All school personnel who are not now living in the school district are encouraged to establish their domicile in the Tea Area School District.

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## CRIMINAL BACKGROUND CHECKS

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### Definitions

*Authorized Persons:* Individuals determined by the superintendent or designee to need access to or need to view criminal history record information in their official capacity with the district.

*Criminal History Record Information (CHRI):* A criminal history of an individual obtained through the South Dakota Division of Criminal Investigation (SDDCI) and/or the Federal Bureau of Investigation (FBI) using the individual's fingerprints. CHRI includes information on the arrest, detention, complaint, indictment or former criminal charge of an individual as well as the disposition of any charges. The FBI rules differ from the DCI rules regarding the disclosure of criminal history record information.

*Criminal Justice Information Services (CJIS):* The FBI's Criminal Justice Information Services Division, or CJIS, provides a range of state-of-the-art tools and services to law enforcement, national security and intelligence community partners, and the general public. Its purpose is to equip law enforcement, national security, and intelligence community partners with the criminal justice information needed to protect the United States and the public. The CJIS Division was established in 1992 to serve as the focal point and central repository for criminal justice information services in the FBI. It is the largest division in the FBI.

*Local Agency Security Officer (LASO):* liaison with SDDCI to ensure the agency is in compliance with security procedures. The LASO shall (1) maintain a list of users who have access to CHRI, (2) identify and maintain a list of persons who are authorized to use the approved hardware, software and firmware to access CHRI and ensure no unauthorized individuals have access to this technology, (3) identify and document how the equipment is connected to the state system, (4) ensure that personnel security screening procedures are being followed, (5) ensure that approved and appropriate security measures are in place and working as expected, (6) promptly notify the MSHP of any security incidents, and (7) support any district security audits.

*Noncriminal Agency Coordinator (NAC):* primary contact person for the District who serves as the liaison between the District and SD Division of Criminal Investigation, responsible for notifying SDDCI when a new employee starts or an employee leaves so SDDCI can keep CJIS Security training records current and such other duties as required.

*Point of Contact (POC):* District's contact person when SDDCI sends out Audit information, the contact person when an onsite Audit is scheduled.

*Security Incident:* An act of violating an explicit or implied security policy regarding CHRI including, but not limited to (1) attempts (either failed or successful) to gain



unauthorized access to a system or its data, (2) unwanted disruption or denial of service, (3) the unauthorized use of a system for the processing or storage of data, and (4) changes to system hardware, firmware or software characteristics without the district's knowledge, instruction or consent.

### Policy Statement

The District is committed to providing a safe learning and working environment. As part of this effort, and in accordance with state and federal law, regulations, and policies, the district will require each person over eighteen years of age hired by the district, who is a regularly scheduled volunteer working with student unsupervised during the school year, or is employed by an entity which provides the District direct or indirect student services shall be required to submit to a criminal background investigation, by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. The district and its employees, officers and agents will only obtain CHRI when authorized by law and will only use CHRI, or the personally identifiable information first obtained by the district in CHRI, for the purposes of determining whether a person should be employed by the district.

In accordance with law and to protect the district's students, criminal background checks on persons who are employed in the district, who is a regularly scheduled volunteer working with students unsupervised during the school year, or are employed by an entity which provides the District direct or indirect student services shall be required. The criminal background investigation shall be done by means of fingerprint checks by the Division of Criminal Investigation. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check. The district and district employees will comply with state and federal law, rules, procedures and policies regarding the receipt, use and dissemination of criminal history record information of any individual.

### Designations

1. The Superintendent, as the Agency Representative, is responsible for signing the SD Division of Criminal Investigation (SDDCI) User Agreement on behalf of the District.
2. The Superintendent or designee shall be the District's Point of Contact(POC) and Noncriminal Agency Coordinator (NAC) to act as the primary contact person for the District, shall serve as the liaison between the District and SD Division of Criminal Investigation, and will fulfill all responsibilities of the POC/NAC, including but not limited to being the contact person when SDDCI sends out Audit information, shall be the contact person when an onsite Audit is scheduled, and responsible for notifying SDDCI when a new employee starts or an employee leaves so SDDCI can keep CJIS Security training records current.
3. The Superintendent is designated to be the Local Agency Security Officer (LASO) to act as liaison with SDDCI to ensure the agency is in compliance with security procedures. The LASO shall be knowledgeable in CHRI, policies and mandated

rules and regulations as well as knowledge of IT security procedures. The LASO shall actively represent the District in all matters pertaining to information security, dissemination of information security alerts and other material within the District, and responsible for contacting SDDCI if there has been misuse of CHRI.

