

**WESTPORT BOARD OF EDUCATION  
POLICY COMMITTEE  
NOTICE OF SPECIAL MEETING  
AGENDA**

(Agenda Subject to Modification in Accordance with Law)

**SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:**

Pursuant to the Governor's Executive Orders No. 7B and 9H, there will not be a physical location for this meeting. This meeting will be held electronically. Emails to BOE members can be sent to BOE@westportps.org. Comments to be read during the public comment period must be submitted to the meeting's Googledoc during the submission period. Please see the following link for instructions and guidelines: [https://www.westportps.org/uploaded/site\\_files/www/boe/Procedures\\_and\\_Guidelines\\_for\\_Public\\_Participation\\_in\\_Remote\\_Board\\_Meetings.pdf](https://www.westportps.org/uploaded/site_files/www/boe/Procedures_and_Guidelines_for_Public_Participation_in_Remote_Board_Meetings.pdf). We will use our best efforts to read public comments if they are received during the public comment period and if they state your full name and address. Meeting materials will be available at westportps.org along with the meeting notice posted on the Meeting Agenda page.

**WORK SESSION:**

8:00 a.m. Held Remotely Via Zoom Pursuant to Executive Order 7B and 9H

**DISCUSSION/ACTION:**

1. Minutes: March 31 and May 12, 2020, *page 1-2*

**DISCUSSION:**

1. First Reading of the Following:
  - Policy 3280, "Gifts" (Revision), *pages 3-14*
2. Continued Discussion of the Following:
  - Policy 1230, "Booster Clubs" (New), *pages 15-45*
  - Policy 3453, "School Activity Funds" (Revision), *page 46*
  - Policy 3516.5, "Sexual Offenders on School Property" (New), *pages 47-49*
  - Policy 1700, "Deadly Weapons or Firearms" (New), *pages 50-55*
  - Policy 5145.12, "Search and Seizure" (Revision), *pages 56-59*
  - 0525, "Hate-Based Conduct" (New), *pages 60-62*
  - Review of COVID 19 Policies, *pages 63-141*
3. Review April 2021 CABA Policy Service Update, *pages 142-222*
4. Any Other Policy Matters

**ADJOURNMENT**

PUBLIC PARTICIPATION WELCOME USING THE FOLLOWING GUIDELINES:

- Public comment will be accepted via a Google doc and the comments will be read aloud at the meeting. A link will be provided prior to the meeting.
- There will be no in-person public comment due to public health concerns.
- A maximum of 15 minutes will be provided for public comments.
- Comments on agenda items are limited to 1 minute each.

*It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or [eflug@westportct.gov](mailto:eflug@westportct.gov) at least three (3) business days prior to the scheduled meeting or event to request an accommodation.*

**Meeting: March 31, 2020**

**Via Zoom and Googledoc**

**WESTPORT BOARD OF EDUCATION  
POLICY COMMITTEE WORK SESSION MINUTES**

**Committee Members Present:**

Karen Kleine      Committee Chair  
Lee Goldstein      (departed 9:14 a.m.)

**Administrators Present**

John Bayers      Director of Human Resources

**PUBLIC SESSION/CALL TO ORDER:** 8:02 a.m., Held Remotely Via Zoom Pursuant to Executive Orders 7B and 9H

**MINUTES:** Karen Kleine moved to approve the minutes of March 3, 2021; seconded by Lee Goldstein. (2-0-0).

**DISCUSSION**

1. Continued Discussion of:
  - Policy 1700, "Deadly Weapons or Firearms" (New)
  - Policy 3516.5, "Sexual Offenders on School Property" (New)
  - Policy 1230, "Booster Clubs" (New)
  - Policy 3453, "School Activity Funds" (Revision)
  - Policy 5145.12, "Search and Seizure" (Revision)
  - Policy 4118.55, "Social Media" (Revision and Number Change to 4118.51)
  - Policy 1250, "Policy Regarding Visitors and Observations in Schools" (Review)
3. First Reading of:
  - Policy 6142.63, "Pool Safety Plan" (New)
  - Policy 5142.4, "School Resource Officer" (Revision)
  - Policy 6159, "Individualized Education Program" (Revision)
  - Policy on Hate-Based Conduct (New)

The following policies will be moved to the full Board for discussion: Policy 1700, "Deadly Weapons or Firearms" (new), Policy 6142.63, "Pool Safety Plan" (new), and "Policy on Hate-based Conduct" (new).

The following policies were determined to not need revision at this time: Policy 1250, "Policy Regarding Visitors and Observations in Schools" and Policy 5142.4, "School Resource Officer."

**ADJOURNMENT**

Meeting adjourned at 9:16 a.m.

Respectfully submitted,  
Jennifer Caputo

Meeting: May 12, 2020

Via Zoom and Googledoc

**WESTPORT BOARD OF EDUCATION  
POLICY COMMITTEE WORK SESSION MINUTES**

**Committee Members Present:**

Karen Kleine  
Resources  
Lee Goldstein

**Administrators Present**

Committee Chair      John Bayers      Director of Human

**PUBLIC CALL TO ORDER:** 8:00 a.m., Held Remotely Via Zoom Pursuant to Executive Orders 7B and 9H

**EXECUTIVE SESSION:**

Karen Kleine moved at 8:00 a.m. to enter into executive session to discuss an attorney-client privileged memorandum providing legal advice regarding Board policies; seconded by Lee Goldstein and passed unanimously. All Committee members participated. John Bayers and Jessica Smith joined the executive session at the invitation of the Committee. The executive session adjourned at 9:45 a.m.

**ADJOURNMENT**

Meeting adjourned at 9:45 a.m.

Respectfully submitted,  
Jennifer Caputo



## **Business and Non-Instructional Operations**

### **Gifts, Grants and Bequests**

#### **A. Gifts Requiring Board of Education Approval (over \$2,000)**

The Board of Education may accept gifts, grants and bequests from any individual or group and is duly appreciative of the interest in the schools which such donations represent. The following guidelines shall be used by the Board in determining the appropriateness of a major donation:

1. Donations to be used by students must be appropriate to the age and level of the students; the goal of the donation must be consistent with goals of the schools.
2. Gifts must supplement, not supplant, funding that should normally be provided by the Board of Education. However, the Board may seek special gifts or grants for seed money or pilot programs, or to permit higher expenditure levels for certain categories than the Board might otherwise be able to support.
3. Gifts should not be used to introduce into the program items or programs that the Board of Education has chosen not to approve.
4. All gifts must conform to Board of Education standards and Town, State and Federal codes and regulations.
5. The identity of the donor must be known to the Board, although the Board may honor the donor's request for anonymity.
6. Acceptance should not be construed as a testimonial or endorsement by the school system of a product or business or personal enterprise.
7. The Board may accept donations that begin trial programs, but such acceptance, unless specifically noted by the Board, will not commit the Board to continue the program at the termination of the donation. Gifts that create inequities among schools will be examined very closely.
8. In recommending acceptance of a gift, the administration will estimate costs that may be associated with it, e.g., up-keep, maintenance, increased energy costs to run equipment, etc.
9. Acceptance of the donation should not lead to a disproportionate emphasis on any activity or program.
10. The Board may accept unrestricted gifts of funds and retains the prerogative of deciding how the donation shall be used, or of refusing any donation.

#### **B. Under \$2,000**

1. The administration (Principal and TSO staff) may accept gifts, grants and bequests, including gifts from the PTA and graduating classes; valued at less than \$2,000, if they meet the above criteria.
2. Gifts that have an impact on the curriculum, add equipment or other resources that would produce inequities among schools, or incur further costs to the Board of Education, require approval by the Superintendent.

#### **C. All Gifts**

1. Items to be purchased should be selected by school personnel in consultation with the gift-giver, using regular Board of Education purchasing procedures, including bidding, when required, and all gifts of actual goods, equipment, etc., and all items purchased with donated funds, become the sole property of the Board of Education, and are to be listed in the school's inventory, with approximate value recorded.
2. Donation of a gift of goods, equipment or funds does not confer upon the donor, or, upon the donor's family members or designees, any rights with respect to use of the gift, or any rights of special access to school programs.
3. The Superintendent shall periodically inform the Board of all gifts accepted by the schools.

regardless of value.

**Policy adopted: February 28, 1994**

**3280**

## **Business and Non-Instructional Operations**

### **Gifts, Grants and Bequests**

#### **1. Consultation:**

Potential donors to the system as a whole consult with the Superintendent. Donors to individual schools consult the Principal. Donors to the special education program consult with the Assistant Superintendent or designee to determine if the gift is desired, or, if cash, how the gift will be used.

#### **2. Gifts Over \$2,000:**

A. All gifts valued at over \$2000 require approval by the Superintendent and formal acceptance by the Board of Education.

B. The Principal should submit documentation to the Superintendent to include identification of the donor, the amount of the gift (or, if tangible goods rather than cash, an itemized of the gift) and its potential use.

C. If the Superintendent approves, gifts will be placed on a Board agenda.

#### **3. Gifts Under \$2000:**

A. Minor gifts may be accepted without formal action by the Board of Education.

B. The Superintendent should be informed of all gifts.

C. Minor gifts that have an impact on the curriculum, introduce new programs or procedures, produce inequity among the schools or add equipment that would incur further costs to the school system require approval of the Superintendent.

#### **4. Acquisition of Designated Items:**

Except in special cases approved by the Superintendent, although funds may be designated for certain purposes, gifts should be given in the form of funds, and actual items to be purchased should be selected by school personnel in consultation with the gift-giver.

#### **5. Purchase:**

Board of Education purchasing procedures, including bidding, when required, should be used for all acquisitions.

#### **6. Guidelines for gifts from PTA's to Resolve Equity Issues:**

Gifts should not be used to create inequity among the schools where Board of Education funds would then be required to restore equity. Although gifts to the various schools need not be equivalent on an annual basis, gifts should be planned to produce rough equivalence over a five-year period. The following sequence can be used to facilitate this:

A. Principals meet together semi-annually, in the fall and in the spring, to review items that might be appropriate for PTA gifts, and share PTA fund-raising and gift-giving plans.

B. Individual PTA presidents or Executive Boards meet with their own school Principal to determine items desired by the school that could appropriately be given as a gift from PTA, within Board policy.

C. PTA presidents and Principals of all schools should meet together semi-annually as a group to discuss prospective gifts and their implications for other schools.

**Regulation approved: February 28, 1994**



**Business and Non Instructional Operations**

**Gifts, Grants, and Bequests**

The Board of Education may accept on behalf of and for the schools any bequest or gift of money or property for a purpose deemed by the Board of Education to be suitable, and to utilize such money or property so designated.

The Superintendent of Schools shall set up criteria to be met in the acceptance of gifts, and the procedure for examining and evaluating offers of gifts to the district.

All gifts shall be accepted for the school district as a whole, and not for a particular school. At the discretion of the Superintendent, the gift may be used in a particular school.

**Gifts and Donations Through Crowdfunding**

For the purposes of this policy, crowdfunding is the process of requesting a specific gift or donation to fund a specific purchase or project, typically through websites or social media designated for this purpose. Crowdfunding does not include requests for donations the District makes using the District's own website or social media.

Crowdfunding is a unique form of fundraising. Therefore, the following rules will apply whenever the District, a District employee, or other volunteer or agent of the District seeks gifts and donations through a crowdfunding website intended to benefit the District, District employees acting in their capacity as District employees, or the District's students. Before any donation is requested, the building Principal, must be informed of the request to ensure that the request does not conflict with other fund-raising efforts or, if classroom supplies or other property is requested, that the District does not already have the requested supplies or the District can adequately support, store or maintain the gift if received.

All donations or gifts that are requested using the District's name, referencing the employee's position with the District even if the District is not named, or requested on behalf of the students specifically or in general are considered District property. The Superintendent or his/her designee will be informed if donations or gifts are received using crowdfunding so that the gift may be appropriately acknowledged by the District, and the donation may be deposited in the appropriate District account or a gift may be inventoried.

Legal Reference: Connecticut General Statutes

[7](#) 194 Powers.

[10](#) 9 Bequests for educational purposes.

**Policy adopted:**

**FUND-RAISING ACTIVITY APPROVAL  
GIFTS, GRANTS, AND BEQUESTS**

School \_\_\_\_\_ Date \_\_\_\_\_

Organization \_\_\_\_\_

Contact person \_\_\_\_\_

Activity \_\_\_\_\_

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Date of fund-raising activity \_\_\_\_\_

School sponsored:            yes    \_\_\_\_\_    no    \_\_\_\_\_

Requires Board of Education approval \_\_\_\_\_ Superintendent approval \_\_\_\_\_

Gift \_\_\_\_\_

Value of gift/donation \_\_\_\_\_

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SUPERINTENDENT'S SIGNATURE    DATE            PRINCIPAL'S SIGNATURE    DATE

## **POLICY \_\_\_\_\_**

### **GIFTS, GRANTS, BEQUESTS, AND FUNDRAISING**

#### **Purpose and Overview**

The \_\_\_\_\_ Public Schools have benefited from the generosity of third party groups, organizations, and individuals who have made gifts, grants, and bequests to the school district (“Gifts”) – monetary contributions as well as physical objects – through fundraising initiatives or otherwise. Gifts may be received from a number of benefactors including school-based organizations, students and their families, community members, outside individuals, organizations, booster clubs, foundations, governmental agencies, employees, agencies, or any number of other sources.

The Board of Education recognizes that Gifts and fundraising initiatives can enhance the educational experience, but that Gift-giving and fundraising require close oversight by the Superintendent to ensure that they are consistent with the Board’s educational objectives and policies and applicable law. The Board of Education further recognizes its legal responsibility to provide facilities, equipment, supplies, materials, and staff adequate to maintain its regular instructional program, and cannot, therefore, accept Gifts which could be interpreted as an assumption of this function on the part of the donor. The Board reserves the right, then, to specify the manner in which Gifts are made, to define the type of Gift which it considers appropriate, to reject those which it deems inappropriate, unsuitable, and/or in conflict with the Board’s educational objectives and/or policies and/or applicable law, and to remove, dispose of, or modify those that become unwanted or obsolete as conditions warrant.

#### **Types of Gifts Encouraged and Discouraged**

Gifts of personal property to the district, including monetary donations, that meet criteria set forth in the administrative regulations established in accordance with this policy are welcomed and encouraged.

Gifts which seek to provide enhancements to the educational or extracurricular experience of the Board’s students should be appropriately encouraged, as should Gifts which duplicate certain material resources and, therefore, accelerate the attainment of educational goals. In general, the Board of Education will not accept Gifts that are inconsistent with the policies, practices, programs, standards, and interests of the Board and its schools and/or applicable law (including, without limitation, the requirement that school districts operating or sponsoring athletic programs provide equal athletic opportunities for members of both sexes). Moreover, Gifts that will add to the ongoing maintenance requirements of the schools are not encouraged.

#### **Receipt, Acknowledgement, Acceptance, and Reporting of Gifts**

Monies received by the Board of Education as Gifts through fundraising efforts or otherwise are public funds and must be safeguarded accordingly. Therefore, the Superintendent or his/her designee shall establish school activity funds to handle such funds, and such funds must be deposited in the appropriate school activity fund(s).

***[MODIFY AS APPROPRIATE: Only the Parent Teacher Organization (PTO), Parent Teacher Association (PTA), and other organizations as may be specifically approved by the Superintendent and/or his/her designee may retain monies from fundraising efforts. If desired by such other organizations, monies from fundraising efforts may be deposited in the appropriate school activity fund.]*** All applicable Board of Education policies must be followed when funds are to be raised through the use of students and Board facilities. All Gifts shall become school district property.

Any Gift valued at \$499.99 or less must be approved by the Superintendent or building principal before being accepted and meet criteria established by the administrative regulations established in accordance with this policy. Any Gift valued at \$500 to \$\_\_\_\_\_ must be approved by the Superintendent before being accepted and meet criteria established by the administrative regulations established in accordance with this policy. The Superintendent shall inform the Board of Education of any Gift valued at \$500 or more that has been accepted by the district. Any Gift valued at \$\_\_\_\_\_ or more must be approved by the Board of Education before being accepted and meet criteria established by the administrative regulations established in accordance with this policy.

***[CONSIDER OPTIONS: The Superintendent, in consultation with the building principals and/or other appropriate administrators and considering the wishes of the donor, may determine the school(s), program(s) or facility(ies) to which the Gift shall go if it is valued at \$\_\_\_\_\_ or less. The Board of Education, in consultation with the administration and considering the wishes of the donor, may determine the school(s), program(s) or facility(ies) to which the Gift shall go if it is valued at \$\_\_\_\_\_ or more.]***

The Board of Education, Superintendent, and/or building principal (as applicable) shall acknowledge and express appreciation for all Gifts whether accepted or not. Any Gift rejected by the Board of Education, Superintendent, and/or building principal (as applicable) shall be returned to the donor or the donor's estate, with a statement indicating the reason for rejection of such Gift.

All Gifts made to the \_\_\_\_\_ Public Schools come under the direction and control of the Board of Education and are subject to the same regulations that govern the use of district resources.

The Superintendent shall develop administrative regulations governing the procedures for evaluating Gifts and fundraising initiatives intended to benefit the \_\_\_\_\_ Public Schools.

### **Legal References:**

Title IX of the Educational Amendments of 1972, 20 U.S.C § 1681

Conn. Gen. Stat. § 10-237

**Cross References:**

ADOPTED: \_\_\_\_\_

REVISED: \_\_\_\_\_

## REGULATION 3280

### ADMINISTRATIVE REGULATIONS REGARDING GIFTS, GRANTS, BEQUESTS, AND FUNDRAISING

Prior to proposing a gift, grant, or bequest (“Gift”), potential donors are encouraged to consult with the Superintendent and/or building principal regarding the appropriateness of the Gift. Prior to undertaking any fundraising initiative, potential donors are encouraged to consult with the Superintendent and/or building principal regarding the appropriateness of the initiative. Such prior consultation will assist potential donors in understanding applicable policies, procedures, regulations, and laws related to proposed Gifts and fundraising initiatives and may help avoid rejection of a Gift for non-compliance.

To be accepted, a Gift must be used for the educational benefit of students and satisfy the following criteria:

- Have a purpose consistent with the purposes of the \_\_\_\_\_ Public Schools
- Will not begin a program that the Board of Education would be unwilling to take over when the gift or grant funds are exhausted
- Will not bring unanticipated costs to the \_\_\_\_\_ Public Schools (e.g., maintenance costs)
- Will place no restrictions on any \_\_\_\_\_ Public Schools program(s)
- Will not be inappropriate or harmful to the best educational interests of students, as determined by the administration
- Will not create inequity in athletic opportunities for members of both sexes in district-sponsored athletic programs
- Will not imply endorsement of any business or product
- Will not be in conflict with any provision of local, state, and/or federal law and/or Board of Education policy

The Board of Education, Superintendent, and/or appropriate administrator(s) shall use the attached **Proposed Gift Form** to evaluate the appropriateness of a Gift presented to the \_\_\_\_\_ Public Schools. The Proposed Gift Form must be completed before a gift is accepted.