### Criminal Background Checks

1. Each person over eighteen years of age hired by the district, who is a regularly scheduled volunteer working with students unsupervised during the school year, or is employed by an entity which provides the District direct or indirect student services shall be required to submit to a criminal background investigation.
2. The school district shall submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee or volunteer enters into service.
3. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check.
4. The District shall pay any fees charged for the cost of fingerprinting or the criminal background investigation for any person whose employment with the District or status as a volunteer is subject to the requirements of this section.
5. Any person hired to officiate, judge, adjudicate, or referee a public event sponsored by a school district is not required to submit to a criminal background investigation.
6. Any person whose employment or status as a volunteer is subject to the requirements of this section may enter into service on a temporary basis pending receipt of results of the criminal background investigation. The District may, without liability, withdraw its offer of employment or terminate the temporary employment or status as a volunteer without notice if the report reveals a disqualifying record.
7. The criminal investigation required by this section with respect to a student teacher completing requirements for teacher certification shall be conducted by the District, and the District may rely upon the results of that investigation for employment of that person as an employee of the district. Results of a criminal background investigation conducted by another South Dakota public school district of a student teacher, hired by the District, may be relied upon by the District.
8. No person may be employed by the District, either directly or by contract, and no person employed by a contract provider and who would have direct student responsibilities may provide direct student services, if the person has been convicted of a crime of violence (murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact, felony child abuse, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device), sex crimes (including but are not limited to, rape, felony sexual contact with a minor under sixteen, sexual contact with a person incapable of consenting,

possessing, manufacturing, or distributing child pornography, and sexual exploitation of a minor), or distribution or trafficking in controlled substances or distribution of marijuana.

- a. The District may also refuse to employ a person who has been convicted of a crime involving moral turpitude. "Moral turpitude" is defined "an act done contrary to justice, honesty, principle, or good morals, as well as an act of baseness, vileness, or depravity in the private and social duties which a person owes to his fellow man or to society in general.
  - b. The District may consider any criminal conviction in making a hiring decision. The District has the sole and absolute discretion to determine whether the results of a criminal background investigation disqualify a person from employment within the District.
  - c. For purposes of this policy, the term conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere (no contest) in this state or any other state.
9. The District's employment application form shall inform applicants that if no SD statutorily disqualifying conviction is identified at the state level the fingerprints will be forwarded by the S.D. Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check.
10. The application form shall also inform applicants that if the applicant believes the criminal background result is incorrect or incomplete in any respect and the applicant wishes changes, corrections or updating of the alleged deficiency, the applicant should make application directly to the agency which contributed the questioned information or direct the applicant's challenge as to the accuracy or completeness of any entry on the applicant's record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306.
11. Should an applicant be disqualified from employment due to the results of a criminal background check, the District shall inform the applicant that the criminal background check results prohibit the District from employing the person. The District will not delay the employment hiring decision solely because the applicant seeks to correct his or her FBI criminal history record information (CHRI).
12. Before a person's conditional employment is terminated as a result of the person's CHRI, the District shall inform the person whose conditional employment is subject to termination that the criminal background report reveals a conviction which prohibits the District from employing the person, and inform the person of his or her right to appeal the accuracy or completeness of the CHRI to the SDDCI or FBI. Employees shall be afforded procedural due process consistent with their employment status (i.e., whether the person is an employee-at-will, a school-year employee, or a ten month or twelve month employee) should termination of conditional employment be a possibility following the District's receipt of the CHRI.

13. All employees and other persons required to submit to a criminal background check pursuant to this policy must notify the district in writing if they are convicted of any offense of domestic violence, child abuse, sex offense, drug (including marijuana) or any felony offense. This notification must be made as soon as possible, but no later than five business days after the event.
14. The District reserves the right to require any employee or volunteer to submit to additional criminal background checks at the district's expense. The district reserves the right to require any employee of an entity which provides the District direct or indirect student services to submit to additional criminal background checks which shall be at the entity's or person's expense.
15. As required by state law, SDCL 13-10-15, if, as the result of a criminal conviction the school board suspends an employee without pay, or an employee resigns, or an employee is terminated, the superintendent shall within ten days of the date of the suspension or the date the employment is severed report the circumstances and the name of the employee to the S.D. Department of Education.

### Training

The District will ensure that all employees who have access to CHRI shall be trained by SDDCI on the rules and responsibilities for the confidentiality, receipt, use and dissemination of the CHRI.

### Confidentiality

1. Before requesting CHRI on any individual, the district will give the individual written notification that his or her fingerprints will be used to obtain the CHRI of the individual, and the district will provide the individual a copy of the statement "Noncriminal Justice Applicant's Privacy Rights." Exhibit GCDB-E(1).
2. Information received by the district pursuant to a criminal background check is confidential. Only authorized persons within the district may access, view or use CHRI. Authorized persons may not share or otherwise disclose information contained in CHRI to unauthorized persons unless explicitly allowed for in this procedure.
3. Unless otherwise allowed by law, the District will only use this information for the district's internal purposes in determining the suitability of an applicant, employee, or other worker on district property. The district will note in an employee's or applicant's personnel file that the background check was completed and if the person was disqualified by the CHRI for employment or assignment. The District will keep the CHRI in a separate file in a location that is only accessible to persons who need to know the information to carry out their responsibilities with the District.
4. Individuals that have access to CHRI will receive CJIS security training provided by SD DCI. Once the individual has completed the CJIS online training and has taken the test each individual will receive and acknowledge in writing the receipt of the following:(1) User Rules of Behavior Acknowledgement form, (2) CHRI Disciplinary

Policy, and (3) Acknowledgment Statement of Misuse. The District will keep a copy of the signed documents in each individual's personnel file.