All Gifts shall become school district property.



**Legal Reference:**

Title IX of the Educational Amendments of 1972, 20 U.S.C § 1681  
Conn. Gen. Stat. § 10-237

**Cross Reference:**

Board Policy 1314  
Board Policy and Regulation 1324

ADOPTED: \_\_\_\_\_

REVISED: \_\_\_\_\_

\_\_\_\_\_  
**PUBLIC SCHOOLS**  
**PROPOSED GIFT FORM**

**This form must be completed in its entirety before a gift, grant, or bequest ("Gift") is accepted. Rules and procedures regarding evaluation and approval of proposed Gifts are set forth in Board of Education Policy and Regulation 3280.**

Any Gift valued at \$499.99 or less must be approved by the Superintendent or building principal before being accepted and meet criteria established by Regulation 3280. Any Gift valued at \$500 to \$\_\_\_\_\_ must be approved by the Superintendent before being accepted and meet criteria established by Regulation 3280. Any Gift valued at \$\_\_\_\_\_ or more must be approved by the Board of Education before being accepted and meet criteria established by Regulation 3280.

<b>TO BE COMPLETED BY THE PROPOSED DONOR</b>
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Donor name \_\_\_\_\_

Address \_\_\_\_\_ Phone No. \_\_\_\_\_

Description of proposed gift

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approximate value (donated materials or services should be estimated based on fair value provided) \_\_\_\_\_

Real Property \_\_\_\_\_ Personal Property \_\_\_\_\_

Please describe the purpose of the proposed Gift and any conditions or restrictions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

\_\_\_\_\_ Date \_\_\_\_\_

<b>TO BE COMPLETED BY SCHOOL ADMINISTRATION</b>
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Name of administrator completing form \_\_\_\_\_

**Please review the proposed Gift and answer the following questions.**

- Does the proposed gift have a purpose consistent with the purposes of the \_\_\_\_\_ Public Schools? **(Y/N)** If no, please explain.
- Does the proposed gift begin a program that the Board of Education would be unwilling to take over when the gift or grant funds are exhausted? **(Y/N)** If yes, please explain.
- Does the proposed gift bring unanticipated costs to the \_\_\_\_\_ Public Schools (*e.g.*, maintenance costs)? **(Y/N)** If yes, please describe.
- Does the proposed gift place restrictions on any \_\_\_\_\_ Public Schools program(s)? **(Y/N)**
- Is the proposed gift inappropriate or harmful to the best educational interests of students? **(Y/N)** If yes, please explain.
- Does the proposed gift create inequity in athletic opportunities for members of both sexes in district-sponsored athletic programs? **(Y/N)** If yes, please explain, and propose any possible ways to eliminate any inequities that might be created by the proposed gift.
- Does the proposed gift imply endorsement of any business or product? **(Y/N)** If yes, please explain.
- Is the proposed gift in conflict with any provision of local, state, or and/or federal law and/or Board of Education policy? **(Y/N)** If yes, please explain.

Notes on any Superintendent/administrator actions taken:

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Notes on any Board of Education actions taken:

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**Disposition:**

\_\_\_ **Accepted**

\_\_\_ **Rejected**

\_\_\_ **Returned to proposed donor with the following proposed modifications:**

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**Accounting:**

School Activity Fund(s) into which Gift was Deposited:

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# **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

PAGE 1

*(Background Information for Policy Review Committee)*

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Booster and parent organizations are composed of parents, community members and staff members coming together for the purpose of supporting specific school activities for the benefit of students, such as athletic teams, musical groups, drama groups or academic activities. Such groups are commonly referred to as school-connected organizations. They are an important means of connecting parents and other community members with the curricular and co-curricular activities of students.

In addition, many districts, in response to budget constraints, continue to rely more on alternate sources of revenue to support non-classroom and extracurricular activities. Fundraising by outside support organizations, such as booster clubs and parent groups is increasingly used to supply sports and band equipment, playground equipment, fund field trips and provide other activities or items that may be more difficult to fund through a district's operating budget.

This alternate source of revenue, however, may pose some legal and political consequences, but it remains unreasonable to expect that school districts would disassociate themselves with such outside support organizations and their valuable financial support. Some potential trouble spots are described in the following material. Taking a proactive approach in dealing with booster clubs and parent groups will result in school districts reaping the benefits of support from their dedicated community members and reducing potential liability issues.

## **Potential Trouble Areas**

Typical fundraising activities by booster and parent groups include activities that may include some risk of injury, which may result without proper supervision or sufficient safety measures. The relationship between the outside organization and the school district may dictate who will be responsible in a potential negligence lawsuit. A booster or parent group which is indistinguishable from the school district could result in the district being held responsible for the group's negligence. Factors to consider include (1) whether the group is permitted special access to school facilities and communication forums; (2) school employees routinely assisting in the group's activities; (3) routine use is allowed of the school's name, mascot, or logo; (4) the group is not a separate legally established not-for-profit corporation; and (5) announcements for group-related functions do not provide a clear indication of whether the event is sponsored by the group or the school district.

Another potential problem pertains to the possibility of embezzlement of funds from these groups. There is often a public perception that the district oversees and controls the organizations. This creates a public relations situation for the school district if it fails to take an active role in recovering or reimbursing the embezzled funds, should embezzlement occur.

Discrimination is also a potential trouble spot. Under Title IX, donations by booster clubs may not create vast differences in benefits or services to female and male athletes. Even though the school district is not the direct source of the financial support, Title IX imputes liability to the school district if unequal treatment occurs as a result of the actions of a booster club. Districts have an obligation under Title IX to ensure that the contributions of a booster club do not create disparities in participation opportunities, equipment, and facilities between male and female athletic teams.

## **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

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Failure to ensure equity could result in court ordered penalties or sanctions administered by the Office of Civil Rights (OCR).

OCR stresses that it is the school district's responsibility under Title IX to ensure that boys' and girls' athletic teams are provided with equivalent benefits, services, or opportunities regardless of the source of funding. OCR has no jurisdiction to investigate independent booster groups, but it provides the following guidance on assessing a school district's ultimate responsibility for ensuring Title IX compliance in regards to booster donations:

Where booster clubs provide benefits and services that assist only teams of one sex, the institution shall ensure that teams of the other sex receive equivalent benefits and services. If booster clubs provide benefits and services to athletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, then the institution shall take action to ensure that benefits and services are equivalent to both sexes.

In short, school districts are responsible for Title IX compliance regardless of whether the disparate benefits are created by booster clubs or other sources of outside financial assistance.

In addition, it is important that booster clubs do not violate established athletic (CIAC) association regulations. Such violations could provide the basis for the association to impose various penalties.

In order to limit the risk of school district liability for the activities of booster clubs and parent groups, certain measures are recommended. These measures are outlined below.

### **Policies and Procedures**

The adoption of appropriate board policies and administrative regulations is recommended. These should clarify the relationship between the school district and its booster clubs and parent groups. Groups and clubs that are not incorporated under law as not-for-profit corporations could be categorized as "internal groups" under school district policies. These groups would be subjected to greater district oversight, which would require the groups' income to be deposited in the school's internal accounts and subjects the groups to all policies and procedures related to receiving and disbursing funds.

Other groups and clubs that have incorporated could be classified as "external groups" or independent organizations with bank accounts separate from the school district. Booster groups and related parent organizations need to be properly organized and demonstrate fiscal responsibility by being a 501(c)(3) organization, obtaining a bond and/or arranging regular audits. In order to minimize liability, the school district's errors and omissions insurance should cover parent organizations and booster clubs.

The policy and/or regulations should provide parameters for using the school district's name, logo or mascot. Such use should be revocable and contingent upon complying with school district policies.

## **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

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The district could also require accounting procedures for “external groups.” Such procedures could include the following specific accounting practices to include (1) the treasurer of the group to handle all funds; (2) two signatures required for all checks; (3) funds to be always deposited into the authorized bank account; (4) two people count money and provide the treasurer with a signed proceeds receipt; (5) school employees shall not be authorized to sign checks drawn on the bank account; (6) sales slips, receipts, or invoices are provided for every expenditure; (7) bank statements are reconciled by the treasurer and reviewed by someone without check signing authority; and (8) a copy of the budget shall be provided to the school or district at the beginning of each school year.

The policy and/or procedures could also require prior written approval of the group’s activities by a building principal or designee. Announcements of the event should clearly indicate that it is sponsored by the group and not the school or school district.

### **Insurance**

A general liability insurance policy should be maintained by booster clubs and parent groups. The policy should name the school district as an additional insured party. In some cases, coverage for liability claims made against individuals participating in booster club or parent organization events are limited to events that are sponsored by the school district in cooperation with the outside group. Some policies may only cover booster clubs and parent groups for events during school hours or on school property.

Therefore, it would be prudent for school districts to seek complete coverage by mandating that the outside support organizations obtain comprehensive liability policies and consider property coverage, officer’s liability, and bond coverage for the treasurer or fund custodian.

### **Audits**

Audits help provide a defense against embezzlement and fraud. Therefore, booster clubs and parent groups should be encouraged, if not required, to conduct annual audits of their financial records. The audit should be performed by someone who is independent from the group’s day-to-day financial activities. The completed audit should be presented to the group’s board of directors and also filed with the school district.

### **Record Keeping**

Compliance with Title IX places an obligation on school administrators to monitor the distribution of all benefits to athletic teams provided by the school district and booster clubs.

### **Sharing Information**

Booster clubs and parent groups should receive information on policies relating to sexual harassment, nondiscrimination, fundraising, alcohol and drug-free schools, facility use, donations, advertising, and other issues that could affect the organization and their activities. The athletic booster clubs should also be made aware of pertinent high school athletic association regulations that cover undue influence, compensating coaches and out-of-season activity restrictions.

## **BOOSTER GROUPS AND PARENT ORGANIZATIONS**

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### **Policy Implications**

Policy #1230, “Parent Organizations and Booster Clubs,” and its accompanying administrative regulation pertain to this topic. This is considered an optional policy for inclusion in a district’s policy manual. It has been updated and follows for your consideration. In addition, a new version of this policy has also been developed and follows.

**April 2020**

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*Version #1 of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

Parent organizations and booster clubs are invaluable resources to the District's schools. The Board of Education (Board) recognizes that parent organizations and extracurricular support groups, or "booster clubs" provide important support to District schools, and can be valuable means of stimulating community interest in the aims and activities of District schools. All such groups must receive the approval of the school Principal, Superintendent and the Board in order to be recognized as a parent or booster organization.

Support organizations may be defined in two ways:

1. an organization which is created to foster community support and provide resources for a particular sport or activity in the school or school system; or
2. an organization which is created to foster community support and raise funds for the school's general extracurricular program.

While parent organizations and booster clubs have no administrative authority and cannot determine District policy, the Board welcomes their suggestions and assistance. It shall be the duty of the Superintendent and respective Building Principal to represent the best interest of the Board and school system in the functioning of these organizations.

Parent organizations and booster clubs are recognized by the Board of Education and permitted to use the District's name, a District school's name, or a District school's team name, or any logo attributable to the District provided they first receive the Superintendent or designee's express written consent.

The Superintendent or his/her designee may revoke the authorization to use the District's name, logo, or mascot if the Superintendent or designee determines that the booster or parent organization has failed to comply with the terms of this policy or any other District policies. The Superintendent or designee will notify the applicable organization in writing of the reasons for the revocation. The revocation decision may be appealed to the Board, whose decision shall be final.

Consent to use one of the above-mentioned names or logos will generally be granted if the organization or club has bylaws containing the following:

1. The organization's or club's name and purpose, such as, to enhance students' educational experiences, to help meet educational needs of students, to provide extra athletic benefits to students, to assist specific sports teams or academic clubs through financial support, or to enrich extracurricular activities.
2. The rules and procedures under which it operates.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

3. An agreement to adhere to all Board policies and administrative procedures.
4. A statement that membership is open and unrestricted, meaning that membership is open to parents/guardians of students enrolled in the school, district staff, and community members or an agreement not to engage in discrimination based on someone's innate characteristics or membership in a suspect classification.
5. A statement that the District is not, and will not be, responsible for the organization's or club's business or the conduct of its members.
6. An agreement to maintain and protect its own finances. The group must maintain bank, financial, and tax exempt status separate from the school or District. The organization will provide to the Board annually or upon request a complete set of financial records or detailed treasurer's report.
7. A recognition that money given to a school cannot be earmarked for any particular expense. Booster clubs may make recommendations, but cash or other valuable consideration must be given to the District to use at its discretion. The Board of Education's legal obligation to comply with Title IX by providing equal athletic opportunity for members of both genders will supersede an organization or club's recommendation.

Parents and other interested community members who wish to organize a parent organization or booster club for the purpose of supporting a specific school program or activity are encouraged to do so as long as the activities of such organizations do not interfere unduly with the total educational program or disrupt District operations in any way. To this end, parent organizations/booster club/support organizations must follow these guidelines:

1. be voluntary;
2. submit an activity schedule in advance to the Superintendent of Schools or his/her designee for prior approval. Any time a booster club uses the name of the District or any language suggesting that the District has endorsed, sponsored or otherwise approved of the club's activities, there must be prior approval by the Superintendent or his/her designee;
3. seek advance approval for any use of school facilities and/or equipment and such use will comply with all policies and regulations established by the Board;
4. avoid interference with any previously approved student activity;
5. seek approval in advance of all fundraising activities by the Superintendent or building Principal;
6. understand and respect the authority of District employees in the administration of their duties;

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

7. assume all financial responsibility for the booster club, including but not limited to the provision of adequate insurance coverage, as appropriate; and
8. submit an annual financial report to the Superintendent or his/her designee (or Building Principal) giving a full accounting of its financial transactions for the year, including monies raised and expended. Adequate financial records shall be maintained at all times.

If a booster club wishes to make a contribution of money, service time or tangible property such as equipment or supplies, a representative of the organization should first meet with the Superintendent or his/her designee. The Superintendent or his/her designee must identify the District's terms and conditions of accepting such gifts in concert with the District's policy pertaining to gifts, grants and bequests.

All items donated become the property of the District and may be used or disposed of in accordance with District policy and any applicable state law. The District reserves the right to modify the use if the needs of the students or the District change.

Booster club proposed plans, projects and other activities must be evaluated and promoted in light of their stated contribution to the academic as well as the extracurricular school programs.

Careful consideration should be given to the total value of the contribution to all students, and not just to specific student groups.

The Board retains final responsibility and authority on all activities which have an impact on students, school programs and/or school owned property.

Further, the Board recognizes its responsibility to ensure that equivalent benefits and services are provided to members of both sexes. The Board will consider gender equity and budget implications before accepting booster club donations. Therefore, if booster clubs provide benefits, services or tangible property that assist only teams or programs of one gender, the Board shall ensure that teams or programs of the other gender receive equivalent benefits, services or tangible property. If a booster club provides benefits, services or tangible property which are greater than that which the District is capable of providing to the athletes or programs of the other gender, the administration shall take action, within policy parameters, to ensure equivalency for both sexes.

## Community Relations

### Other School-Connected Organizations

#### Parent Organizations and Booster Clubs (continued)

##### Alternative/Additional Language:

*The Board of Education is responsible for providing funding for the safe and effective operation of the interscholastic sports program. There may be occasions when Board funding is unavailable to provide everything requested by a coach. All booster club donations must be approved by the Superintendent of Schools or his/her designee (Board of Education) in advance to ensure equity in all sports. "Necessary" expenditures must be provided by the Board of Education through its approved budget. Items that would be "nice" or "beneficial" to have are viewed as appropriate for booster club financial support. Any booster club purchase or expenditure must receive the approval of the team's head coach and the Athletic Director following the aforementioned approval by the Superintendent of Schools or his/her designee (Board of Education).*

*The Board reserves the right to revoke approval of any booster group if it is found that the group's operations and purposes are inconsistent with Board policies.*

- (cf. 1110.1 - Parental Involvement)
- (cf. 1140 - Distribution of Materials by Students)
- (cf. 1210 - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. 1330 - Use of School Facilities)
- (cf. 3280 - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

cps 1/01  
rev 11/08  
rev 4/20

*Version #2 of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations**

The Board of Education recognizes that booster clubs perform a valuable service to the schools, and the Board expects school personnel to support such organizations accordingly. It shall be the duty of the Superintendent and respective principals to represent the best interests of the Board, school system and schools in the functioning of such organizations.

Each booster club which is involved with school activities or school students shall develop and maintain a constitution and bylaws setting forth the purposes of the organization and the general rules and procedures by which it shall operate. Each booster club shall provide a copy of its constitution and bylaws, and any revision thereof, to the Superintendent or his/her designee.

Booster clubs shall secure the advice and approval of the Building Principal before planning any function, including fundraising activities, in which students are to participate while under supervision of the District.

A booster organization shall secure the prior advice and approval of the Building Principal before planning any fund-raising activity intended to benefit a school program. The Principal shall suggest needs of the school, including those not requiring fund-raising, that are conducive to the active involvement and significant numbers of interested parents in meaningful service to the school and its students.

Each booster organization shall establish its own system for handling and disbursing its funds; however, all applicable Board policies must be followed when expenditures are for school activities or when funds are to be raised through the use of students and District facilities.

Any item purchased by booster clubs for school or school activity use shall become the property of the District, and may be used or disposed of in accordance with District property and any applicable state law. The District reserves the right to modify the use if the needs of the students or District change.

The Board recognizes its responsibility to ensure that equivalent benefits and services are provided to members of both sexes. The Board will consider gender equity and budget implications before accepting booster club donations. Therefore, appropriate actions will be taken to ensure that benefits and services are equivalent for both sexes, regardless of funding sources.

The Superintendent is directed to develop regulations containing guidelines by which booster clubs shall operate in the District. Such guidelines shall include, but not be limited to, such topics as permissible awards, fund raising, insurance requirements, annual reporting, use of facilities, recognition functions, concessions at school events and expenditures for student equipment and supplies.

## Community Relations

### Other School-Connected Organizations

#### Booster Clubs/Organizations (continued)

Permission to use the name of the District or any District school, or logos or mascots may be rescinded at any time and does not constitute permission to act as the District's representative. At no time does the District accept responsibility for the actions of any parent organization or booster club regardless of whether it was recognized and/or permitted to use any of the above-mentioned names or logos. The Superintendent or his/her designee may revoke the authorization to use the District's name, logo, or mascot if the Superintendent or designee determines that the booster or parent organization has failed to comply with the terms of this policy or any other District policies.

#### Alternative Language:

*The Board of Education is responsible for providing funding for the safe and effective operation of the interscholastic sports program. There may be occasions when Board funding is unavailable to provide everything requested by a coach. All booster club donations must be approved by the Superintendent of Schools or his/her designee (alternative: Board of Education) in advance to ensure equity in all sports. "Necessary" expenditures must be provided by the Board of Education through its approved budget. Items that would be "nice" to have are viewed as appropriate for booster club financial support. Any booster club purchase or expenditure must receive the approval of the team's head coach and the Athletic Director following the aforementioned approval by the Superintendent of Schools or his/her designee (and/or Board of Education).*

*The Board reserves the right to revoke approval of any booster group if it is found that the group's operations and purposes are inconsistent with Board policies.*

- (cf. 1110.1 - Parental Involvement)
- (cf. 1140 - Distribution of Materials by Students)
- (cf. 1210 - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. 1330 - Use of School Facilities)
- (cf. 3280 - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.  
34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

rev 11/08  
rev 4/20

*A detailed sample regulation to consider/modify.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations**

Booster organizations are important to the extracurricular activities provided for District students. Such organizations provide positive support to the students, the program, and the personnel in a particular program. Booster organizations shall comply with established guidelines in cooperation with the Superintendent or his/her designee. The following guidelines regulate booster organization within this District.

##### **1. Constitution/Bylaws/Officers**

Each booster organization involved with school activities or students shall develop and maintain a constitution and bylaws for the organization setting forth the purposes of the organization and the general rules and procedures by which it shall operate. A copy of the constitution and bylaws shall be forwarded to the Superintendent or his/her designee. Each booster organization shall submit a list of officers annually to the Superintendent or his/her designee.

##### **2. Fund Raising Activities**

Fund raising activities shall be requested in writing to the Building Principal, reviewed at the building level, approved by the Superintendent or his/her designee and conform to District guidelines. Two (2) major fund-raising activities involving students shall be permitted each year; exceptions may be granted by the Superintendent. Fund-raising activities may occur during the length of a particular athletic/sport season or as a special activity approved by the Superintendent or his/her designee. No student time during the regular school day shall be allowed for fund-raising activities for any booster organization. Student solicitation within the community for any booster organization shall be minimal.

Announcements of booster organization events and activities shall clearly indicate that it is sponsored by the group and not the school or District. Groups should warrant that the activities will be adequately supervised.

##### **3. Permissible Awards**

An approved booster organization may purchase a sweater, jacket, blazer, blanket, shorts, jersey, cap, watch, ring, photograph, medal, plaque, or similar trophy with appropriate insignia of comparable identification, for an athlete, in recognition of his/her athletic performance, and present such awards at a time appropriate to such recognition.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

##### **4. Insurance**

Each booster organization shall maintain appropriate insurance coverage recommended by the District for bodily injury and property damage, naming the District as additional insureds. Proof of such coverage shall be submitted to the District's Business Office.

##### **5. Audit/Treasurer's Report**

Booster organizations shall handle their own accounting and bookkeeping procedures and maintain their own separate accounts for income and expenditures.

Each booster organization shall prepare an audit or treasurer's report at least once a year. A copy of the audit/treasurer's report shall be submitted to the Superintendent or his/her designee and forwarded to the Board of Education upon request. Such report shall provide a full accounting of the organization's financial transactions for the year, including money raised and expended.

##### **6. Use of Facilities**

Booster organizations requesting use of facilities and/or services shall initiate those requests with the Building Principal and in compliance with the District's policy on facility usage. No activity shall be permitted without such approval.

##### **7. Recognition Functions**

A booster club may sponsor athletic banquets to which student athletes may be invited without charging admission to such athlete.

A booster club planning a recognition event shall request permission of the Building Principal to conduct such an event and to clear the date for the event.

##### **8. Concessions**

Booster organizations involved in concessions at school events shall follow applicable District guidelines.



## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

#### **9. Expenditures for Equipment, Supplies, etc.**

All game uniforms shall be purchased by the District. The “game uniform” shall include any clothing, headgear or shoes that (a) display the school colors or logo (except shoes), (b) are purchased by the District, (c) are worn in warm-up for a contest, during the contest, or immediately subsequent to the contest, and (d) is intended to be collected by the school at the conclusion of the season. Ancillary gear and apparel such as coaching aid equipment items, shoes, bags or totes, etc., may, however, be purchased and/or donated by booster groups, corporate sponsors, or other non-school sanctioned entities. Items purchased or donated other than by the District must meet the criteria as defined below:

- The donation/purchase of goods shall meet all applicable policies and procedures of the District;
- The donation/purchase of goods shall adhere to all applicable Board policies and guidelines;
- The donation/purchase of goods shall have the written approval of the Building Principal and Athletic Director prior to any deliberations commencing with a potential provider;
- Any donation of goods may not be in conflict with any District-level sponsorships that may be in effect;
- Any agreement or contract proposed shall be reviewed by the District’s attorney and the Superintendent or his/her designee;
- Consideration must be given to the impact of booster organization purchases, donations or services on Title IX compliance. Approval will be based on maintaining the necessary equivalence of benefits and services to both genders.

#### **10. Compliance**

Should any situation emerge between a booster organization and the administration regarding the management of any school-related activity, the Superintendent or his/her designee shall resolve the issue within these established guidelines or Board policy. No booster organization shall engage in any activity outside these guidelines. Further, in conducting its activities, booster organizations shall comply with all state and federal laws, as applicable.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Booster Clubs/Organizations (continued)**

##### **Other language to consider:**

- *The organization may not use school materials in advertising its activities.*
- *All funds raised by the booster organization will be used to achieve the stated purposes and goals of the organization. No administrative fees or stipends to officers or others will be permitted.*
- *The booster organization must maintain bank, financial, and tax exempt status separate from the District.*

(cf. 1110.1 - Parental Involvement)

(cf. 1140 - Distribution of Materials by Students)

(cf. 1210 - School Community Associations)

(cf. 1323 - Gifts to Students)

(cf. 1330 - Use of School Facilities)

(cf. 3280 - Gifts, Grants and Bequests)

(cf. 3281 - School Fund Raising)

(cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Regulation approved:

rev 11/08

rev 4/20

*Another version of this sample policy to consider.*

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

The Board of Education (Board) recognizes the importance of athletic and extracurricular activities in the well-rounded development of public school students. Participation in such athletic and activities programs builds character, a sense of responsibility and discipline, and promotes proper conduct, all of which are central to the educational mission of the District.

The Board further recognizes the contribution and support which its athletic, extracurricular activities and educational programs receive from parents and members of the community who have organized booster clubs, parent-teacher organizations (PTO's/PTA's) and other support groups with similar purposes. This policy is adopted to define the relationship between the Board of Education and athletic booster clubs, PTO's and similar groups whose purpose is to support the school District's athletic activities and educational programs.

#### **Group Status**

Booster clubs and parent-teacher organizations (PTO's/PTA's) are neither school-sponsored clubs nor student-initiated clubs as those clubs or groups are defined in Board policy. Booster clubs and PTO's/PTA's shall constitute "outside clubs or groups" which are school-related but must meet the terms of this policy in order to use the School District's or an individual school's name, mascot or logo and to use School District facilities as a school-related organization.

#### **Booster Clubs**

Booster clubs for such activities including, but not limited to, athletics, band, cheerleading, drama, choir, fine arts or academic activities are welcome to form, support and assist such student activities or programs, both financially and with volunteer assistance. Booster clubs must comply with the requirements of this Policy in order to use the name of the individual school or School District, school or School District mascots or logos, and to have access to School District facilities as a school-related organization.

A booster club must prepare and submit to the Board of Education a copy of its organizational bylaws and constitution by presenting the same to the Superintendent of Schools prior to initiating such support or assistance. All booster organizations must operate within the applicable standards and guidelines set by the Connecticut Interscholastic Athletic Conference (CIAC), and shall not either promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards.

Upon formation and annually thereafter, each booster club shall provide the Superintendent with the names, telephone numbers and addresses of each officer of the booster club, and the position held.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs (continued)**

##### **Parent Teacher Organizations**

The Board encourages the formation and operation of parent-teacher organizations at each school site or campus in the School District to provide financial support or volunteer assistance to the school. Parent-teacher organizations must comply with the requirements of this policy in order to use the name of the individual school or School District, school or School District mascots or logos, and to have access to School District facilities as a school-related organization. Each parent teacher organization shall prepare and submit to the School Board a copy of its organizational bylaws and constitution to the Building Principal and the Superintendent prior to initiating such support or assistance. Upon formation and annually thereafter, each organization must provide the Building Principal and the Superintendent with the names, telephone numbers and addresses of each officer of the organization, and position held.

##### **Accounting by Booster Clubs and PTO's/PTA's**

Each booster club or parent teacher organization must have its own checking account and the bylaws for the group must require two signatures for any disbursement from that account. Booster club or PTO/PTA funds and accounts are not District accounts and will not be included in the District's budgeting and accounting for annual District audit purposes. Funds collected by the booster club or PTO/PTA are not to be deposited into the District's student activity accounts.

However, as an express condition to the Board's consent for the booster club or parent teacher organization to use the District's name, school name, school or District mascots or logos, or to use District facilities as a school-related organization, the booster club or PTO/PTA shall conduct an annual accounting or audit of its receipts and disbursements and submit a financial or audit report, performed in accordance with generally accepted auditing principles, to the Superintendent of Schools by October 1 of each calendar year. In the alternative, the booster club or parent teacher organization shall permit the District's school finance director or designee to audit the accounts of the booster club or PTO/PTA on request, no less than annually. Officers of a booster club or PTO/PTA shall be responsible for safeguarding any funds raised by the organization and to ensure that funds are spent only for purposes related to the goals and objectives of the booster club or PTO/PTA, and the published or advertised reasons for the particular fund-raising activity. The organization's bylaws shall specify reasonable procedures for internal financial control which shall be reviewed by the District's finance director.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

##### **Accounting by Booster Clubs and PTO's/PTA's (continued)**

The booster club or PTO/PTA shall not represent or imply that its activities, contracts, purchases, or financial commitments are made on behalf of or binding upon any school of the School District or the School District itself. Such a statement shall appear on all purchase orders, contracts or other forms of financial commitment issued by the booster club or PTO/PTA.

#### **Fundraising**

Each booster club or parent teacher organization shall hold a limited number of (or: be limited to two) fundraisers each school year which involve students in fundraising activities outside of the school setting. Booster clubs and PTO's/PTA's shall notify and obtain the approval of the Superintendent of Schools or his/her designee to assure that scheduling of fundraisers does not conflict with District programs or activities, and that the fund-raising process is consistent with the goals and mission of the school or District.

School employees, including athletic coaches, trainers or sponsors of school-sponsored student groups, shall not act as the primary organizers or spokespersons for any booster club or PTO/PTA fundraising event. Participation in fundraising activities by a booster club or PTO/PTA shall not be considered as a factor in a student's level of participation in any school activity or athletic program.

#### **Title IX Compliance**

The Board discourages the formation or organization of booster clubs which sponsor, assist or support student activities or athletic programs which predominantly serve student participants of a single sex. In order to assure that contributions or support by booster clubs and PTO's/PTA's do not create inequities or significant disparities in the program, equipment and facilities made available to students participating in single sex sports, the booster club or PTO/PTA shall only donate funds or tangible personal property contributed to the District's educational, extracurricular or athletic programs, by program or sport, through Board Policy #3280. Support provided to a single athletic program, regardless of source, must be included in the District's evaluation of its overall athletic program and the comparability of benefits made available to male versus female athletes.

## **Community Relations**

### **Other School-Connected Organizations**

#### **Parent Organizations and Booster Clubs**

- (cf. 1110.1 - Parental Involvement)
- (cf. 1140 - Distribution of Materials by Students)
- (cf. 1210 - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. 1330 - Use of School Facilities)
- (cf. 3280 - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. 3515 - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.

34 C.F.R. §106.31(b) Education Programs or Activities: Specific Prohibitions (Implementing Title IX)

Policy adopted:

cps 4/20



## Community Relations

### Other School-Connected Organizations

#### Booster Clubs

Parent organizations and booster clubs are invaluable resources to the District's schools. The Board of Education recognizes that parent organizations and extracurricular support groups, or "booster clubs" provide important support to District schools, and can be valuable means of stimulating community interest in the aims and activities of District schools. Support organizations may be defined in two ways:

1. an organization which is created to foster community support and provide resources for a particular sport or activity in the school or school system; or
2. an organization which is created to foster community support and raise funds for the school's general extracurricular program.

While parent organizations and booster clubs have no administrative authority and cannot determine District policy, the Board welcomes their suggestions and assistance.

Parent organizations and booster clubs are recognized by the Board of Education and permitted to use the District's name, a District school's name, or a District school's team name, or any logo attributable to the District provided they first receive the Superintendent or designee's express written consent. Consent to use one of the above-mentioned names or logos will generally be granted if the organization or club has bylaws containing the following:

1. The organization's or club's name and purpose, such as, to enhance students' educational experiences, to help meet educational needs of students, to provide extra athletic benefits to students, to assist specific sports teams or academic clubs through financial support, or to enrich extracurricular activities.
2. The rules and procedures under which it operates.
3. An agreement to adhere to all Board policies and administrative procedures.
4. A statement that membership is open and unrestricted, meaning that membership is open to parents/guardians of students enrolled in the school, district staff, and community members or an agreement not to engage in discrimination based on someone's innate characteristics or membership in a suspect classification.
5. A statement that the District is not, and will not be, responsible for the organization's or club's business or the conduct of its members.
6. An agreement to maintain and protect its own finances. The group must maintain bank, financial, and tax exempt status separate from the school or District. The organization will provide to the Board annually or upon request a complete set of financial records or detailed treasurer's report.
7. A recognition that money given to a school cannot be earmarked for any particular expense. Booster clubs may make recommendations, but cash or other valuable consideration must be given to the District to use at its discretion. The Board of Education's legal obligation to comply with Title IX by providing equal athletic opportunity for members of both genders will supersede an organization or club's recommendation.

Parents and other interested community members who wish to organize a parent organization or booster club for the purpose of supporting a specific school program or activity are encouraged to do so as long as the activities of such organizations do not interfere unduly with the total educational program or disrupt District operations in any way. To this end, parent organizations/booster club/support organizations must follow these guidelines:

1. be voluntary;
2. submit an activity schedule in advance to the Superintendent of Schools or his/her designee for prior approval. Any time

a booster club uses the name of the District or any language suggesting that the District has endorsed, sponsored or otherwise approved of the club's activities, there must be prior approval by the Superintendent or his/her designee;

3. seek advance approval for any use of school facilities and/or equipment and such use will comply with all policies and regulations established by the Board;
4. avoid interference with any previously approved student activity;
5. seek approval in advance of all fundraising activities by the Superintendent or building Principal;
6. understand and respect the authority of District employees in the administration of their duties; and
7. assume all financial responsibility for the booster club, including but not limited to the provision of adequate insurance coverage, as appropriate.

If a booster club wishes to make a contribution of money, service time or tangible property such as equipment or supplies, a representative of the organization should first meet with the Superintendent or his/her designee. The Superintendent or his/her designee must identify the District's terms and conditions of accepting such gifts in concert with the District's policy pertaining to gifts, grants and bequests.

Booster club proposed plans, projects and other activities must be evaluated and promoted in light of their stated contribution to the academic as well as the extracurricular school programs.

Careful consideration should be given to the total value of the contribution to all students, and not just to specific student groups.

The Board retains final responsibility and authority on all activities which have an impact on students, school programs and/or school owned property.

Further, the Board recognizes its responsibility to ensure that equivalent benefits and services are provided to members of both sexes. Therefore, if booster clubs provide benefits, services or tangible property that assist only teams or programs of one gender, the Board shall ensure that teams or programs of the other gender receive equivalent benefits, services or tangible property. If a booster club provides benefits, services or tangible property which are greater than that which the District is capable of providing to the athletes or programs of the other gender, the administration shall take action, within policy parameters, to ensure equivalency for both sexes.

Alternative/Additional Language:

*The Board of Education is responsible for providing funding for the safe and effective operation of the interscholastic sports program. There may be occasions when Board funding is unavailable to provide everything requested by a coach. All booster club donations must be approved by the Superintendent of Schools or his/her designee (Board of Education) in advance to ensure equity in all sports. "Necessary" expenditures must be provided by the Board of Education through its approved budget. Items that would be "nice" or "beneficial" to have are viewed as appropriate for booster club financial support. Any booster club purchase or expenditure must receive the approval of the team's head coach and the Athletic Director following the aforementioned approval by the Superintendent of Schools or his/her designee (Board of Education).*

*The Board reserves the right to revoke approval of any booster group if it is found that the group's operations and purposes are inconsistent with Board policies.*

- (cf. [1110.1](#) - Parental Involvement)
- (cf. [1140](#) - Distribution of Materials by Students)
- (cf. [1210](#) - School Community Associations)
- (cf. 1323 - Gifts to Students)
- (cf. [1330](#) - Use of School Facilities)
- (cf. [3280](#) - Gifts, Grants and Bequests)
- (cf. 3281 - School Fund Raising)
- (cf. [3515](#) - Community Use of School Facilities)

Legal Reference: Title IX of the Educational Amendments of 1972, 20 U.S.C.A § 1681.

Policy adopted:





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THE UNITED STATES  
DEPARTMENT OF JUSTICE

## TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, 20 U.S.C. A§ 1681 ET. SEQ.

### OVERVIEW OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

On June 23, 1972, the President signed [Title IX of the Education Amendments of 1972](#), 20 U.S.C. §1681 et seq., into law. Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. The principal objective of Title IX is to avoid the use of federal money to support sex discrimination in education programs and to provide individual citizens effective protection against those practices.

Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance. The [Department of Education issued regulations](#) on the requirements of Title IX, 34 C.F.R. § 106.1 et seq., in 2000. A Title IX [common rule](#), published on August 30, 2000, covers education program providers/recipients that are funded by other federal agencies.

To get more information on Title IX, please visit the [Department of Education's Office for Civil Rights](#) or the [Educational Opportunities Section](#) websites.