### Access and Retention

1. The District may print or electronically share records when necessary to determine whether the person is authorized to work for the district. In those situations, the physical or electronic copy will be destroyed immediately after the decision is made.
2. If the District runs a background check on employees of a contractor that does business with the district, the district will not provide the CHRI to the contractor. Instead, the district will provide a clearance letter notifying the contractor whether the employee is cleared to provide services in the district.
3. The District will not disseminate CHRI across state lines.
4. Upon request the district will provide a copy of the SDDCI CHRI to the person who is the subject of the background check. The SDDCI CHRI will only be released to the individual and not to relatives, spouses or friends. The District will note in the dissemination log that a copy was provided to the individual.
5. FBI rules prohibit the District from providing a copy of the FBI CHRI to the person who is the subject of the criminal background check.
6. The results of the background investigation done by the District may be transferred to another South Dakota public school district if the other public school district, or current District employee, submits a written request to the District that the results be transferred to the other public school district. The District employee who was the subject of the criminal background investigation must sign a written release authorizing the transfer. The information will be sent by U.S. Mail or encrypted email.

### Recordkeeping

A Secondary Dissemination Log shall be maintained in which all authorized disseminations of FBI and State DCI criminal background check results are recorded. The following shall be recorded in the District's Secondary Dissemination Log:

1. name of District;
2. name of person subject to the criminal background check review;
3. date of birth of person subject to the criminal background check review;
4. SD public school district requesting FBI and DCI criminal background check results and person/title requesting on behalf of the SD public school district;
5. written request signed by person subject to the criminal background check review for

a copy of the SDDCI criminal background check results, attached to the Secondary Dissemination Log; NOTE: FBI CHRI cannot be released to the person who is the subject of the criminal background check.

6. date of release of criminal background check results;
7. description of the record that was shared;
8. how the record was sent or received
9. person to whom criminal background check results were disseminated;
10. signature of District employee disseminating the criminal background check review pursuant to a valid request.

The Secondary Dissemination Log shall be maintained until the onsite audit is complete and the District receives from the SD Division of Criminal Investigation written notice of a successful Policy Compliance Review, unless the log is needed or required for other purposes

### Security

The district will provide for the security of any CHRI received, including the appropriate administrative, technical and physical safeguards to provide for the security and confidentiality of the information. This includes, but is not limited to, the following:

1. The LASO shall maintain a list of school district authorized persons who have access to CHRI.
2. In those cases when the District has physical copies of CHRI, the District will restrict access to authorized persons only. Physical copies of CHRI, if any, will be maintained in a controlled, secure environment, such as a locked cabinet in a room that is free from public or unauthorized access. The room or the locked cabinet will include an "Authorized Personnel Only" sign.
3. The District will not routinely maintain electronic copies of CHRI; however, in the rare instance where the district has electronic copies of CHRI, the district will restrict access to authorized persons only. Electronic data will be protected with encryption as designated by the state or federal government or will only be accessible by individual password. Computers, printers and monitors used to access CHRI must be situated to prevent unauthorized viewing of the information. CHRI cannot be accessed using computers available to the general public or personal devices. CHRI will not be stored on a server that is unprotected or accessible by an unauthorized entity.
4. CHRI will not be relocated, transmitted or transported outside a secure location unless encrypted according to FBI standards or transported in a locked container or in folders where the information is not visible to the public. A log must be kept if electronic information systems, such as a laptop, flash drive or CD with CHRI

information on it, leaves a secured area.

5. The District will dispose of records securely. Physical records will be crossshredded or incinerated. If the district contracts out for record destruction, the destruction must be supervised. The District shall notify SDDCI of the entity with whom the District contracts for records destruction and must receive SDDCI approval to use the contractor for purposes of disposing of CHRI. Electronic records will be deleted and overwritten as required by the SDDCI or FBI.
6. The District will not provide auditors access to CHRI unless the auditor is authorized by the SDDCI or the FBI.

### Security Incident Response Plan

All District employees will immediately report to the LASO information security incidents such as the theft or loss of physical records or the hacking or failure of electronic systems or suspicions that an incident has or will take place. The LASO will document receipt of all reports, investigate incidents and report incidents to SDDCI. LASO documentation will include (1) date of security incident, (2) location of security incident, (3) systems affected, (4) method of detection, (5) nature of security incident, (6) description of security incident, (7) actions taken/resolution, (8) current date, and (9) contact information for LASO.

### Consequences

Employees who fail to keep background check results confidential or fail to follow this policy or any laws or rules regarding the access, receipt, use or dissemination of CHRI as required by law will be subject to disciplinary action up to and including termination. Unauthorized requests, receipts, release, interception, dissemination or discussion of CHRI may also result in criminal prosecution.

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### **State References**

SD DCI	Guide for Noncriminal Justice Agency
SD DCI	Non-Criminal Justice Agency User Agreement
SDCL 13-10-12	Criminal Background Investigation
SDCL 13-10-13	Criminal Conviction as Factor in Hiring Decision
SDCL 13-10-14	Persons Continuously Employed Exempt
SDCL 13-10-15	Suspension or Resignation for Criminal Conviction
SDCL 13-10-16	"Conviction" Defined
SDCL 22-1-2 (25)	"Moral Turpitude" Defined
SDCL 22-1-2 (9)	"Crime of Violence" Defined
SDCL 22-24B-1	"Sex Crimes" Defined

### **Federal References**

CFR Title 28§16.34	Procedure to Obtain, Change, Correction or Updating Identification Record
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CFR Title 28§50.12 Exchange of FBI Identification Records

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



**PART-TIME AND SUBSTITUTE  
PROFESSIONAL STAFF EMPLOYMENT**

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Part-Time Teachers

Upon the recommendation of the superintendent, the Board will approve or reject the employment of part-time teachers consistent with the needs of the school district.

A part-time certified teacher, if employed for the full school term, will attain continuing contract status the same as a full-time teacher.

Part-time teachers will meet all necessary certification requirements, and will be compensated for their work on a pro-rated basis commensurate with their placement on their salary schedule.

Substitute Teachers

Candidates selected will be recommended for placement on the list of approved substitutes. To the extent possible substitute teachers must meet the requirements for teacher appointments and will be assigned substitute teaching positions on the basis of their areas of competence. The Board will set the daily rate of pay for substitute teachers, including extended-term substitutes.

Responsibility for scheduling of substitutes from the approved list will be assigned by the superintendent.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## PROFESSIONAL STAFF ASSIGNMENTS AND TRANSFERS

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Professional personnel will be assigned on the basis of their qualifications and the needs of the school district.

The assignment and transfer of teachers to positions in other schools of the district or within the teacher's assigned school will be made by the superintendent giving consideration, but not limited to the following criteria:

1. The contribution that the teacher would make to students in the new assignment.
2. The qualifications of the teacher as compared to those of other candidates for the position to be filled.
3. The opportunity for professional growth.
4. The desire of the teacher regarding the new assignment.
5. The length of service in the school district.
6. The availability of a qualified replacement for the position vacated by the transferring teacher.

Any teacher who desires a transfer in assignment should request such a transfer in writing to the principal with a copy to the superintendent. Every effort will be made to honor this request.

If a change of assignment is deemed necessary by the Superintendent, then the new assignment will be as nearly similar to the desired assignment as possible. The teacher's contract will stipulate the area of certification for which the teacher is employed.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## PROFESSIONAL STAFF TIME SCHEDULES

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### Administrators

The nature of the duties and responsibilities of administrators and supervisors will require their hours of work to vary and extend as necessary to fulfill the requirements of their positions.

Administrators will be expected to work during the hours and on the days that the superintendent's office is open unless special arrangements have been made with the superintendent. On days schools are closed because of bad weather or other emergencies, all staff members, except those who work only on teacher work days, are required to report to work as soon as they are able to do so.

The work year for administrators will be established individually through their contracts.

### Teachers

Professional staff time schedules shall be as negotiated by the Board of Education and the professional staff negotiating group as set forth in the Negotiated Agreement.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## PROFESSIONAL STAFF WORK LOAD

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Teachers will be expected to assume reasonable duties over and above their regular classroom teaching responsibilities; however, the administration will attempt to make equitable distribution of work among the staff. Activities and services which make minor demands on the teacher's time (such as student registration, attendance-keeping and record-keeping, reporting to parents, supervision of students, and the request for, care of, and accounting for instructional materials) will be part of each teacher's assignment.

Extra responsibilities that make major demands on a teacher's time will be rewarded with extra compensation. Such jobs, and the compensation therefore, will be in accordance with a schedule approved by the Board.

### Attendance at Meetings

Teachers are expected to attend faculty meetings, which are held in each building, unless they are excused, for valid reason, by the principal. General faculty meetings and other professional and in-service activities are considered part of the regular assignment of instructional personnel.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL STAFF DEVELOPMENT OPPORTUNITIES**

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Continuing professional growth and increasing effectiveness on the part of the entire staff are essential for the success of educational programs and school operations. The continual professional growth of all staff members on an individual basis and through planned in-service programs will be encouraged. Such opportunities may include, within budgetary limitations, special in-service courses and workshops, summer study grants, school visitations, and attendance at professional conferences and meetings.

The superintendent will work with other school districts, local colleges and universities, and the Department of Education to provide in-service education for teachers. The Board will encourage the development of in-service education by:

1. Conducting district-wide assessment of in-service education needs.
2. Ranking in-service education needs in relation to district goals.
3. Developing criteria for effective in-service education activities.
4. Developing travel and professional leave policies in cooperation with teachers.
5. Developing a calendar that includes days for in-service education.
6. Developing cooperative relationships with agencies that provide in-service education.
7. Establishing an in-service education committee composed of teachers and administrators.
8. Identifying resources for in-service education.
9. Assessing the effectiveness of in-service education activities in relation to district goals.

In recognition of, and as an incentive to, professional development, the salary schedules for professional personnel will reflect advanced training. In-service courses, as well as university work in the professional staff member's area of specialization will be recognized for purposes of salary advancement if graduate credit is earned.

The superintendent will have authority to approve released time for conferences and visitations, and reimbursements for expenses, provided such activities are within budget allocations.

## STAFF DEVELOPMENT PLAN

A program of in-service education and staff development shall be conducted for all certified staff annually.