### STATUTES & REGULATIONS

- [Title IX Statute](#) (HTML version)

### Rulemaking actions to effectuate regulations implementing Title IX:

- Title IX Final Common Rule for 21 Federal agencies: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (65 [Fed. Reg.](#) 52857) ([HTML](#) or [PDF](#)) and accompanying [press release](#)

### Rulemaking actions to incorporate the Civil Rights Restoration Act's broadened definitions of "program or activity" and "program" into Title IX regulations:

- Department of Education's Final Rule, published November 13, 2000 ([HTML](#) or [PDF](#))
- Department of Education's Title IX regulations, 34 C.F.R. Â§ 106.1 [et seq.](#) ([HTML](#) or [PDF](#))
- [Link to Title IX regulations of other federal agencies](#)

### TITLE IX BRIEFS

- [Doe v. Mercy Catholic Med. Ctr., Case #16-1247 \(3d Cir. June 9, 2016\)](#)

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## TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

20 U.S.C. § 1681 - 1688

### TITLE 20 - Education

#### CHAPTER 38 - DISCRIMINATION BASED ON SEX OR BLINDNESS

- Sec. 1681. Sex.
  - (a) Prohibition against discrimination; exceptions.
  - (b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance.
  - (c) "Educational institution" defined.
- 1682. Federal administrative enforcement; report to Congressional committees.
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- 1685. Authority under other laws unaffected.
- 1686. Interpretation with respect to living facilities.
- 1687. Interpretation of "program or activity".
- 1688. Neutrality with respect to abortion.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

*This chapter is referred to in sections 1132f-1, 1232, 3041, 3042 of this title; title 29 sections 206, 1577; title 42 sections 290cc-34, 300w-7, 300x-7, 708, 1988, 2000d-7, 10406.*

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#### Sec. 1681. Sex

##### (a) Prohibition against discrimination; exceptions

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

##### (1) Classes of educational institutions subject to prohibition

in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

##### (2) Educational institutions commencing planned change in admissions

in regard to admissions to educational institutions, this section shall not apply

(A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is

carrying out a plan for such a change which is approved by the Secretary of Education or

(B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education, whichever is the later;

(3) Educational institutions of religious organizations with contrary religious tenets

this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) Educational institutions training individuals for military services or merchant marine

this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) Public educational institutions with traditional and continuing admissions policy

in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

(6) Social fraternities or sororities; voluntary youth service organizations

this section shall not apply to membership practices -

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) Boy or Girl conferences

this section shall not apply to -

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for -

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) the selection of students to attend any such conference;

## (8) Father-son or mother-daughter activities at educational institutions

this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

## (9) Institution of higher education scholarship awards in "beauty" pageants

this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

## (b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: \*Provided\*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

## (c) "Educational institution" defined

For purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(Pub. L. 92-318, title IX, Sec. 901, June 23, 1972, 86 Stat. 373; Pub. L. 93-568, Sec. 3(a), Dec. 31, 1974, 88 Stat. 1862; Pub. L. 94-482, title IV, Sec. 412(a), Oct. 12, 1976, 90 Stat. 2234; Pub. L. 96-88, title III, Sec. 301(a)(1), title V, Sec. 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095.)

## REFERENCES IN TEXT

*This chapter, referred to in subsecs. (b) and (c), was in the original "this title", meaning title IX of Pub. L. 92-318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c-6, 2000c-9, and 2000h-2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.*

## AMENDMENTS

1986 - Subsec. (a)(6)(A). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1976 - Subsec. (a)(6) to (9). Pub. L. 94-482 substituted "this" for "This" in par. (6) and added pars. (7) to (9).

1974 - Subsec. (a)(6). Pub. L. 93-568 added par. (6).

**EFFECTIVE DATE OF 1976 AMENDMENT**

*Section 412(b) of Pub. L. 94-482 provided that: "The amendment made by subsection (a) [amending this section] shall take effect upon the date of enactment of this Act [Oct. 12, 1976]."*

**EFFECTIVE DATE OF 1974 AMENDMENT**

*Section 3(b) of Pub. L. 93-568 provided that: "The provisions of the amendment made by subsection (a) [amending this section] shall be effective on, and retroactive to, July 1, 1972."*

**SHORT TITLE OF 1988 AMENDMENT**

*Pub. L. 100-259, Sec. 1, Mar. 22, 1988, 102 Stat. 28, provided that: "This Act [enacting sections 1687 and 1688 of this title and section 2000d-4a of Title 42, The Public Health and Welfare, amending sections 706 and 794 of Title 29, Labor, and section 6107 of Title 42, and enacting provisions set out as notes under sections 1687 and 1688 of this title] may be cited as the 'Civil Rights Restoration Act of 1987'."*

**TRANSFER OF FUNCTIONS**

*"Secretary" substituted for "Commissioner" in subsec. (a)(2) pursuant to sections 301(a)(1) and 507 of Pub. L. 96-88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred all functions of Commissioner of Education to the Secretary of Education.*

**COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS**

*For provisions relating to the coordination of implementation and enforcement of the provisions of this chapter by the Attorney General, see section 1-201(b) of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of Title 42, The Public Health and Welfare.*

**REGULATIONS; NATURE OF PARTICULAR SPORTS: INTERCOLLEGIATE ATHLETIC ACTIVITIES**

*Pub. L. 93-380, title VIII, Sec. 844, Aug. 21, 1974, 88 Stat. 612, provided that the Secretary prepare and publish, not more than 30 days after Aug. 21, 1974, proposed regulations implementing the provisions of this chapter regarding prohibition of sex discrimination in federally assisted programs, including reasonable regulations for intercollegiate athletic activities considering the nature of the particular sports.*

**SECTION REFERRED TO IN OTHER SECTIONS**

*This section is referred to in sections 1682, 1687 of this title.*

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**Sec. 1682. Federal administrative enforcement; report to Congressional committees**

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: \*Provided, however\*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having

legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

*(Pub. L. 92-318, title IX, Sec. 902, June 23, 1972, 86 Stat. 374.)*

#### DELEGATION OF FUNCTIONS

*Functions of the President relating to approval of rules, regulations, and orders of general applicability under this section, were delegated to the Attorney General, see section 1-102 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of Title 42, The Public Health and Welfare.*

#### SECTION REFERRED TO IN OTHER SECTIONS

*This section is referred to in section 1683 of this title.*

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### Sec. 1683. Judicial review

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

*(Pub. L. 92-318, title IX, Sec. 903, June 23, 1972, 86 Stat. 374.)*

#### CODIFICATION

*"Section 1682 of this title", where first appearing, was substituted for "section 1002" as conforming to intent of Congress as Pub. L. 92-318 was enacted without any section 1002 and subsequent text refers to "section 902", codified as "section 1682 of this title".*

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### Sec. 1684. Blindness or visual impairment; prohibition against discrimination

No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

*(Pub. L. 92-318, title IX, Sec. 904, June 23, 1972, 86 Stat. 375.)*

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### Sec. 1685. Authority under other laws unaffected

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

*(Pub. L. 92-318, title IX, Sec. 905, June 23, 1972, 86 Stat. 375.)*

#### REFERENCES IN TEXT

*This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92-318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c-*



6, 2000c-9, and 2000h-2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

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### **Sec. 1686. Interpretation with respect to living facilities**

Notwithstanding anything to the contrary contained in this chapter, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

*(Pub. L. 92-318, title IX, Sec. 907, June 23, 1972, 86 Stat. 375.)*

#### **REFERENCES IN TEXT**

*This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92-318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c-6, 2000c-9, and 2000h-2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.*

*This Act, referred to in text, is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.*

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### **Sec. 1687. Interpretation of "program or activity"**

For the purposes of this subchapter, the term "program or activity" and the term "program" mean all of the operations of -

(1)

(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)

(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3)

(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship -

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 1681 of this title to such operation would not be consistent with the religious tenets of such organization.

*(Pub. L. 92-318, title IX, Sec. 908, as added Pub. L. 100-259, Sec. 3(a), Mar. 22, 1988, 102 Stat. 28.)*

#### REFERENCES IN TEXT

*This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92-318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c-6, 2000c-9, and 2000h-2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.*

#### FINDINGS OF CONGRESS

Section 2 of Pub. L. 100-259 provided that: "The Congress finds that -

*"(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]; and*

*"(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered."*

#### CONSTRUCTION

*Section 7 of Pub. L. 100-259 provided that: "Nothing in the amendments made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to extend the application of the Acts so amended [Education Amendments of 1972, Pub. L. 92-318, see Short Title of 1972 Amendment, set out as a note under section 1001 of this title, Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and Civil Rights Act of 1964, 42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act [Mar. 22, 1988]."*

#### ABORTION NEUTRALITY

*This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100-259, set out as a note under section 1688 of this title.*

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### **Sec. 1688. Neutrality with respect to abortion**

Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

*(Pub. L. 92-318, title IX, Sec. 909, as added Pub. L. 100-259, Sec. 3(b), Mar. 22, 1988, 102 Stat. 29.)*

#### REFERENCES IN TEXT

*This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92-318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c-*



6, 2000c-9, and 2000h-2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Tables.

#### CONSTRUCTION

*This section not to be construed to extend application of Education Amendments of 1972, Pub. L. 92-318, to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100-259, set out as a note under section 1687 of this title.*

#### ABORTION NEUTRALITY

*Section 8 of Pub. L. 100-259 provided that: "No provision of this Act or any amendment made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds [sic] to perform or pay for an abortion."*

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## Connecticut General Statutes Title 10. Education and Culture § 10-237. School activity funds

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(a) Any local or regional board of education may establish and maintain in its custody a school activity fund through which it may handle (1) the finances of that part of the cost of the school lunch program not provided by town appropriations, (2) the finances of that part of the cost of driver education courses furnished by such board of education and not provided by town appropriations and (3) such funds of schools and school organizations as such board from time to time determines to be desirable, which funds may include amounts received as gifts or donations. Whenever a board of education establishes a school activity fund, it shall designate one of its members or some other person to serve as treasurer of such fund and shall fix his or her salary, which shall be paid from the regular town appropriation for school purposes. Such treasurer shall be bonded and shall keep separate accounts for each school lunch program, for each driver education program and for each school fund and each school organization fund included in the school activity fund and shall make expenditures from such fund in the manner and upon such authorizations as the board of education by regulation prescribes, provided the control of school funds and the funds of all school organizations shall remain in the name of the respective schools and organizations. The accounts of the school activity fund shall be considered town accounts and shall be audited by the town auditor in the same manner as all other town accounts.

(b) The accounts of any public school lunch program, whether maintained directly by the board of education or through an agent, shall be kept in accordance with regulations prescribed by the board of education and may include a petty cash fund on the imprest basis and shall be subject to the regular audit of town accounts as provided in [section 7-392 \(https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000264&refType=LQ&originatingDoc=I416ca19068bf11e78b5b8906eefbbf392\)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000264&refType=LQ&originatingDoc=I416ca19068bf11e78b5b8906eefbbf392).

(c) Any local or regional board of education may receive and accept any donation or gift of personal property to be used for the educational benefit of students.

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## Business/Non-Instructional Operations

### School Activity Funds

~~Student activity funds in the Westport Public Schools shall be established and maintained in accordance with state statutes.~~

~~The Assistant Superintendent for Business or his/her designee, shall have the responsibility and authority to implement through the Principals all policies and rules pertaining to the supervision and administration of student activity funds.~~

~~The Principal of the individual school shall be designated as treasurer of this account. A bookkeeper shall be designated to keep accounts.~~

~~Disbursements shall be authorized by the Principal upon receipt of properly approved vouchers. The signatures of the Principal and the bookkeeper shall validate checks.~~

The Superintendent or his/her designee may establish school activity funds to handle any of the following: 1) the finances of that part of the cost for the school lunch program that is not provided by local appropriations; 2) the finances of that part of the cost of the driver education program that is not provided by local appropriations; and/or 3) such funds of schools and school organizations as the Superintendent or his/her designee may determine to be in the best interest of the school district (which funds may include amounts received as gifts or donations).

The Superintendent or his/her designee shall designate a person to serve as treasurer of any school activity fund. Such treasurer shall be bonded and shall keep separate accounts for each school activity fund. The treasurer may expend monies from the school activity funds only to the extent such expenses are in furtherance of the stated purposes of the school activity fund, and subject to any restrictions imposed by the Superintendent or his/her designee at the time the school activity fund is established or subsequently. The control of school funds and funds of any school organizations shall remain in the name of the respective schools and organizations.

The accounts of any school activity fund shall be considered town accounts and shall be audited by the town auditor in the same manner as all other town accounts.

#### Legal Reference:

Connecticut General Statutes [10-237](#) ~~School activity funds.~~

Policy adopted: March 2007

WESTPORT PUBLIC SCHOOLS

Revised:

Westport, Connecticut

## **Business/Non-Instructional Operations**

### **Safety**

#### **Sexual Offenders on School Property**

##### **Definitions**

For the purpose of this policy, a sexual offender is defined in Connecticut General Statutes §54-250 through §54-261 and/or is required per these statutes to register on the state's sex offender registry ([https://www.communitynotification.com/cap\\_main.php?office=54567](https://www.communitynotification.com/cap_main.php?office=54567)). A *parent/guardian sexual offender* is an individual who meets this policy's definition of sexual offender and who has either parental or legal guardianship rights to a child attending a District school. A *non-parent/non-guardian sexual offender* is an individual who meets this policy's definition of sexual offender and who has no parental rights or legal guardianship rights to a child attending a district school.

*School property* includes all land within the perimeter of the school site and all school buildings, structures, facilities, computer networks and systems, and school vehicles, whether owned or leased by the school district, and the site of any school-sponsored activity.

##### **Non-parent/Guardian Sexual Offenders**

A non-parent sexual offender is prohibited from entering a District school except:

1. When he/she is a qualified voter and is entering school property solely for the purpose of casting his/her vote.
2. To attend an open meeting.

A non-parent sex offender who attempts to communicate electronically with a student while the student is on school property will be considered on school property without permission and will be in violation of this policy.

##### **Parent/Guardian Sex Offenders**

Parent/guardian sexual offenders are prohibited from entering school property except:

1. When he/she is a qualified voter and is entering school property solely for the purpose of casting his/her vote.
2. To attend an open meeting.
3. With the Superintendent's prior written approval in the following instances:
  - a. To transport his/her own child to and/or from school.
  - b. To attend a conference to discuss his/her student's progress, placement, or individual education plan (IEP).
  - c. Under other circumstances on a case-by-case basis, as determined by the Superintendent.

A parent/guardian sex offender who attempts to communicate electronically with a student other than his/her child while the student is on school property will be considered on school property without permission and will be in violation of this policy.

##### **Student Sex Offenders**

The Superintendent or his/her designee shall determine the appropriate educational placement for student sex offenders except those identified as having a disability. When determining

educational placement, the Superintendent or his/her designee shall consider such factors as the safety and health of the student population. The Superintendent or designee shall develop guidelines for managing each student sexual offender in District schools. If the Superintendent or designee determines that, in the best interest of District schools, the student sexual offender should be placed in an alternative educational setting, the District shall pay for the costs associated with this placement.

A PPT/IEP team shall determine the educational placement of a student sexual offender with a disability. The student with a disability is entitled to all the due process procedures available to a student with a disability under the Individuals with Disabilities Education Act. The PPT/IEP team shall develop procedures for managing each student sexual offender with a disability that attends a District school. If the PPT/IEP team determines that the student sexual offender should be placed in an alternative educational setting, the District shall pay for the costs associated with this placement.

### **General Provisions**

The Superintendent or his/her designee will inform the appropriate principal and other relevant District staff of the scope of the permission granted to each sexual offender.

Sexual offenders who receive permission to enter school property must immediately report to the individual or location designated in the Superintendent's or designee's written permission statement. The building Principal shall assign a chaperone to accompany the sexual offender while he/she is on district property. The only exceptions to these requirements are when the Superintendent grants permission to a parent/guardian sex offender to transport his/her child and when a student sex offender receives permission to attend a District school in which case the guidelines developed for this individual shall apply.

The Superintendent shall use the Connecticut sex offender registry law, in conjunction with policy #3516.4, to establish a system for identifying sexual offenders and will inform known sexual offenders of this policy. Lack of notification does not excuse sexual offenders from abiding by the requirements and prohibitions in this policy.

The Superintendent will contact law enforcement anytime a sexual offender violates this policy and will immediately revoke any privileges granted to the sexual offender under this policy.

Parents/guardian who are registered sex offenders shall receive a copy of this policy via registered mail.

(cf. 1110.1-Parent Involvement)

(cf. 1212-School Volunteers)

(cf. 1250-Visits to Schools)

(cf. 1411-Relations with Law Enforcement Agencies)

(cf. 3516-Safety)

Legal Reference: Connecticut General Statutes

54-250 through 54-261 Registration of Sexual Offenders.

PA 07-143: An Act Concerning Jessica's Law and Consensual Sexual Activity Between Adolescents Close in Age to Each Other.

PA 07-4, June 07 Special Session: An Act Concerning the Provisions of the Budget Concerning Education.

United States Code, Title 42 14071 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program Act.

Policy adopted:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

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## **Community Relations**

### **Policy Regarding Possession of Deadly Weapons or Firearms**

#### **I. Definitions:**

**A. Deadly Weapon** means "any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles." Conn. Gen. Stat. § 53a-3 (6).

**B. Firearm** means "any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded from which a shot may be discharged." Conn. Gen. Stat. § 53a-3 (19).

**C. Peace Officer** means "a member of the Division of State Police within the Department of Emergency Services and Public Protection or an organized local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal while exercising authority granted under any provision of the general statutes, a judicial marshal in the performance of the duties of a judicial marshal, a conservation officer or special conservation officer, as defined in section 26-5, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19, an adult probation officer, an official of the Department of Correction authorized by the Commissioner of Correction to make arrests in a correctional institution or facility, any investigator in the investigations unit of the office of the State Treasurer, an inspector of motor vehicles in the Department of Motor Vehicles, who is certified under the provisions of sections 7-294a to 7-294e, inclusive, a United States marshal or deputy marshal, any special agent of the federal government authorized to enforce the provisions of Title 21 of the United States Code, or a member of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut created and governed by a memorandum of agreement under section 47-65c who is certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive." Conn. Gen. Stat. § 53a-3 (9).

**D. Real Property** means the land and all temporary and permanent structures comprising the district's elementary and secondary schools, and administrative office buildings. Real property includes, but is not limited to, the following: classrooms, hallways, storage facilities, theatres, gymnasiums, fields and parking lots.

**E. School-Sponsored Activity** means "any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property." Conn. Gen. Stat. § 10-233a(h).

#### **II. Prohibition of Deadly Weapons and Firearms**

In accordance with Conn. Gen. Stat. § 29-28(e) and § 53a-217b, the possession and/or use of a deadly weapon or firearm on the real property of any school or administrative office building in this



district, or at a school-sponsored activity, is prohibited, even if the person possessing the deadly weapon or firearm has a permit for such item.

### III. Peace Officer Exception

A peace officer engaged in the performance of his or her official duties who is in lawful possession of a deadly weapon or firearm may bring such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity.

### IV. Other Exceptions

Persons in lawful possession of a deadly weapon or firearm may possess such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity, if the person brings the deadly weapon or firearm on the real property of any school or administrative office building or to a school-sponsored activity for use in a program approved by school officials. In such case, the person must give school officials notice of his/her intention to bring such item, and the person must receive prior written permission from school officials.

### V. Consequences

A. Unless subject to one of the exceptions listed above, any person who possesses a deadly weapon or firearm on the real property of an elementary or secondary school in this district, or administrative office building, or at a school-sponsored activity, whether or not the person is lawfully permitted to carry such deadly weapon or firearm, will be reported to the local police authorities once school officials become aware of its possession.

B. A student who possesses and/or uses any deadly weapon or firearm on school property in violation of this policy shall be disciplined in accordance with Board of Education Student Discipline Policy.

C. The Board of Education reserves the right to forbid anyone caught possessing a deadly weapon or firearm on the real property of its school buildings or administrative office buildings, or at a school-sponsored activity, from using any and all school facilities.

### Legal References:

	<u>Connecticut General Statutes § 10-233a</u>
	<u>§ 10-244a</u>
	<u>§ 29-28(e)</u>
	<u>§ 53a-3</u>
	<u>§ 53a-217b</u>

Policy approved:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

**Series 1000**  
**Community/Board Operation**

**POLICY REGARDING POSSESSION OF DEADLY WEAPONS OR FIREARMS**

I. Definitions:

- A. **Deadly Weapon** means "any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles." Conn. Gen. Stat. § 53a-3 (6).
- B. **Firearm** means "any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded from which a shot may be discharged." Conn. Gen. Stat. § 53a-3 (19).
- C. **Peace Officer** means "a member of the Division of State Police within the Department of Emergency Services and Public Protection or an organized local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal while exercising authority granted under any provision of the general statutes, a judicial marshal in the performance of the duties of a judicial marshal, a conservation officer or special conservation officer, as defined in section 26-5, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19, an adult probation officer, an official of the Department of Correction authorized by the Commissioner of Correction to make arrests in a correctional institution or facility, any investigator in the investigations unit of the office of the State Treasurer, an inspector of motor vehicles in the Department of Motor Vehicles, who is certified under the provisions of sections 7-294a to 7-294e, inclusive, a United States marshal or deputy marshal, any special agent of the federal government authorized to enforce the provisions of Title 21 of the United States Code, or a member of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut created and governed by a memorandum of agreement under section 47-65c who is certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive." Conn. Gen. Stat. § 53a-3 (9).
- D. **Real Property** means the land and all temporary and permanent structures comprising the district's elementary and secondary schools, and administrative office buildings. Real property includes, but is not limited to, the following: classrooms, hallways, storage facilities, theatres, gymnasiums, fields and parking lots.

- E. **School-Sponsored Activity** means “any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.” Conn. Gen. Stat. § 10-233a(h).

## II. Prohibition of Deadly Weapons and Firearms

In accordance with Conn. Gen. Stat. § 29-28(e) and § 53a-217b, the possession and/or use of a deadly weapon or firearm on the real property of any school or administrative office building in this district, or at a school-sponsored activity, is prohibited, even if the person possessing the deadly weapon or firearm has a permit for such item.

## III. Peace Officer Exception

A peace officer engaged in the performance of his or her official duties who is in lawful possession of a deadly weapon or firearm may bring such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity.

## IV. Other Exceptions

Persons in lawful possession of a deadly weapon or firearm may possess such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity, if:

- A. The person brings the deadly weapon or firearm on the real property of any school or administrative office building or to a school-sponsored activity for use in a program approved by school officials. In such case, the person must give school officials notice of his/her intention to bring such item, and the person must receive prior written permission from school officials.
- B. The person possesses the deadly weapon or firearm on the real property of any school or administrative office building or at a school-sponsored activity pursuant to a written agreement with school officials or a written agreement between such person's employer and school officials.

*(Optional Exception: Conn. Gen. Stat. § 53a-217b permits school districts to regulate access to school property by hunters in possession of firearms. School districts concerned with this issue should consider including the following paragraph as part of their policy.)*

- C. *The person possesses the deadly weapon or firearm while crossing school property in order to gain access to public or private lands open to hunting or for other lawful purposes and entry on such school property is permitted by the Board of Education. In the case of a firearm, the person's firearm shall not be loaded.*

*(Optional Exception: Conn. Gen. Stat. § 10-244a, “An Act Concerning School Safety,” permits school districts to hire a sworn member of an organized local police department or a retired police officer to provide school security and to possess a firearm while in the performance of his or her duties. School districts opting to hire such sworn law enforcement or retired law enforcement officers should ensure that their security program meets all of the requirements of Conn. Gen. Stat. § 10-244a and should consider including the following paragraph as part of their policy.)*

- C. *An armed security officer employed by the Board of Education to provide security services pursuant to Conn. Gen. Stat. § 10-244a engaged in the performance of his or her official duties who is in lawful possession of a deadly weapon or firearm may bring such item on the real property of any school or administrative office building in this district, or to a school-sponsored activity.*

## V. Consequences

- A. Unless subject to one of the exceptions listed above, any person who possesses a deadly weapon or firearm on the real property of an elementary or secondary school in this district, or administrative office building, or at a school-sponsored activity, whether or not the person is lawfully permitted to carry such deadly weapon or firearm, will be reported to the local police authorities once school officials become aware of its possession.
- B. A student who possesses and/or uses any deadly weapon or firearm on school property in violation of this policy shall be disciplined in accordance with Board of Education Student Discipline Policy.
- C. The Board of Education reserves the right to forbid anyone caught possessing a deadly weapon or firearm on the real property of its school buildings or administrative office buildings, or at a school-sponsored activity, from using any and all school facilities.

ADOPTED \_\_\_\_\_  
REVISED \_\_\_\_\_

Legal References:

Connecticut General Statutes § 10-233a  
§ 10-244a  
§ 29-28(e)  
§ 53a-3  
§ 53a-217b

***Note: Under state law, in order to prohibit all persons from carrying deadly weapons and/or firearms onto school property (including persons who hold a legal permit to carry such weapons elsewhere), a school district must affirmatively pass a policy prohibiting such items. The policy above accomplishes this goal. Districts may legally prohibit other weapons as well, but issues exist regarding 1) a district's practical ability to enforce such prohibitions and 2) the definitions used to describe other types of weapons. If a district chooses to enact a wider prohibition on weapons, it is well advised to consult legal counsel for assistance in drafting a policy containing a wider prohibition.***

6/18/2020

## Students

### Search and Seizure

#### Introduction

~~Exercise of the school system's right to search a student's possessions, desk or locker involves the recognition of the need to protect the individual's rights and the need to maintain a safe and orderly environment in the school. As with all decisions involving this balance, administrative judgment must be exercised. The Supreme Court has established a two fold standard to weigh whether fourth amendment protections are being upheld in searches conducted by school officials.~~

~~The first prong of the test is the standard of "reasonable suspicion" that the student has violated the law or school rules and that contraband\* will be found.~~

~~For example, reasonable suspicion may be said to exist if the administrator actually sees the student with the contraband or when it is reported by a reliable eyewitness or informant.~~

~~The second prong requires that the search be conducted in such a manner as "not to be excessively intrusive in light of the age and sex of the student and the nature of the infringement."~~

~~For example, a search of a locker or desk, which is property owned by the school, is less intrusive than search of a student's briefcase or gym bag. Search of the briefcase or gym bag is less intrusive than search of a purse; search of a purse is less intrusive than search of a student's pockets. In terms of the nature of the infringement, a search for a dangerous substance would justify a more intrusive search than for a missing pen, etc.~~

#### Limitations on Searches

**No strip searches:** Searches that involve removal of any clothing other than an outer garment, (i.e, coat, jacket or sweater worn over another shirt, blouse, dress etc.) hat, shoes, gloves, etc., are not permitted. Searches that involve touching or inspecting the body or "pat downs" are not permitted. If the administrator believes such a search is warranted by the magnitude of a suspected criminal offense and the nature of the circumstances, local law enforcement officials shall be contacted and efforts will be made to contact the student's parents. The Superintendent will be notified as soon as possible, and kept informed.

**No mass searches:** Reasonable suspicion must point specifically toward an individual or a particular group or their property.

**Police need Warrants:** No law enforcement officer may conduct a search of a student's desk, locker or automobile unless a valid search warrant has been obtained and presented to school authorities.

## **Students**

### **Search and Seizure**

#### **Searches in School**

~~Searches during school hours may be conducted only by the Principal or another administrator (i.e., Vice Principal or Dean) acting as the Principal's authorized designee. After school hours, or at other times if no administrator is in the building, the staff member in charge of the activity is considered to be the authorized official.~~

~~An administrator may search a student's locker, desk, property (e.g., purse, gym bag, lunch box, briefcase, etc.) or automobile on school grounds, and may have a student empty his or her pockets, or remove shoes, hat, gloves or outer garment (i.e. overcoat, jacket, sweater, etc. worn as second layer over another shirt, blouse, sweater dress etc.)~~

~~Searches of a locker, desk, automobile or other property are to be conducted in the presence of the student whenever possible, and at least two observers, one of who must be the same sex as the student.~~

~~The administrator should make a written record of the search. Records are handled in accordance with Board Policy 5125, Student Records.~~

~~Parents will be notified whenever a search is undertaken and will be given a copy of the written record of the results of the search.~~

~~An administrator who has a question about whether a search is appropriate, should consult with the Superintendent of Schools before conducting the search. All searches should be reported to the Superintendent as soon afterward as is feasible and the Superintendent should be kept informed of ensuing proceedings.~~

#### **Searches Off School Grounds**

~~Any search of a student or a student's property or a room in which the student is staying that may occur during a school activity off school grounds shall be governed by these procedures. Such searches may not be conducted by parents or chaperones, but must be done by a school official. (If no administrator is present, the teacher in charge of the activity is considered to be the authorized school official.)~~

~~Written notice of this provision is to be included with information given to students and parents about the off campus activity.~~

## Students

### Search and Seizure

#### Notification

~~Students will be provided annual notice of these procedures through publication in the student handbook and/or other means.~~

#### Exceptions

~~Exceptions to the provisions of this policy are permissible in cases of life threatening emergency or a situation where immediate danger to a student or to the school community exists.~~

~~\*Contraband defined as: alcohol, controlled drugs or other intoxicating substances; poison or other harmful substances; flammables, firecrackers or other explosives; firearms or other weapons; and stolen property.~~

#### 1. Search of a Student and the Student's Effects

A. Fourth Amendment rights to be free from unreasonable searches and seizures apply to searches conducted by public school officials. A student and his/her effects may be searched if there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. The way the search is conducted should be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

#### 2. Search of a Locker, Desk and Other Storage Area

A. Lockers, desks and other storage areas provided by the school system for use by students are the property of the school system. Such storage areas are provided for the temporary convenience of students only. The Board of Education authorizes the administration and/or law enforcement officials to search lockers and other school property available for use by students for the presence of weapons, contraband or the fruits of a crime if there are reasonable grounds at the inception of the search for suspecting that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. Moreover, the scope of the search shall be reasonably related to the objectives of the search and shall not be excessively intrusive in light of the age and sex of the student and the nature of the infraction.

B. If the school administration reasonably suspects that a pupil is not maintaining a locker or other storage area assigned to him/her in a sanitary condition, or that the storage area contains items the possession of which is illegal or in violation of school regulations or that endangers the health, safety or welfare of the student or others, it has the right to open and examine the storage area and to seize any such items that are found.



C. When required by law and otherwise at the option of the building principal, items that have been seized shall be submitted to the police department for proper disposition. Items not submitted to the police department shall be disposed of as directed by the building principal.

3. The decision to search shall be made by the principal or the principal's designee. The search shall be made in the presence of at least one witness. Discovery of illegal or dangerous materials shall be reported to the Office of the Superintendent.

Use of drug-detection dogs and metal detectors, similar detective devices; and/or breathalyzers and other passive alcohol screening devices may be used only on the express authorization of the Superintendent, in accordance with such procedures as the Superintendent may devise.

Legal Reference: ~~Connecticut General Statutes~~

~~10-221 Boards of education to prescribe rules~~  
Conn. Gen. Stat. §10-221  
Conn. Gen. Stat. § 54-33n, Searches

*New Jersey v. T.L.O.*, 469 US 325 (1985); ~~105 S. CT. 733~~

Policy adopted: \_\_\_\_\_ June 2, 1988  
Revised:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Mission-Goals-Objectives

### Hate-Based Conduct

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Respecting diversity and fostering inclusion are core goals of the Westport Board of Education as we help students become civically engaged and develop critical skills for a global perspective. The Westport Board of Education is committed to creating and maintaining an educational environment that embraces diversity and inclusion, and believes our community is strengthened by the richness of each other's diverse characteristics, identities, statuses, backgrounds, beliefs, traditions, and opinions.

Hate-based conduct is antithetical to the Board's commitment to diversity and inclusion and will not be tolerated. As such, it is the policy of the Board that any form of hate-based conduct is prohibited, whether by students, Board employees, or third parties subject to the control of the Board. The Board's prohibition of hate-based conduct expressly extends to academic, nonacademic, and extracurricular activities, including athletics. Further, the Board expressly prohibits any form of hate-based conduct on school grounds; at a school-sponsored activity (including, without limitation, on a school bus); or off school grounds if such conduct is seriously disruptive of the educational process. Discrimination and/or retaliation against an individual who reports or assists in the investigation of hate-based conduct is likewise prohibited.

For the purposes of this policy, **hate-based conduct** means conduct that attacks, threatens, intimidates, degrades, or otherwise infringes on the rights of an individual based on such individual's race, color, religion, age, sex, sexual orientation, marital status, national origin, alienage, ancestry, disability, pregnancy, gender identity or expression, or veteran status. Such conduct includes, but is not limited to, the use of a written, oral, or electronic communication or a physical act or gesture that:

1. causes physical or emotional harm to an individual or damage to such individual's property;
2. places an individual in reasonable fear of harm to ~~himself or herself~~ **themselves**, or of damage to ~~his or her~~ **their** property;
3. creates a hostile environment for such individual at school or during a school-sponsored activity;
4. infringes on the rights of an individual at school or during a school-sponsored activity; and/or
5. substantially disrupts the educational process or the orderly operation of a school.

Hate-based conduct may also include, without limitation, conduct that violates other Board policies and administrative regulations (e.g., Policy and Regulation 4118.11/4218.11, Non-Discrimination (Personnel); Policy and Regulation 4118.112/4218.112, Sex Discrimination and Sexual Harassment (Personnel); Policy and Regulation 5145.5, Sex Discrimination and Sexual Harassment (Students); Policy 5131.911, Bullying Prevention and Intervention Policy; Policy and Regulation 5145.4, Non-Discrimination (Students)).

For the purposes of this policy, “veteran” means any person honorably discharged from, or released under honorable conditions from active service in, the United States Army, Navy, Marine Corps, Coast Guard and Air Force and any reserve component thereof, including the Connecticut National Guard.

For the purposes of this policy, “gender identity or expression” means a person’s gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held, part of a person’s core identity, or not being asserted for an improper purpose.

Students who engage in hate-based conduct shall be subject to intervention ranging from school counseling and restorative justice opportunities to school discipline, up to and including expulsion, in accordance with Board Policy 5114 (Student Discipline), and consistent with state and federal law. Employees who engage in hate-based conduct shall be subject to discipline, up to and including termination of employment, in accordance with any applicable Board policies, administrative regulations, and/or contractual provisions, and consistent with state and federal law.

Allegations of conduct that violates other Board policies, such as allegations of discrimination, harassment (including, but not limited to, sexual harassment), and/or bullying, will be handled under the appropriate policies and administrative regulations (e.g., Policy and Regulation 4118.11/4218.11, Non-Discrimination (Personnel); Policy and Regulation 4118.112/4218.112, Sex Discrimination and Sexual Harassment (Personnel); Policy and Regulation 5145.5, Sex Discrimination and Sexual Harassment (Students); Policy 5131.911, Bullying Prevention and Intervention Policy; Policy and Regulation 5145.4, Non-Discrimination (Students)).

#### Cross references:

Policy 1511, Non-Discrimination

Policy 4118.11/4218.11, Non-Discrimination (Personnel)

Policy 4118.112/4218.112, Sex Discrimination and Sexual Harassment (Personnel)

Regulation 4118.112/4218.112, Sex Discrimination and Sexual Harassment Complaint Procedure (Personnel)

Policy 4118.51, Social Networking - Personnel

Policy 5114, Student Discipline

Policy 5145.5, Sex Discrimination and Sexual Harassment (Students)

Regulation 5145.5, Administrative Regulations Regarding Sex Discrimination and Sexual Harassment

Policy 5131.911, Bullying Prevention and Intervention Policy

Policy 5145.4, Non-Discrimination (Students)

Regulation 5145.4, Administrative Regulations Regarding Discrimination Complaints (Students)

Policy adopted:

WESTPORT PUBLIC SCHOOLS

Westport, Connecticut

## **Community Relations**

### **School Volunteers, Student Interns and Other Non-Employees**

The Board of Education recognizes the importance of school volunteers at all levels of schooling. Volunteers can enhance collaboration between the school and community, broaden the school's educational environment and ultimately enrich students' school experience. The Board further acknowledges that it may, from time to time, be asked to provide learning experiences for student interns within the school environments. In recognition of the benefit of having volunteers, interns and other such non-employees providing services within the schools, the Board supports the involvement of these individuals in accordance with suitable regulations and safeguards to be developed by the Administration.

Volunteers, interns and other such non-employees working within the schools ("volunteers") must work under the supervision of Westport Public Schools staff. Volunteers are held to the same standards of conduct as school staff and must observe all Board of Education policies, including applicable policies on the confidentiality of student information.

Volunteers may be required to submit to state and federal criminal record checks and a record check of the Department of Children and Families ("DCF") Child Abuse and Neglect Registry. No person who is required to register as a sex offender under state or federal law, or whose name is currently listed on the DCF registry, may volunteer in the Westport Public Schools.

All volunteers must comply with all school health and safety protocols in place at the time, including any health screening protocols. Due to the COVID-19 pandemic, the Board may limit or restrict volunteers based on the guidance of federal, state, and local health authorities.

No employee of the Westport Public Schools shall serve as a volunteer in any capacity, except as may be approved by the Superintendent or his/her designee based on the specific situation.

Persons interested in volunteering their services should contact the school principal.

#### Legal Reference:

Connecticut General Statutes § 10-4g  
Connecticut General Statutes § 10-220  
Connecticut General Statutes § 10-235  
Connecticut General Statutes § 54-250 et seq.

"Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together," Connecticut State Department of Education (June 29, 2020), available at <https://portal.ct.gov/-/media/SDE/COVID-19/CTReopeningSchools.pdf>.

Policy adopted:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Community Relations

### POLICY REGARDING VISITORS AND OBSERVATIONS IN SCHOOLS

In order to promote a safe and productive educational environment for all students and staff, the Board requires all visitors to receive prior approval from the school Principal or his/her designee before being permitted to visit any school building during the school day. The Board, through the administration, reserves the right to grant access to school buildings in accordance with the school's prescribed procedure for scheduling, as applicable and administrative regulations.

The Board further desires to work collaboratively with parents with an educational nexus with the district, its educational programs or the student being observed, to observe their students in their current classrooms or observe proposed educational placements in the Board's schools. The Board, through the administration, reserves the right to limit observations of current and proposed educational placements in accordance with administrative regulations and the Board's Guidelines for Independent Educational Evaluations.

Upon arrival, all visitors and observers must comply with any and all applicable building security procedures, including but not limited to utilizing security buzzers for access, complying with requests for photo identification, reporting directly to and signing in and out at the visitors' reception area of the school office, prominently displaying visitors' badges or other identification required for visitors to the school buildings, limiting access to those areas of the buildings and grounds for which the visitors/observers have authorized access, and complying with directives of school officials at all times. All visitors and observers permitted into school buildings or on school grounds must comply with all school health and safety protocols in place at the time, including any health screening protocols. Due to the COVID-19 pandemic, the Board may limit or restrict visitors based on the guidance of federal, state, and local health authorities.

#### Legal References:

"Guidelines Regarding Independent Educational Evaluations at Public Expense and In-School Observations," Connecticut State Department of Education (Mar. 28, 2018).

"Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together."  
Connecticut State Department of Education (June 29, 2020), available at <https://portal.ct.gov/-/media/SDE/COVID-19/CTReopeningSchools.pdf>.

Policy Adopted: November 5, 2018  
Revised:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Administration

### Policy Concerning Temporary Policies and Regulations Related to the COVID-19 Pandemic

The Westport Board of Education (the “Board”) recognizes that the COVID-19 pandemic (the “COVID-19 Pandemic”) has prompted changes in laws, rules, and guidance affecting Board policy and school district operation, and requiring the Board and the administration of the Westport Public Schools (the “Administration”) to implement certain changes consistent with such laws, rules, and guidance. The Board further recognizes that the circumstances surrounding the COVID-19 Pandemic are continually changing, and that the Board and the Administration must be prepared to adapt and evolve as appropriate and/or required. In all circumstances, the Board prioritizes safeguarding the health and safety of students and staff while continuing to educate students in accordance with state law.

In light of these circumstances, it is the policy of the Board to provide for temporary amendments to certain existing Board policies and administrative regulations, and to enact or authorize Board policies and administrative regulations on new topics, to the extent appropriate and/or required by applicable laws, rules, and guidance regarding the COVID-19 Pandemic (the “COVID-19 Policies and Regulations”). Such amendments and additions are guided by the need to (1) safeguard the health and safety of students and staff while continuing to educate students in accordance with state law; (2) adhere to all applicable laws, rules, and guidance; and (3) preserve flexibility for the Board and the Administration to account for further changes related to the COVID-19 Pandemic.

All COVID-19 Policies and Regulations shall be identified as such in the header of the Policy or Regulation with an indication that such policy or regulation is part of Series C19 (COVID-19 Policies and Regulations). COVID-19 Policies and Regulations that are amendments to existing policies or regulations shall have the identifier “C19” added after the applicable series number. In addition, all amendments to existing Board policies and administrative regulations shall be identified as such through the use of yellow highlighting and either bolded italicized text (for additions) or strikethrough text (for deletions). All Board policies and administrative regulations on new topics shall be identified as such in the title of the Policy or Regulation with the notation, “(NEW).” To the extent any conflict exists between a COVID-19 Policy and Regulation and an existing Board policy or administrative regulation, the COVID-19 Policy and Regulation shall control during any period in which the COVID-19 Policy and Regulation is in effect.

The COVID-19 Policies and Regulations shall remain in effect up to and including June 30, 2021, unless otherwise noted in the individual policy or unless the Board or the Administration (as appropriate) shortens or extends the term of any COVID-19 Policy and Regulation through appropriate Board or administrative action. Absent any further Board or administrative action (as appropriate), effective July 1, 2021, the COVID-19 Policies and Regulations shall be repealed automatically and the Board’s policies and administrative regulations in effect prior to the enactment of the COVID-19 Policies and Regulations shall be reinstated.

The Board and/or the Administration (as appropriate) shall provide for further amendments to existing Board policies and administrative regulations, further additions to Board policies and administrative regulations, and revisions to any previously adopted COVID-19 Policies and Regulations to the extent appropriate, required, and/or warranted. In addition, the Board and the



Administration shall have the authority to follow all applicable laws, rules, and guidance to the extent any such laws, rules, and guidance are not incorporated into any existing Board policy and/or administrative regulation. To the extent any conflict exists between any such laws, rules, and/or guidance and an existing Board policy or administrative regulation, the law, rule, and/or guidance shall control during any period in which the Board and the Administration exercise their authority to follow such law, rule, and/or guidance.

Legal Reference:

Connecticut General Statutes § 10-221

Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together, Connecticut State Department of Education (June 29, 2020)

## **Business/Non-Instructional Operations/Community Relations**

### **Use of School Facilities**

In accordance with Conn. Gen. Stat. § 10-239, the Board of Education may permit the use of any school facility for nonprofit educational or community purposes whether or not school is in session. The Board of Education may also grant the temporary use of any school facility for public, educational or other purposes, including the holding of political discussion, at such time the facility is not in use for school purposes. In addition, the Board shall grant such use for any purpose of voting under the provisions of Title 9 of the Connecticut General Statutes whether or not school is in session. In accordance with 20 U.S.C. § 7905, the Board of Education shall not deny equal access to or a fair opportunity to meet, or otherwise discriminate, against any group officially affiliated with the Boy Scouts of America (or any other youth group listed as a patriotic society in Title 36 of the United States Code) that wishes to conduct a meeting using school facilities pursuant to this policy. Such uses shall be governed by the following rules and procedures, and shall be subject to such restrictions as the Superintendent or his/her designee considers expedient.

Consistent with this policy, the Superintendent shall develop and promulgate Administrative Regulations and associated forms governing use of school buildings and facilities by community and other groups. Since the primary purpose of school facilities is for educational activities, such activities will have priority over all other requested uses. Due to the COVID-19 pandemic, the Superintendent or his/her designee may limit or restrict the use of school facilities by community and other groups based on the guidance of federal, state, and local health authorities and consistent with applicable law.

#### **A. Authorized Users/Order Of Priority**

1. The Westport public school program has 1<sup>st</sup> priority in the use of all school facilities.
2. The Westport Continuing Education (WCE) program (including Adult Education and Summer School) has next priority after the regular program.
3. The Westport Department of Parks & Recreation (DPR) has 3<sup>rd</sup> priority for use of facilities.
4. Activities of school-related organizations, e.g., PTA, booster clubs and parent support groups shall have 4<sup>th</sup> priority for use of school facilities.
5. When not being used by the above groups, school facilities may be made available to other users, limited to agencies of the Town of Westport, and Westport-based, private non-profit groups, at least 50% of whose membership and/or participants must be Westport residents, for uses not directly competitive with school-sponsored activities, e.g., adult education, summer school, etc.

6. Use by the media or individual photographers, filmmakers, etc., wishing to photograph, televise or film school facilities or activities, is governed by the media access policy.

## **B. Requirements and Application Procedures**

1. Written permission from the Superintendent or designee is required for all outsiders' use of buildings and equipment, use of grounds for any purpose involving 25 or more people (including participants and spectators), or use of parking lots on a weekend or after school hours by Westport residents for guest parking for a wedding or other private (non-commercial) event. Non compliance with this stipulation will constitute trespassing.
2. Applicants shall file a complete application with the facilities manager in the maintenance office.
3. All users not covered by the Westport Town/Board of Education insurance policy must provide a liability insurance certificate of no less than \$5 million, naming the Westport Board of Education/Town of Westport as additional named insureds. Insurance limits will be reviewed and updated periodically by the Assistant Superintendent for Business.

## **~~Business/Non-Instructional Operations/Community Relations~~**

### **~~Use of School Facilities~~**

## **B. Requirements and Application Procedures (continued)**

4. Police and/or fire department protection may be required at the users' expense. This condition is to be determined by the supervisor of buildings, in consultation with the relevant departments.

## **C. Usage Types:**

**Standard Use** is defined as routine meetings, programs, classes, etc.

**Major Use** which requires a surcharge, is defined as having one or more of the following characteristics:

- Creates significant wear and tear.
- Funds are raised through admission charges (including "voluntary" contributions), sale of merchandise, raffles, door prizes, etc.
- Event uses vendors' or exhibitors' booths.
- Event uses the Staples field house.
- Event at any school requires two major facilities: (gym, cafeteria, auditorium). Ten or more classrooms = major facility.
- Event involves more than 500 participants or attendees.

## **D. Classification Of Groups For Payment Of Fees And Rent**

(Identified groups are examples; groups not listed will be classified by Superintendent or designee).

**\*Category I Users No Rent For Standard Use**

**Category I includes:**

- a) **School-Related:** e.g., student organizations, PTAs, parent support groups affiliated with school teams, clubs, etc., recognized parent advocate groups such as CLASP, etc.
- b) **Town Groups:** Town boards, commissions, and committees; DPR, Senior Center, Health District, Library, Transit District, Levitt Pavilion, First Night, etc.
- c) **Youth-Serving:** Westport-based non-profit youth-serving groups, such as: Boy & Girl Scouts, Little League, PAL, Babe Ruth League, Westport Soccer Association.
- d) **Grandfathered Groups:** Power Squadron, Red Cross, Westport Arts Center.
- e) **Others:** Superintendent or designee may waive or reduce fees for state/national professional or educational organizations; or for other groups serving the public interest; or for elected officials holding public meetings.

**~~Business/Non-Instructional Operations/Community Relations~~**

**~~Use of School Facilities~~**

**~~D. — Classification Of Groups For Payment Of Fees And Rent (continued)~~**

**\*Category II Users Basic Rent: Westport-Based Community Groups**

**Category II includes:**

- a) Westport agencies supported by the United Way, and non-profit service organizations that serve Westport, e.g., Rotary, Kiwanis, Masons, Westport Woman's Club, Westport Young Woman's League, Veterans' groups, Nursing and Home Care, etc.
- b) Westport political, religious and ecumenical groups. (Depending on the nature of the activity, e.g., summer camps or on-going programs for which fees are charged, these groups may be classified as Category III for rental fee purposes.)
- c) Westport YMCA: for use of pool only, with special financial arrangements.

**\*Category III Users Basic Rent Doubled: Westport-Based Private, Non-profit, Educational, Recreational, Cultural, Social or Athletic Groups**

**Category III includes:** private schools, private nursery schools, dance academies, drama groups, music groups, children's activity programs, etc., at least 50% of whose members or participants are Westport residents.

**\*Category I, II And III Users: Additional Charges For Major Use**

When a Category II or III group makes major use of facilities for fund-raising programs involving commercial, entrepreneurial, profit-making organizations or activities, Superintendent or designee may require a contribution to the school's student activity fund, amount to be determined by Superintendent, but no less than \$1000.)

**Other Users:** Under unusual circumstances, the Superintendent may permit one-time or occasional use of facilities to educational, civic, cultural, etc., organizations from neighboring towns, etc.; the Superintendent shall judge requests individually and determine rental category.

**All Categories:** Must pay custodial, kitchen workers' and other applicable fees, including fees for covering the gym and field house floors if necessary. All groups pay surcharge for major use. Superintendent may reduce surcharge by 50% for Categories I and II if event is a fund raiser benefiting the Westport schools or the public, or when the event itself is a public service. Rental fees, administrative fee and surcharge required in advance. Personnel charges are billed.

**Special Conditions:** Regardless of user's category, the Superintendent (or designee) may impose special conditions or may deny permission when it is judged that the requested use may produce undue wear and tear on facilities, would cause disruption to the regular school program, be detrimental to the public image of the school system, impact negatively on the scheduled maintenance or cleaning of the schools or otherwise not be in the interest of the school system or the Town.

## **~~Business/Non-Instructional Operations/Community Relations~~**

### **~~Use of School Facilities (continued)~~**

#### **E. Restrictions On Use Of School Facilities**

1. Illegal activities will not be tolerated.
2. School facilities may not be rented by individuals, businesses or trade organizations or used for private purposes.
3. No school facility may be used by individual entrepreneurs, either Westport Board of Education employees or others, to give private instruction for a fee to individuals or groups.
4. School facilities may not be used for the promotion of any commercial interest or private or corporate gain except in conjunction with a fund-raising activity by a permitted, non-profit user. In such cases, regardless of category, users may be required to make a donation to the student activity fund of the school of a minimum of \$1,000 in addition to paying custodial costs and applicable rental fees. The decision about whether to require a donation, and the amount of the donation, will be made by the Superintendent or designee, in consultation with the sponsor of the program.
5. Use or possession of tobacco, alcoholic beverages or unauthorized controlled substances shall not be permitted on school property.
6. Advertising, decorations or other materials that promote the use of illegal drugs, tobacco products or alcoholic beverages shall not be permitted.
7. Obscene advertising, decorations or materials shall not be permitted on school property.
8. Users must comply with all administrative regulations governing use of school facilities. Non-compliance may result in revocation of privileges.

## **F. Health and Safety Protocols**

In order to use school district facilities, any organization or individual requesting such use must agree to abide by all health and safety protocols in place by the school district at the time of use, including but not limited to protocols relating to cleaning of the facilities, signage, and health screenings of individuals requesting access to the facilities.

**All exceptions to this policy require approval of the Superintendent, whose decision on all aspects is final.**

Legal Reference: Connecticut General Statutes  
10-239 Use of School Facilities for Other Purposes

“Adapt, Advance, Achieve: Connecticut’s Plan to Learn and Grow Together,” Connecticut State Department of Education (June 29, 2020), available at <https://portal.ct.gov/-/media/SDE/COVID-19/CTReopeningSchools.pdf>

Policy adopted: July 29, 2004  
Revised: November 19, 2019  
Revised:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Business/Non-Instructional Operations

### Buildings

#### Green Cleaning Programs

It is the policy of the Westport Board of Education, on or before July 1, 2011, to implement a green cleaning program in which the Board procures and properly uses in school buildings and facilities environmentally preferable cleaning products that comply with guidelines and directives approved by the United States Environmental Protection Agency (EPA), Department of Energy (DOE), and Department of Agriculture (USDA).

The Westport Board of Education shall provide the staff of each school and, upon request, the parents and guardians of each child enrolled in each school with a written statement of the school district's green cleaning program. Such notice shall include (1) the types and names of environmentally preferable cleaning products being applied in schools, (2) the location of the application of such cleaning products in the school buildings and facilities, (3) the schedule of when such cleaning products are applied in the school buildings and facilities, (4) the statement, "No parent, guardian, teacher or staff member may bring into the school facility any consumer product which is intended to clean, deodorize, sanitize or disinfect" and (5) the name of the school administrator, or a designee, who may be contacted for further information. Such notice shall be provided to the parents or guardians of any child who transfers to a school during the school year and to staff hired during the school year.

Pursuant to subsection (a)(2)(A) of section 10-231g of the Connecticut General Statutes, any disinfectant, disinfecting cleaner, sanitizer or any other antimicrobial product approved by federal law may be used by the Westport Board of Education.

The Westport Board of Education shall make such notice, as well as the report submitted to the Department of Education pursuant to subsection (a) of section 10-220 of the general statutes (i.e. required report on condition of facilities, action taken to implement the Board's long-term school building program, indoor air quality and green cleaning program), available on its web site and the web site of each school under such board's jurisdiction.

Legal References: Connecticut General Statutes:

§10-220(a)

§10-231(g)

Public Act 09-81 An Act Concerning Green Cleaning Products in Schools

"Guidance Regarding 'Green Cleaning' Requirements and Coronavirus/COVID 19," Department of Administrative Services (March 5, 2020), available at <https://portal.ct.gov/-/media/SDE/Digest/2019-20/2020-COVID-19-Green-Cleaning-Guidance.pdf>





## Personnel – Certified/Non-Certified

### Employment Checks

As set forth below, each applicant for a position with the district shall be asked whether he/she has ever been convicted of a crime, whether there are any criminal charges pending against him/her and whether the applicant is included on the Abuse and Neglect Registry of the Connecticut Department of Children and Families (“DCF”) (the “Registry”). If the applicant’s current or most recent employment occurred out of state, the applicant will also be asked whether he/she is included on an equivalent database and/or abuse/neglect registry maintained in that other state. Applicants shall not be required to disclose any arrest, criminal charge or conviction that has been erased.

In addition, the district shall conduct an employment history check for each applicant for a position, as set forth below.

For the purposes of this policy:

“Sexual misconduct means” any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent, or erotic contact with a student.

“Abuse or neglect” means abuse or neglect as described in Conn. Gen. Stat. § 46b-120, and includes any violation of Conn. Gen. Stat. §§ 53a-70 (sexual assault in the first degree), 53a-70a (aggravated sexual assault in the first degree), 53a-71 (sexual assault in the second degree), 53a-72a (sexual assault in the third degree), 53a-72b (sexual assault in the third degree with a firearm), or 53a-73a (sexual assault in the fourth degree).

“Former employer” means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty years prior to applying for a position with a local or regional board of education.