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### **State Reference**

SDCL 13-26-4      Teacher-parent conference hours counted  
SDCL 13-26-4.1      In-service training

Original Adopted Date: July 2003  
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Revised: November 2017

## **EVALUATION OF PROFESSIONAL STAFF**

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In order to assure a high quality of teacher and administrator performance to advance the instructional programs of the district schools, a continuous program for teacher and administrator evaluation shall be established by the superintendent.

Teachers and administrators will be evaluated at least on an annual basis.

Evaluations should provide feedback to teachers and administrators noting strengths, as well as areas needing improvement.

The evaluation process will include:

1. An ongoing review of the techniques and procedures for making evaluations. Techniques and procedures that contribute to a teacher's understanding of his or her strengths and weaknesses should be used.
2. When evaluating teachers in the District, all of the State of South Dakota minimum evaluation requirements shall be used by the District. Job specific criteria will be established for all professional positions.

The evaluation process is based on the minimum professional performance standards established by the South Dakota Department of Education and which:

- evaluates teachers using multiple measures;
- serves as the basis for programs to increase professional growth and development of teachers; and
- includes a plan of assistance for any teacher in his or her fourth year or more of teaching whose performance does not meet the district's performance standards.

The formal evaluations will be written and will be discussed by the evaluator and the teacher. Copies of the written document will be signed and dated by both parties and incorporated into the personnel files of the teacher. The signature of the teacher does not indicate approval or disapproval of the evaluation, but that the evaluation has been read and discussed.

Pursuant to state law, any record or document, regardless of physical form, created by the District in connection with the evaluation of certified staff constitutes personnel information and is not open to inspection or copying.

Nothing in a teacher's evaluation may diminish the School Board's right to renew or not renew a teacher's contract.

The Board acknowledges that the evaluation procedure is a subject of mandatory bargaining with the teachers' recognized bargaining unit representative. However, the establishment and identification of the evaluation criteria is not subject to mandatory bargaining and the Board has the sole authority for establishing such evaluation criteria, subject to any applicable state and federal laws and regulations that may limit such authority.

When a person's evaluation constitutes "poor performance" the board may terminate employment under SDCL 13-43-6.1. Subsequent evaluations should address themselves to any improvement or to any continuing difficulty that is observed.

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**State Reference**

SDCL 13-43-6.1	Just cause for termination or nonrenewal of teacher
SDCL 13-43-6.2	Written notice of intention to recommend nonrenewal – Opportunity for hearing – Time limitations
SDCL 13-43-6.3	Nonrenewal of teacher's contract
SDCL 13-43-6.4	Nonrenewal due to staff reduction
SDCL 13-43-6.5	Termination not caused by amount of compensation
SDCL 13-43-6.6	Right to termination on statutory grounds not limited by collective bargaining agreement – Protection of teacher not limited

Original Adopted Date: July 2003  
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Revised: November 2017



## REDUCTION IN PROFESSIONAL STAFF WORK FORCE

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### STAFF REDUCTION

Staff reduction occurs when the Board eliminates all or part of an existing position held by anyone to whom continuing contract rights apply. In the event the Board determines that a staff reduction is necessary, the following guidelines will be considered:

1. An effort will be made to effect the reduction through normal attrition. The Education Association will be notified and group recommendations considered if received within 14 days of issuance of the notice.
2. Positions held by persons with less than full certification for their current teaching assignment will be open to a properly certified and experienced continuing contract teacher who has been notified that his or her position has been eliminated and has requested to be considered.
3. If a position of a continuing contract teacher is eliminated due to staff reduction, the Board will determine which continuing contract teacher or teachers are to be released, considering the following criteria, as applicable. The criteria are not in rank order of importance:
  - a. Student and curriculum needs;
  - b. Prior evaluations;
  - c. Competency;
  - d. Qualifications;
  - e. Certification;
  - f. Experience in the area to be taught;
  - g. Educational background;
  - h. State and federal mandates;
  - i. Administrative recommendation.

The continuing contract teacher who has been notified that his or her position has been eliminated shall notify the Board of any positions for which the teacher wishes to be considered and can establish required qualifications.

The Board will follow the provisions of state law in making staff reductions involving professional staff members on continuing contract status.

### RECALL

For the purpose of this policy, the effective date of a lay-off by reduction in force shall be conclusion of their contract.. The teacher subject to reduction in force termination shall provide a list of positions for which the teacher wishes to be considered and is qualified to fill. If, during the first fiscal year subsequent to the lay-off, a vacancy occurs in the

grade, subject area, and activity for which a laid-off teacher, wishes to be considered, an offer of re-employment shall be extended to the teacher, subject to interview and updated background check. When more than one staff member has the same recall date for the open position, the Board may consider, among other things, the matters identified in paragraph 3 of this policy.

Recall privileges cease when a staff member resigns. Recall privileges will also cease if, upon being recalled, the staff member fails to report within twenty (20) calendar days after the mailing of a written notice of recall. Such notice shall be sent to the last address furnished to the superintendent by the staff member, and the twenty (20) day period shall commence to run on the day the notice is mailed. Recall privileges will not apply to teachers under contract with another school district unless that recall is for anticipated position in the ensuing year.

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**State Reference**

SDCL 13-43-6.4      Nonrenewal due to staff reduction

Original Adopted Date: July 2003

Reviewed: October 2017

Revised: November 2017

## RESIGNATION OF PROFESSIONAL STAFF MEMBERS

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If a professional staff member intends to resign from his or her position, notice must be given to the Board at the time of contract renewal. Should a professional staff member resign at a time other than that of contract renewal, Board approval will be required to dissolve the contract. The professional staff member will be required to pay liquidated damages to be released, if applicable.

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### State Reference

SDCL 13-43-6	Contents of contract of employment – Distribution of copies -- Duration
SDCL 13-43-6.1	Just cause for termination or nonrenewal of teacher
SDCL 13-43-6.2	Written notice of intention to recommend nonrenewal – Opportunity for hearing – Time limitations
SDCL 13-43-6.3	Nonrenewal of teacher’s contract
SDCL 13-43-6.4	Nonrenewal due to staff reduction
SDCL 13-43-6.5	Termination not caused by amount of compensation
SDCL 13-43-6.6	Right to termination on statutory grounds not limited by collective bargaining agreement – Protection of teacher not limited

Original Adopted Date: July 2003

Reviewed: October 2017

Revised: November 2017

## RETIREMENT OF EMPLOYEES

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### Retirement System

All regularly employed professional staff members are participants in the State Retirement System.

### Retirement Age

The Board may not impose a mandatory retirement age on employees.

The Board reserves the right to retire an employee if the employee is unable to satisfactorily perform the duties of his position due to poor health or disability.

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### **State Reference**

SDCL 13-10-3	Group life and health insurance
SDCL 13-10-4	Retirement pension agreement with employees
SDCL 13-10-6	Tax levy for school retirement system
SDCL 13-10-8	Discontinuance of retirement system by board
SDCL 3-12	SD Retirement System

### **Federal Reference**

USC Title 29 Chapter 14	Age discrimination in employment
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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## **SUSPENSION WITHOUT PAY AND DISMISSAL OF PROFESSIONAL STAFF MEMBERS**

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Suspension without pay and dismissal of professional staff members is the responsibility of the Board and dismissal will conform with the conditions and procedures specified in state law.

An employee may be suspended without pay or an employee's contract may be terminated at any time, or non-renewed in the case of continuing contract status, for just cause including:

1. plain violation of contract
2. gross immorality
3. incompetence or neglect of duty
4. poor performance
5. unprofessional conduct
6. insubordination
7. violation of any policy or regulation of the school district
8. neglect

The Superintendent will give notice of the intent to recommend suspension without pay or termination. The notice must specify the grounds for the recommendation, and inform the right to request a hearing.

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### **State Reference**

SDCL 13-43-6	Contents of contract of employment – Distribution of copies -- Duration
SDCL 13-43-6.1	Just cause for termination or nonrenewal of teacher
SDCL 13-43-6.2	Written notice of intention to recommend nonrenewal – Opportunity for hearing – Time limitations
SDCL 13-43-6.3	Nonrenewal of teacher's contract
SDCL 13-43-6.4	Nonrenewal due to staff reduction
SDCL 13-43-6.5	Termination not caused by amount of compensation
SDCL 13-43-6.6	Right to termination on statutory grounds not limited by collective bargaining agreement – Protection of teacher not limited

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL STAFF MEMBER  
ADMINISTRATIVE LEAVE WITH PAY**

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The placement of a professional staff member on administrative leave with pay will be governed by the applicable collective bargaining agreement. In the absence of an applicable collective bargaining agreement provision, this policy will apply.

When there is reasonable cause to suspect employee breach of contract, poor performance, incompetency, gross immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the school district, the employee may be placed on paid administrative leave by the superintendent. Placement on paid administrative leave is for the purpose of stabilizing the situation and shall not constitute disciplinary action taken by the employer. While on paid administrative leave the employee will be temporarily disengaged from their responsibilities until the matter which resulted in the placement on paid administrative leave is concluded. An employee on paid administrative leave shall continue to receive all benefits of employment. The employee on paid administrative leave may subsequently be reinstated to his/her responsibilities or be notified of a recommendation that he/she be suspended without pay or a recommendation that his/her employment with the District be terminated.

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**State Reference**

SDCL 13-10-2      General power of school boards to employ personnel  
SDCL 13-8-39      Management of schools by board – general powers

Original Adopted Date: November 2017  
Reviewed: November 2017  
Revised: November 2017

**TUTORING FOR PAY**

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To assure all students reasonable instructional assistance without charge from their own teachers, and to avoid placing a teacher in a position where he or she may have a conflict of interest, teachers will not be permitted to receive money for tutoring any student they have in class or upon whose evaluation or assignment they will be called upon to pass.

Teachers may not tutor any student for pay during their regular working hours or on school premises.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**PROFESSIONAL RESEARCH AND PUBLISHING**

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The Board recognizes the value of educational research conducted by staff members. However, all research studies carried out within the school system, using district or school data or resources of any kind, or staff or students as subjects must be approved in advance by the superintendent or a designee. Only those studies which have a value to the school district will be approved.