#### I. Employment History Check Procedures

- A. The district shall not offer employment to an applicant for a position, including any position that is contracted for, if such applicant would have direct student contact, prior to the district:

- 1. Requiring the applicant:

- a. to list the name, address, and telephone number of each current employer or former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) during any of the previous twenty years), if:

- (i) such current or former employer is/was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, and/or
    - (ii) the applicant's employment with such current or former employer caused the applicant to have contact with children.
  - b. to submit a written authorization that
    - (i) consents to and authorizes disclosure by the employers listed under paragraph I.A.1.a of this policy of the information requested under paragraph I.A.2 of this policy and the release of related records by such employers,
    - (ii) consents to and authorizes disclosure by the Department of Education of the information requested under paragraph I.A.3 of this policy and the release of related records by the department, and
    - (iii) releases those employers and the Department of Education from liability that may arise from such disclosure or release of records pursuant to paragraphs I.A.2 or I.A.3 of this policy; and
  - c. to submit a written statement of whether the applicant
    - (i) has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated,
    - (ii) has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to Conn. Gen. Stat. § 17a-101g or abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct, or
    - (iii) has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by DCF or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct;
2. Conducting a review of the employment history of the applicant by contacting those

employers listed by the applicant under paragraph I.A.1.a of this policy. Such review shall be conducted using a form developed by the Department of Education, which shall request the following:

- a. the employment dates of the applicant, and
  - b. a statement as to whether the employer has knowledge that the applicant:
    - (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency, or municipal police department or which has been substantiated;
    - (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or
    - (iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct. Such review may be conducted telephonically or through written communication. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, not later than five (5) business days after the district receives a request for such information about an employee or former employee, the district shall respond with such information. The district may request more information concerning any response made by a current or former employer for information about an applicant, and, notwithstanding subsection (f), such employer shall respond not later than five (5) business days after receiving such request.
3. Requesting information from the Department of Education concerning:
- a. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit,
  - b. whether the Department of Education has knowledge that a finding has been substantiated by DCF pursuant to Conn. Gen. Stat. § 17a-101g of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and
  - c. whether the Department of Education has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

- B. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, if the district receives information that an applicant for a position with or an employee of the board has been disciplined for a finding of abuse or neglect or sexual misconduct, it shall notify the Department of Education of such information.
- C. The district shall not employ an applicant for a position involving direct student contact who does not comply with the provisions of paragraph I.A.1 of this policy.
- D. The district may employ or contract with an applicant on a temporary basis for a period not to exceed ninety (90) calendar days, pending the district's review of information received under this section, provided:
  - 1. The applicant complied with paragraph I.A.1 of this policy;
  - 2. The district has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the district; and
  - 3. The applicant affirms that the applicant is not disqualified from employment with the district.
- E. The district shall not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement, or any other contract or agreement or take any action that:
  - 1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
  - 2. Affects the ability of the district to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
  - 3. Requires the district to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the district, unless, after investigation, such allegation is dismissed or found to be false.
- F. The district shall not offer employment to a person as a substitute teacher, unless such person and the district comply with the provisions of paragraph I.A.1 of this policy. The district shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The district shall not hire any person as a substitute teacher who is not on such list. Such person shall remain on such list as long as such person is continuously employed by the district as a substitute teacher as described in paragraph III.B.2 of this policy, provided the district does not have any knowledge of a reason that such person should be removed from such list.
- G. In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to such contractor all the information required of an applicant under paragraphs I.A.1.a and I.A.1.c of

this policy and a written authorization under paragraph I.A.1.b of this policy. Such contractor shall contact any current or former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) of such employee that was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or if the employee’s employment with such current or former employer caused the employee to have contact with children, and request, either telephonically or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, such employer shall report to the contractor any such finding, either telephonically or through written communication. If the contractor receives any information indicating such a finding or otherwise receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, immediately forward such information to the district, either telephonically or through written communication. If the district receives such information, it shall determine whether such employee may work in a position involving direct student contact at any school in the district. No determination by the district that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

- H. Any applicant who knowingly provides false information or knowingly fails to disclose information required in subdivision (1) of subsection (A) of this section shall be subject to discipline by the district that may include
  - 1. denial of employment, or
  - 2. termination of the contract of a certified employee, in accordance with the provisions of Conn. Gen. Stat. § 10-151.
- I. If the district provides information in accordance with paragraph I.A.2 or I.G of this policy, the district shall be immune from criminal and civil liability, provided the district did not knowingly supply false information.
- J. Notwithstanding the provisions of Conn. Gen. Stat. § 10-151c and subsection (f) of Conn. Gen. Stat. § 31-51i, the district shall provide, upon request by another local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school for the purposes of an inquiry pursuant to paragraphs I.A.2 or I.G of this policy or to the Commissioner of Education pursuant to paragraph I.B of this policy any information that the district has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.
- K. Prior to offering employment to an applicant, the district shall make a documented good faith effort to contact each current and any former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) of the applicant that was a local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school, or if the applicant’s employment with such current or former employer caused the applicant to

have contact with children in order to obtain information and recommendations that may be relevant to the applicant's fitness for employment. Such effort, however, shall not be construed to require more than three telephonic requests made on three separate days.

- L. The district shall not offer employment to any applicant who had any previous employment contract terminated by a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or who resigned from such employment, if the person has been convicted of a violation of Conn. Gen. Stat. § 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

## II. DCF Registry Checks

Prior to hiring any person for a position with the district, the district shall require such applicant to submit to a records check of information maintained on the Registry concerning the applicant.

For any applicant whose current or most recent employment occurred out of state, the district shall request that the applicant provide the district with authorization to access information maintained concerning the applicant by the equivalent state agency in the state of most recent employment, if such state maintains information about abuse and neglect and has a procedure by which such information can be obtained. Refusal to permit the district to access such information shall be considered grounds for rejecting any applicant for employment.

The district shall request information from the Registry or its out of state equivalent promptly, and in any case no later than thirty (30) calendar days from the date of employment. Registry checks will be processed according to the following procedure:

- A. No later than ten (10) calendar days after the Superintendent or his/her designee has notified a job applicant of a decision to offer employment to the applicant, or as soon thereafter as practicable, the Superintendent or designee will either obtain the information from the Registry or, if the applicant's consent is required to access the information, will supply the applicant with the release form utilized by DCF, or its out of state equivalent when available, for obtaining information from the Registry.
- B. If consent is required to access the Registry, no later than ten (10) calendar days after the Superintendent or his/her designee has provided the successful job applicant with the form, the applicant must submit the signed form to DCF or its out of state equivalent, with a copy to the Superintendent or his/her designee. Failure of the applicant to submit the signed form to DCF or its out of state equivalent within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.
- C. Upon receipt of Registry or out-of-state registry information indicating previously undisclosed information concerning abuse or neglect investigations concerning the successful job applicant/employee, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the Registry check and will provide an opportunity for the affected applicant/employee to respond to the results of the Registry check.

- D. If notification is received by the Superintendent or designee that the applicant is listed as a perpetrator of abuse or neglect on the Registry, the Superintendent or designee shall provide the applicant with an opportunity to be heard regarding the results of the Registry check. If warranted by the results of the Registry check and any additional information provided by the applicant, the Superintendent or designee shall revoke the offer of employment and/or terminate the applicant's employment if he or she has already commenced working for the district.

### III. Criminal Records Check Procedure

- A. Each person hired by the district shall be required to submit to state and national criminal record checks within thirty (30) calendar days from the date of employment. Each person otherwise placed within a school under any public assistance employment program, employed by a provider of supplemental services pursuant to federal law or in a nonpaid, noncertified position completing preparation requirements for the issuance of an educator certificate, who performs a service involving direct student contact shall also be required to submit to state and national criminal record checks within thirty (30) calendar days from the date such worker begins to perform such service. Record checks will be processed according to the following procedure, except as noted in paragraph III.C. of this policy.\*

1. No later than five (5) calendar days after the Superintendent or his/her designee has notified a job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will provide the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted by the Westport Police Department or another police department in the State of Connecticut. This packet shall also contain all documents and materials necessary for the police department to submit the completed fingerprints to the State Police Bureau of Identification for the processing of state and national criminal record checks. The Superintendent or his/her designee will also provide each applicant with the following notifications before the applicant obtains his/her fingerprints: (1) Agency Privacy Requirements for Noncriminal Justice Applicants; (2) Noncriminal Justice Applicant's Privacy Rights; (3) and the Federal Bureau of Investigation, United States Department of Justice Privacy Act Statement, all contained in the appendix to this policy.
2. No later than ten (10) calendar days after the Superintendent or his/her designee has provided the successful job applicant with the fingerprinting packet, the applicant must arrange to be fingerprinted by the Westport Police Department. Failure of the applicant to have his/her fingerprints taken within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.
3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks.
4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the record check and will provide an opportunity for the affected

applicant/employee to respond to the results of the criminal record check. The affected applicant/employee may notify the Superintendent or his/her designee in writing within five (5) calendar days that the affected/employee will challenge his/her criminal history record check. Upon written notification to the Superintendent or his/her designee of such a challenge, the affected applicant/employee shall have ten (10) calendar days to provide the Superintendent or his/her designee with necessary documentation regarding the affected applicant/employee's record challenge. The Superintendent or his/her designee may grant an extension to the preceding ten-day period during which the affected applicant/employee may provide such documentation for good cause shown.

5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, the falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment or discharge from employment.
6. Notwithstanding anything in paragraph III.A.5 of this Policy, above, no decision to deny employment or withdraw an offer of employment on the basis of an applicant/employee's criminal history record shall be made without affording the applicant/employee the opportunities set forth in paragraph III.A.4 of this Policy, above.

#### **B. Criminal Records Check for Substitute Teachers:**

A substitute teacher who is hired by the district must submit to state and national criminal history record checks according to the procedures outlined above, subject to the following:

1. If the state and national criminal history record checks for a substitute teacher have been completed within one year prior to the date the district hired the substitute teacher, and if the substitute teacher arranged for such prior criminal history record checks to be forwarded to the Superintendent, then the substitute teacher will not be required to submit to another criminal history record check at the time of such hire.
2. If a substitute teacher submitted to state and national criminal history record checks upon being hired by the district, then the substitute teacher will not be required to submit to another criminal history record check so long as the substitute teacher is continuously employed by the district, that is, employed for at least one day of each school year, by the district, provided a substitute teacher is subjected to such checks at least once every five years.

#### **C. Criminal Records Check During the COVID-19 Pandemic**

The timelines regarding state and national criminal record checks identified in paragraph III.A. and III.A.2 may be modified by the district in accordance with any executive order issued by the Governor or any order issued by the Commissioner of Education that is related to the COVID-19 pandemic or public health emergency and in effect at the time a person is offered a position or



hired by the district or a student teacher is offered a position or begins to perform his or her student teaching experience within the district. Notwithstanding any such modifications, the provisions of paragraphs III.A.3, III.A.4 and III.A.5 of this policy remain in effect. If any timelines are so extended or deferred, the district will continue to perform background checks to the greatest extent practicable and in accordance with applicable law.

#### IV. Sex Offender Registry Checks

School district personnel shall cross-reference the Connecticut Department of Public Safety's sexual offender registry prior to hiring any new employee. Registration as a sexual offender constitutes grounds for denial of employment opportunities.

#### V. Credit Checks

The district may also ask a prospective employee for a credit report for employment for certain district positions, where the district's receipt of a credit report is substantially related to the employee's potential job. Substantially related is defined to mean "the information contained in the credit report is related to the position for which the employee or prospective employee who is the subject of the report is being evaluated." Prior to asking for a credit report, the district will determine whether the position falls within one of the categories as described in this paragraph. The position must: (1) be a managerial position which involves setting the direction or control of the district; (2) involve access to employees' personal or financial information; (3) involve a fiduciary responsibility to the district, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (4) provide an expense account or district debit or credit card; or (5) involve access to the district's nonfinancial assets valued at two thousand five dollars or more.

When a credit report will be requested as part of the employment process, the district will provide written notification to prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the district may use the information in the consumer credit report to make decisions related to the individual's employment.

The district will obtain consent before performing the credit or other background checks. If the district intends to take an action adverse to a potential employee based on the results of a credit report, the district must provide the prospective employee with a copy of the report on which the district relied in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," which should be provided by the company that provides the results of the credit check. The district will notify the prospective employee either orally, in writing or via electronic means that the adverse action was taken based on the information in the consumer report. That notice must include the name, address and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the district's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) calendar days.

## VI. Notice of Conviction

If, at any time, the Board of Education receives notice of a conviction of a crime by (1) a person holding a certificate, authorization or permit issued by the State Board of Education, or (2) a person employed by a provider of supplemental services, the Board shall send such notice to the State Board of Education.

## VII. School Nurses

School nurses or nurse practitioners appointed by, or under contract with, the Board of Education shall also be required to submit to a criminal history records check in accordance with the procedures outlined above.

## VIII. Personal Online Accounts

For purposes of these Administrative Regulations, “personal online account” means any online account that is used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of the Board, including, but not limited to, electronic mail, social media and retail-based Internet web sites. “Personal online account” does not include any account created, maintained, used or accessed by an employee or applicant for a business purpose of the Board.

A. During the course of an employment check, the Board may not:

1. request or require that an applicant provide the Board with a user name and password, password or any other authentication means for accessing a personal online account;
2. request or require that an applicant authenticate or access a personal online account in the presence of the Board; or
3. require that an applicant invite a supervisor employed by the Board or accept an invitation from a supervisor employed by the Board to join a group affiliated with any personal online account of the applicant.

B. The Board may request or require that an applicant provide the Board with a user name and password, password or any other authentication means for accessing:

1. any account or service provided by Board or by virtue of the applicant’s employment relationship with the Board or that the applicant uses for the Board’s business purposes, or
2. any electronic communications device supplied or paid for, in whole or in part, by the Board.

C. In accordance with applicable law, the Board maintains the right to require an applicant to allow the Board to access his or her personal online account, without disclosing the user name and password, password or other authentication means for accessing such personal online account, for the purpose of:

1. conducting an investigation for the purpose of ensuring compliance with applicable state or federal laws, regulatory requirements or prohibitions against work-related employee misconduct based on the receipt of specific information about activity on an applicant's personal online account; or
2. conducting an investigation based on the receipt of specific information about an applicant's unauthorized transfer of the Board's proprietary information, confidential information or financial data to or from a personal online account operated by an applicant or other source.

IX. Policy Inapplicable to Students Employed by the School District

- A. This policy shall also not apply to a student employed by the local or regional school district in which the student attends school.

X. Falsification of Records.

Notwithstanding any other provisions of this policy, the falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning abuse or neglect investigations or pending criminal applications, shall be grounds for disqualification from consideration for employment or discharge from employment.

Legal References: Conn. Gen. Stat. § 10-212

Conn. Gen. Stat. § 10-221d

Conn. Gen. Stat. § 10-222c

Conn. Gen. Stat. § 31-40x

Conn. Gen. Stat. § 31-51i

Conn. Gen. Stat. § 31-51tt

Public Act 17-68, "An Act Concerning Various Revisions and Additions to the Education Statutes."

Public Act 17-220, "An Act Concerning Education Mandate Relief."

Elementary and Secondary Education Act, reauthorized as the Every Student Succeeds Act, Pub. L. 114-95, codified at 20 U.S.C. § 1001 *et seq.*

Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

ADOPTED: May 21, 2018

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## **Personnel – Certified/Non-Certified**

### **Employment Checks**

### **Agency Privacy Requirements for Noncriminal Justice Applicants**

Authorized governmental and non-governmental agencies/officials that conduct a national fingerprint-based criminal history record check on an applicant for a noncriminal justice purpose (such as a job or license, immigration or naturalization matter, security clearance, or adoption) are obligated to ensure the applicant is provided certain notice and other information and that the results of the check are handled in a manner that protects the applicant's privacy.

- Officials must provide to the applicant written notice<sup>1</sup> that his/her fingerprints will be used to check the criminal history records of the FBI.
- Officials using the FBI criminal history record (if one exists) to make a determination of the applicant's suitability for the job, license, or other benefit must provide the applicant the opportunity to complete or challenge the accuracy of the information in the record.
- Officials must advise the applicant that procedures for obtaining a change, correction, or updating of an FBI criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- Officials should not deny the job, license, or other benefit based on information in the criminal history record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
- Officials must use the criminal history record solely for the purpose requested and cannot disseminate the record outside the receiving department, related agency, or other authorized entity.<sup>2</sup>

The FBI has no objection to officials providing a copy of the applicant's FBI criminal history record to the applicant for review and possible challenge when the record was obtained based on positive fingerprint identification. If agency policy permits, this courtesy will save the applicant the time and additional FBI fee to obtain his/her record directly from the FBI by following the procedures found at 28 CFR 16.30 through 16.34. It will also allow the officials to make a more timely determination of the applicant's suitability.

Each agency should establish and document the process/procedures it utilizes for how/when it gives the applicant notice, what constitutes "a reasonable time" for the applicant to correct or complete the record, and any applicant appeal process that is afforded the applicant. Such documentation will assist State and/or FBI auditors during periodic compliance reviews on use of criminal history records for noncriminal justice purposes.

If you need additional information or assistance, contact:

<b>Connecticut Records:</b> <b>Department of Emergency Services and Public Protection</b> <b>State Police Bureau of Identification (SPBI)</b> <b>1111 Country Club Road</b> <b>Middletown, CT 06457</b> <b>860-685-8480</b>	<b>Out-of-State Records:</b> <b>Agency of Record</b> <b>OR</b> <b>FBI CJIS Division-Summary Request</b> <b>1000 Custer Hollow Road</b> <b>Clarksburg, West Virginia 26306</b>
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<sup>1</sup> Written notification includes electronic notification, but excludes oral notification.

<sup>2</sup> See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d).

**Employment Checks**

**Noncriminal Justice Applicant's Privacy Rights**

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for a job or license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification<sup>3</sup> by Westport Public Schools that your fingerprints will be used to check the criminal history records of the FBI.
- If you have a criminal history record, the officials making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the job, license, or other benefit based on information in the criminal history record.<sup>4</sup>
- You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.<sup>5</sup>
- If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.
- If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)

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<sup>3</sup> Written notification includes electronic notification, but excludes oral notification.

<sup>4</sup> See 28 CFR 50.12(b).

<sup>5</sup> See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

## Personnel – Certified/Non-Certified

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**Appendix B**

### Employment Checks

- If you need additional information or assistance, please contact:

<b>Connecticut Records:</b> <b>Department of Emergency Services and Public Protection</b> <b>State Police Bureau of Identification (SPBI)</b> <b>1111 Country Club Road</b> <b>Middletown, CT 06457</b> <b>860-685-8480</b>	<b>Out-of-State Records:</b> <b>Agency of Record</b> <b>OR</b> <b>FBI CJIS Division-Summary Request</b> <b>1000 Custer Hollow Road</b> <b>Clarksburg, West Virginia 26306</b>
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## Personnel – Certified/Non-Certified

### Employment Checks

Federal Bureau of Investigation  
United States Department of Justice  
Privacy Act Statement

**Authority:** The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

**Social Security Account Number (SSAN).** Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

**Principal Purpose:** Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

**Routine Uses:** During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

**Additional Information:** The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and



## **Personnel – Certified/Non-Certified**

### **Employment Checks**

consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any systems(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).