The superintendent or a designee will keep a file on topics needing study that will be shared with staff members or graduate students at their request.

When human subjects are involved in research, there will be adequate protection of their confidentiality rights and welfare. Parents of children who are the subjects of research, or adults if they are in the subjects, will be provided: an explanation of procedure and their purposes; a description of any possible risks and any benefits to be reasonably expected; an offer to respond to inquiries on procedures; instruction on the right to refuse to participate or to discontinue participation at any time without prejudice.

Textbooks or other learning materials, resulting from work assignment or developed during the paid work time of a school employee, or while using school equipment, facilities, or materials, are property of the school district.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



**NON-CERTIFIED CLASSIFIED STAFF  
CONTRACTS AND COMPENSATION**

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Non-certified staff employees are employees-at-will pursuant to SDCL 6-4-4 (i.e., an employment having no specified term may be terminated at the will of either party on notice to the other, unless otherwise provided by statute).

Non-certified staff employment contracts will identify the employee's hourly rate of pay. Any reference to pay on a monthly basis or over a nine or twelve month period is given in order that the employee may be aware of the monthly and annual compensation should neither party terminate the contract. The Employment Agreement will additionally identify applicable employment benefits. Non-certified staff employees shall not work in excess of forty (40) hours per work week without prior written approval from employee's supervisor.

The Board will establish the rate of pay for the full-time, part-time and substitute support staff, including secretarial staff, aides, custodians, maintenance, bus drivers and cafeteria workers.

In establishing salaries for support staff personnel, the Board will take into account the responsibilities of the position, the qualifications needed, past experience of the individual, and years of service in the district.

Annual increments will be dependent upon the employee's satisfactory performance in the position. Advancement from one step to another on the guide will require the superintendent's recommendation and Board approval.

The hourly rate of pay for part-time and substitute personnel will be set by the Board.

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**State Reference**

SDCL 13-10-2      General power of school boards to employ personnel  
SDCL 13-8-39      Management of schools by board – general powers

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

## NON-CERTIFIED CLASSIFIED SUPPLEMENTARY PAY PLANS

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Non-Certified classified employees will be paid overtime wages for work performed in excess of 40 hours in a workweek. (Overtime is work that is actually performed and not part of paid leave.)

Overtime/Overage should be preapproved by the supervisor whenever possible. The employee will inform the supervisor of the overtime/overage within one business day. The overtime/overage approval form will be completed and sent to payroll within the workweek.

### Special Compensation

When an employee's assignment requires extra responsibility, the Board, upon recommendation of the superintendent, may award extra compensation to a non-certified classified employee.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**NON-CERTIFIED CLASSIFIED STAFF LEAVES AND ABSENCES**

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Leaves and absences granted to the support staff will be for the purposes of helping them maintain their physical health, take care of family and other personal emergencies, and discharge important and necessary obligations.

All requests for long-term leaves of absences will be governed by the master agreement, state and federal law.

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**State Reference**

SDCL 3-18            Public employees' unions

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**SUPPORT STAFF RECRUITING/POSTING  
OF VACANCIES/HIRING**

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The Board will establish and budget for support staff positions in the school district on the basis of need.

The recruitment and selection of candidates for these positions will be the responsibility of the superintendent who will confer with the principals and other supervisors before making a selection. All candidates will be considered on the basis of their merits and qualifications, and on the needs of the school district. A present employee may apply for any vacancy for which he or she is qualified. The superintendent will seek to recommend the best-qualified person for the job.

Conditions of employment for support staff members as well as wages, hours, and other items of this nature will be fixed by the Board upon the recommendation of the superintendent.

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**State Reference**

SDCL 3-3-1	Veterans preferred in public employment – Age or physical impairment not disqualifying – Veterans with service-connected disabilities preferred
SDCL 3-3-2	Investigation and employment of veteran applicants
SDCL 3-3-3	Mandamus available to enforce veterans' preference
SDCL 3-3-4	Restrictions on removal of veteran from employment – Hearing and review – Burden of proof
SDCL 3-3-5	Noncompliance as misdemeanor
SDCL 3-3-6	Confidential and policy-making positions exempt from chapter
SDCL 13-10-2	General power of school boards to employ personnel

Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**NON-CERTIFIED CLASSIFIED STAFF PROBATION**

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All new employees will serve a 90-day probationary period. This will apply to former employees who are reemployed and to employees promoted to new positions.

Throughout the probationary period, and at the end of it, the employee's performance will be evaluated and reviewed by his supervisor(s). If the probationer's performance is found to be satisfactory, he will be placed on regular employment. A new or reemployed employee who performs unsatisfactorily may be terminated. An employee promoted to a new position, and whose performance is found to be unsatisfactory, may be returned to his former position and rate, where he will regain his permanent status, or be transferred to another suitable position.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**NON-CERTIFIED STAFF ASSIGNMENTS AND TRANSFERS**

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The superintendent will make assignments and transfers of support staff members for the efficient operation of the schools. As necessary, he or she will consult with the building principals and department supervisors on these matters.

Transfers may be initiated by the superintendent or other administrative officer if it is for the welfare of the employee or the schools. An administrative transfer or reassignment will be made only after a conference between the employee and the superintendent or respective supervisor, at which time the employee will be notified of the reason for the transfer.

Any employee desiring a transfer in assignment may make a request to his or her supervisor or the superintendent. The following criteria in order of priority will form the basis for granting the transfer:

1. The qualifications of the employee.
  2. The length of continuous service that the employee has with the district.
  3. The contribution the employee would make in the new assignment.
  4. The opportunity for growth in the position.
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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**STAFF TIME SCHEDULES**

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The Board will set the total number of hours per week, and weeks per year, of work for classified personnel. The normal work week for classified personnel will be Monday through Friday, with the exception of legal holidays; other exceptions and schedules may be designated by the building principal or supervisor and approved by the Superintendent.

Specific time schedules for staff members will be set by the appropriate administrators or supervisors in line with pertinent school opening and closing times, student schedules, and so on. Administrators or supervisors will inform the superintendent of the assigned schedules so that there may be continuity as needed throughout the school district.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**STAFF DEVELOPMENT OPPORTUNITIES**

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Further training in job skills is encouraged and, at the discretion of the Superintendent, permission may be granted for employees to attend workshops or conventions. When approval is granted, expenses incurred by the employee may be reimbursed in accordance with Board policy.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017



## **EVALUATION OF STAFF**

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The Board delegates to the Superintendent or his or her designee the responsibility to develop evaluation procedures for all personnel. Such procedures are subject to Board approval.

Support personnel will receive written evaluations at least annually by their supervisor. Additional evaluations may be made as often as needed.

Probationary employees may be evaluated during the probationary period, and at least annually thereafter.

To the extent applicable to the position, the evaluation criteria may include, but is not limited to, the following components:

1. Working knowledge of areas of responsibility.
2. Professional growth.
3. Judgment, logical thinking, creativity, and imagination.
4. Fulfillment of assigned responsibility without neglecting some areas.
5. Adheres to policies of the Board.
6. Fulfills, to the extent applicable with the position, responsibilities related to scheduling, contracting, curriculum/program/project development and implementation.
7. Staff relations.
8. Student relations.
9. Community relations.
10. Communication skills.
11. Ability to adjust to unplanned situations.
12. Use of available financial resources, building, grounds, and other materials in the area of responsibility.

Pursuant to state law, any record or document, regardless of physical form, created by the District in connection with the evaluation of certified staff constitutes personnel information and is not open to inspection or copying.

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**State Reference**

SDCL 13-42-70 Evaluation records and documents not open to inspection or copying

Original Adopted Date: July 2003

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Revised: November 2017

**STAFF PROMOTIONS**

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When staff vacancies are to be filled, preference will be given to qualified applicants from within the school district, provided their qualifications (proven and potential ability, training, experience, and personal characteristics) are equal to those of other applicants. However, the best qualified person from among all who apply within and without the school district will be selected.

The performance of an employee promoted to a higher position will be reviewed during the probationary period in the new job. The employee will discuss the reviews with his supervisor or principal and will receive a copy of each. At the completion of the appraisal period, the employee will be notified of continued employment in his new position or reinstatement in his former one.

Employees who have unsuccessfully applied for a promotion will be encouraged to contact their supervisor to discuss position criteria and suggested developmental activities, which would assist in future consideration.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
Revised: November 2017

**REDUCTION IN STAFF WORK FORCE**

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The number of employees may be reduced due to a change in program, a change in the size or nature of the student population, or budgetary considerations. The Board will attempt to accomplish such a reduction through normal staff attrition, unless the best interests of the school district dictate otherwise.

In the event reduction of staff is necessary, seniority will be considered along with performance in determining employees who will be affected by either layoff or changes in position. Employees being terminated will be given a two-week notice.

Before a new employee is hired, a staff member whose employment has been suspended due to reduction in force may be given opportunity to return to work should the position be reinstated or other suitable vacancies open.

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Original Adopted Date: July 2003  
Reviewed: October 2017  
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**RESIGNATION OF STAFF MEMBERS**

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Any non-certified employee desiring to resign will be required to make such a request in writing to the superintendent, stating the time the employee wishes the resignation to become effective.

The superintendent will present the resignation to the Board at its first meeting after the receipt of the resignation, and the Board will act upon the request of the employee.

At least two-week notice should be given to the Board by the employee in order to allow ample time for filling the vacancy by a well-qualified individual.

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Original Adopted Date: July 2003  
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**SUSPENSION AND DISMISSAL OF SUPPORT STAFF MEMBERS**

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The Board will strive to assist personnel to adjust to their positions and to perform their duties satisfactorily. Reasonable effort will be made to avoid dismissing personnel at any level.

When an employee is charged with misconduct, insubordination or unsatisfactory performance, he or she may be temporarily suspended by the superintendent until the charges are investigated. If the charges are unfounded, he or she will be reinstated. If charges are founded, he or she will receive disciplinary action up to dismissal.

If the employee is dissatisfied with the superintendent's decision, he or she may appeal to the School Board for a review of his case.

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**State References**

SDCL 13-10-15      Suspension or resignation for criminal conviction  
SDCL 13-10-2      General power of school boards to employ personnel  
SDCL 13-8-39      Management of schools by board – general powers

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