## Personnel - Certified-Non-Certified

### Acceptable Computer Network Use

~~Employees are advised that in accordance with state law there should be no expectation of privacy while using the school system's computers or E-mail service. The Board of Education's policy specifically states that computer use can be monitored to assure compliance.~~

#### ~~These rules are in effect for use of:~~

- ~~• Computers/electronic resources provided by the Westport schools.~~
- ~~• Privately owned resources while on school property.~~

#### ~~These rules apply to the following while on school property and/or using school equipment:~~

- ~~• All employees of the school system.~~
- ~~• Employees of the food services department and the bus company.~~
- ~~• Anyone working in or on behalf of the school system, e.g., consultants, subs, temporary and part-time workers.~~
- ~~• Volunteer, including parents.~~

#### ~~The following practices are prohibited:~~

- ~~1. Downloading onto a school computer material that is copyrighted and/or programs you are not licensed to use.~~
- ~~2. Conducting personal private or commercial business not related to school system responsibilities, other than incidental personal use that does not interfere with job duties.~~
- ~~3. Hacking into any computers that you are not authorized to use.~~
- ~~4. Making any unauthorized changes to programs in use by the school system or to material that belongs to another.~~
- ~~5. Using the computer to threaten, intimidate, harass or otherwise violate the rights of anyone.~~
- ~~6. Downloading, viewing or transmitting sexually explicit material or material that is pornographic or obscene.~~
- ~~7. Downloading, viewing or transmitting material that attacks ethnic, religious and racial groups except for bone fide educational purposes directly related to one's assignment.~~
- ~~8. Sending any message for an illegal purpose or in any illegal manner.~~
- ~~9. Making any additions to, deletions from, or alterations of the school district's website or the website of any school, without authorization.~~

## **Personnel -- Certified-Non-Certified**

### **Acceptable Computer Network Use (continued)**

- ~~10. Using school system resources for politicking or religious proselytizing.~~
- ~~11. Installing programs on a school system computer without the approval and/or assistance of a member of the technical staff.~~

~~You should know that certain violations of these rules, e.g. copyright violation, may also constitute a violation of state or federal law.~~

~~*In conformity to Board policy, failure to comply with these rules will result in loss of computer privileges and may result in disciplinary action, up to and including discharge. Due process rights will be protected.*~~

#### **E-Mail**

~~*The e-mail system is made available as a resource to staff members for official and necessary professional communications. While occasional incidental personal use is not prohibited, staff members are advised to avoid using it as their personal e-mail program because it is not a private or secure communication and could be subject to Freedom of Information requirements, subpoenaed, etc.*~~

#### **E-mail to Colleagues**

- ~~1. If possible, avoid using names of students or parents in e-mail messages, and do not send sensitive or confidential information about yourself, other staff members, students, or parents through e-mail, even without their names.~~
- ~~2. Always use the heading "Draft" when working on documents that you are developing or revising. Ultimately they may become permanent records subject to disclosure under the Freedom of Information Act, but use of the heading "Draft" may clarify that documents are not subject to disclosure because they are "preliminary drafts or notes" under the FOIA. Please note, however, that the exemption may be lost when you share a draft with colleagues as part of the decision-making process and that such documents may be subject to public disclosure.~~
- ~~3. Use e-mail for messages of a transitory nature only and delete unneeded messages very soon, and regularly.~~
- ~~4. E-mail to colleagues should be used for professional matters. It should not be used to air personal or individual concerns to groups of other staff members or to convey derogatory sentiments about other staff members or groups.~~
- ~~5. Permission is required for staff members to use e-mail for communications to large groups, i.e., an entire department, school, bargaining unit or school district.~~

## **Personnel -- Certified-Non-Certified**

### **Acceptable Computer Network Use (continued)**

#### **E-mail to Students and Parents**

1. ~~For your own protection, think of e-mail as if it were a permanent communication because a recipient can print it and make it permanent, or forward it to someone else. Therefore, don't say anything you wouldn't put into a written letter or that you would be unwilling to share with many people, including strangers, etc.~~
2. ~~For your further protection, the content of messages to students should deal strictly with school-related matters. Don't feel obligated to respond to personal content, and don't use e-mail as a personal conversation. Keep your messages brief and to the point. Don't have prolonged e-mail "chats" with students or parents.~~
3. ~~To avoid being imposed upon, let students know what topics may be dealt with in e-mail. Students are not entitled to a private tutorial via e-mail. It is not a substitute for the student who didn't take notes in class or didn't write down the assignment.~~
4. ~~If you set up a conference with all parents' e-mail addresses, communications should deal strictly with matters pertaining to the class. The conference should not be used to air personal concerns to groups of parents, or to communicate about private political, entrepreneurial, avocational, religious, charitable, or other activities in which you engage.~~
5. ~~If the volume of e-mail becomes burdensome for you, set up a time frame for both receiving and answering e-mail and communicate that time frame to students and parents so that they do not expect instantaneous answers to their questions.~~

Computers, computer networks, electronic devices, Internet access, and e-mail are effective and important technological resources. The Board of Education provides has installed computers, and a computer network, including Internet access and an e-mail system, on Board premises and may provide other electronic devices that can access the network such as wireless and/or portable electronic hand-held equipment that can be used for word processing, wireless Internet access, image capture and recording, sound recording, information transmitting and/or receiving, storing, etc. (including, but not limited to, personal laptops, Smartphones, network access devices, Kindles, Nooks, cellular telephones, radios, personal cassette players, CD players, iPads or other tablet computers, walkie-talkies, Blackberries, personal data assistants, iPhones, Androids and other electronic signaling devices). The Board's computers, computer networks, electronic devices, Internet access, and e-mail are (referred to collectively as "the computer systems") and are provided in order to enhance both the educational opportunities for our students and the business operations of the district.

These computer systems are business and educational tools. As such, they are made available to Board employees for business and education related uses. The Administration shall develop regulations setting forth procedures to be used by the Administration in an effort to ensure that such computer systems are used for appropriate business and education related purposes.

In accordance with applicable laws and the Administrative Regulations associated with this Policy, the system administrator and others managing the computer systems may access email or monitor activity on the computer system or electronic devices accessing the computer systems at any time and for any reason or no reason. Typical examples include when there is reason to suspect inappropriate conduct or there is a problem with the computer systems needing correction. Further, the system administrator and others managing the computer systems can access or monitor activity on the systems despite the use of passwords by individual users, and can bypass such passwords. In addition, review of emails, messages or information stored on the computer systems, which can be forensically retrieved, includes those messages and/or electronic data sent, posted and/or retrieved using social networking sites, including, but not limited to, Twitter, Facebook, LinkedIn, YouTube, and MySpace.

Incidental personal use of the computer systems may be permitted solely for the purpose of e-mail transmissions and access to the Internet on a limited, occasional basis. Such incidental personal use of the computer systems, however, is subject to all rules, including monitoring of all such use, as the Superintendent may establish through regulation. Moreover, any such incidental personal use shall not interfere in any manner with work responsibilities.

Users should not have any expectation of personal privacy in the use of the computer system or other electronic devices that access the computer system. Use of the computer system represents an employee's acknowledgement that the employee has read and understands this policy and any applicable regulations in their entirety, including the provisions regarding monitoring and review of computer activity.

#### Legal Reference:

Conn. Gen. Stat. § 31-40x

Conn. Gen. Stat. § 31-48d

Conn. Gen. Stat. §§ 53a-182; 53a-183; 53a-250

Electronic Communication Privacy Act, 18 U.S.C. §§ 2510 through 2520

#### ~~Connecticut General Statutes~~

~~\_\_\_\_\_The Freedom of Information Act.~~

~~\_\_\_\_\_PA 98-142 an Act Requiring Notice to Employees of Electronic Monitoring  
by employees~~

Policy adopted: September 1, 2003  
Policy revised: 2006  
Policy revised:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Personnel – Certified/Non-Certified

### Families First Coronavirus Response Act Leave

#### STATEMENT OF POLICY

In light of the global pandemic, and pursuant to the recently passed Families First Coronavirus Response Act (“FFCRA”), the Westport Board of Education (the “Board”) is amending its policy on FMLA and adopting a sick leave policy as explained below. These amendments relate to the Emergency Paid Sick Leave Act (“EPSLA”) and the Emergency Family and Medical Leave Expansion Act (“EFMLEA”), and are effective from April 1, 2020 through December 31, 2020, or until further notice from the Board.

#### EPSLA & EFMLEA LEAVES

##### Qualifying Reasons for EPSLA and EFMLEA Leaves

Under the FFCRA, an employee qualifies for leave under the EPSLA if the employee is unable to work (**or unable to telework**) because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms *and* is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for EFMLEA leave if the employee is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19. The first two (2) weeks of EFMLEA leave are unpaid, while the remaining ten (10) weeks are paid as set forth below.

##### Duration of EPSLA and EFMLEA Leaves

***For Qualifying Reasons (1)-(4) and (6):*** A full-time employee (individual working forty (40) hours per week) is eligible for eighty (80) hours of EPSLA leave. A part-time employee is eligible for the number of hours of EPSLA leave that the employee works on average over a two (2) week period.

**For Qualifying Reason (5):** A full-time employee (individual working forty (40) hours per week) is eligible for an aggregate total of up to twelve (12) weeks of EFMLEA leave, so long as the childcare need exists for the duration of leave. A part-time employee is eligible for such leave for the number of hours that the employee is normally scheduled to work over that period. Employees may use their EPSLA leave concurrently with the first two (2) weeks of unpaid EFMLEA leave.

#### Calculation of Pay for of EPSLA and EFMLEA Leaves

**For EPSLA Leave Reasons (1), (2), or (3):** Employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate.

**For EPSLA Leave Reasons (4) or (6):** Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate.

**For EPSLA leave reason (5) and EFMLEA leave:** Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate. While the first two (2) weeks of EFMLEA leave is unpaid, an employee may use paid EPSLA **leave** to receive compensation during that period. If the employee opts *not* to use EPSLA leave for this purpose, the employee would be eligible to receive \$200 per day and \$10,000 in the aggregate for weeks 3 through 12 of EFMLEA leave.

#### Determination of Eligibility Under a Qualifying Reason

Determination of an employee's eligibility for leave, including intermittent leave, will be made on a case-by-case basis and in accordance with the FFCRA, implementing regulations, and additional guidance provided by the United States Department of Labor.

### **EPSLA & EFMLEA COORDINATION WITH OTHER LEAVE**

#### Sequence of Available Leaves

An employee may, but is not required to, use EPSLA leave during the first two (2) weeks of the unpaid portion of the EFMLEA leave period.

#### EPSLA Leave Adds to Existing Leave Benefits

EPSLA leave is in addition to other accrued leave provided pursuant to the relevant collective bargaining agreement or Board policy.

#### Effect of Use of Prior Federal FMLA Qualifying Leave on Eligibility for EFMLEA Leave

An employee's eligibility for EFMLEA leave depends on how much FMLA leave the employee has already taken during the twelve (12) months immediately preceding the start of EFMLEA. Any employee employed by the Board for at least thirty (30) days may take a total of 12 workweeks for EFMLEA leave during the applicable period. If an eligible employee has taken some, but not all, of twelve (12) workweeks under the federal FMLA during the 12-month period immediately preceding a request for EFMLEA, the employee may take the remaining portion of leave available. If the eligible employee has already taken twelve (12) workweeks of federal FMLA leave during this 12-month period, the employee may not take additional EFMLEA leave.

## REQUIRED DOCUMENTATION FOR EPSLA, EFMLEA, AND FMLA LEAVES

### EPSLA Leave

- All employees seeking EPSLA leave must provide the following:
  - Employee's name;
  - Date(s) for which leave is requested;
  - Qualifying reason for leave; and
  - A statement that the employee is unable to work because of the qualified reason for leave. This statement may be oral or written.
  
- In addition, employees must provide the following depending on the reason for taking EPSLA leave:
  - If an employee is taking EPSLA leave due to a quarantine or isolation order, the employee must identify the governmental entity that issued the order.
  - If an employee is taking EPSLA leave because a health care provider advised the employee to self-quarantine, the employee must identify the health care provider.
  - If an employee is taking EPSLA leave to care for a child whose school or place of care is closed, the employee must identify the name of the child being cared for, the name of the school or childcare provider that is closed or unavailable, and represent that no one else will be taking care of the child.

### EFMLEA Leave

- If an employee is taking EFMLEA leave to care for a child whose school or place of care is closed, the employee must identify the name of the child being cared for, the name of the school or childcare provider that is closed or unavailable, and represent that no one else will be taking care of the child.

### Other FMLA Qualifying Leave

All existing certification requirements under the federal FMLA remain in effect if an employee is taking leave for one of the existing qualifying reasons under the federal FMLA. For example, if an employee is taking leave beyond the two (2) weeks of EPSLA leave because the employee's medical condition for COVID-19-related reasons rises to the level of a serious health condition, the employee must continue to provide medical certifications under the federal FMLA as required by the Board.



Legal Reference:

Families First Coronavirus Response Act, Pub. L. 116-127 §§3102, 5102, 134 Stat. 178 (2020).

Paid Leave Under the Families First Coronavirus Response Act, 29 CFR § 826 (2020).

Policy adopted:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## Students

### Attendance, Truancy, and Chronic Absenteeism

Regular and punctual student attendance in school is essential to the educational process. Connecticut state law places responsibility for assuring that students attend school with the parent or other person having control of the child. To assist parents and other persons in meeting this responsibility, the Board of Education (the “Board”), through its Superintendent, will adopt and maintain procedures to implement this policy.

In addition, the Board takes seriously the issue of chronic absenteeism. To address this issue, the Board, through its Superintendent, will adopt and maintain procedures regarding chronic absenteeism in accordance with state law.

Legal References:      Connecticut General Statutes §10-220

Connecticut General Statutes §10-184

Connecticut General Statutes §10-186

Connecticut General Statutes §10-198a`

Connecticut General Statutes § 10-198b

Connecticut General Statutes § 10-198c

Connecticut General Statutes § 10-198d

Connecticut General Statutes § 10-198e

Guidelines for Reporting Student Attendance in the Public School Information System (Connecticut State Department of Education, January 2008)

Connecticut State Board of Education Memorandum, *Definitions of Excused and Unexcused Absences* (June 27, 2012)

Connecticut State Department of Education, *Guidelines for Implementation of the Definitions of Excused and Unexcused Absences and Best Practices for Absence Prevention and Intervention* (April 2013)

Connecticut State Department of Education, *Reducing Chronic Absence in Connecticut’s Schools: A Prevention and Intervention Guide for Schools and Districts* (April 2017)

Connecticut State Department of Education Memorandum, *Youth Service Bureau Referral for Truancy and Defiance of School Rules* (February 22, 2018)

Connecticut State Department of Education, *Youth Service Bureau Referral Guide* (February 2018)

Connecticut State Department of Education, *Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together* (June 29, 2020), available at <https://portal.ct.gov/-/media/SDE/COVID-19/CTReopeningSchools.pdf>

[Connecticut State Department of Education, Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together, Addendum 14: Supporting Student Attendance and Engagement During Hybrid or Remote Learning \(September 21, 2020\), available at https://portal.ct.gov/-/media/SDE/COVID-19/Addendum-14-Supporting-Student-Attendance.pdf](https://portal.ct.gov/-/media/SDE/COVID-19/Addendum-14-Supporting-Student-Attendance.pdf)

## Students

### Student Discipline

#### I. Definitions

- A. **Dangerous Instrument** means any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury, and includes a "vehicle" or a dog that has been commanded to attack.
- B. **Deadly Weapon** means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon or metal knuckles. A weapon such as a pellet gun and/or air soft pistol may constitute a deadly weapon if such weapon is designed for violence and is capable of inflicting death or serious bodily harm. In making such determination, the following factors should be considered: design of weapon; how weapon is typically used (e.g. hunting); type of projectile; force and velocity of discharge; method of discharge (i.e. spring v. CO2 cartridge) and potential for serious bodily harm or death.
- C. **Electronic Defense Weapon** means a weapon which by electronic impulse or current is capable of immobilizing a person temporarily, but is not capable of inflicting death or serious physical injury, including a stun gun or other conductive energy device.
- D. **Emergency** means a situation in which the continued presence of the student in school poses such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such student as possible.
- E. **Exclusion** means any denial of public school privileges to a student for disciplinary purposes.
- F. **Expulsion** means the exclusion of a student from school privileges for more than ten (10) consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such pupil was assigned at the time such disciplinary action was taken. The expulsion period may not extend beyond one (1) calendar year.
- G. **Firearm**, as defined in 18 U.S.C. § 921, means (a) any weapon (including a starter gun) that will, is designed to, or may be readily converted to expel a projectile by the action of an explosive, (b) the frame or receiver of any such weapon, (c) a firearm muffler or silencer, or (d) any destructive device. The term firearm does not include an antique firearm. As used in this definition, a "**destructive device**" includes any explosive, incendiary, or poisonous gas device, including a bomb, a grenade, a rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-

quarter ounce, a mine, or any other similar device; or any weapon (other than a shotgun or shotgun shell particularly suited for sporting purposes) that will, or may be readily converted to, expel a projectile by explosive or other propellant, and which has a barrel with a bore of more than ½" in diameter. The term "destructive device" also includes any combination of parts either designed or intended for use in converting any device into any destructive device or any device from which a destructive device may be readily assembled. A "destructive device" does not include: an antique firearm; a rifle intended to be used by the owner solely for sporting, recreational, or cultural purposes; or any device which is neither designed nor redesigned for use as a weapon.

- H. **Impartial Hearing Board** means a board composed of one (1) or more persons appointed by the Board, provided that no member of the Board may serve on such hearing board. The Impartial Hearing Board shall have the authority to conduct hearings and render a final decision in accordance with the provisions of the Uniform Administrative Procedures Act, Conn. Gen. Stat. §§ 4-176e to 4-180a, and § 4-181a.
- I. **In-School Suspension** means an exclusion from regular classroom activity for no more than ten (10) consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed. No student shall be placed on in-school suspension more than fifteen (15) times or a total of fifty (50) days in one (1) school year, whichever results in fewer days of exclusion.
- J. **Martial Arts Weapon** means a nunchaku, kama, kasari-fundo, octagon sai, tonfa or chinese star.
- K. **Removal** is the exclusion of a student from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety (90) minutes.
- L. **School Days** shall mean days when school is in session for students.
- M. **School-Sponsored Activity** means any activity sponsored, recognized or authorized by the Board and includes activities conducted on or off school property.
- N. **Seriously Disruptive of the Educational Process**, as applied to off-campus conduct, means any conduct that markedly interrupts or severely impedes the day-to-day operation of a school.
- O. **Suspension** means the exclusion of a student from school and/or transportation services for not more than ten (10) consecutive school days, provided such suspension shall not extend beyond the end of the school year in which such suspension is imposed; and further provided no student shall be suspended more than ten (10) times or a total of fifty (50) days in one school year, whichever results in fewer days of exclusion, unless such student is granted a formal hearing as provided below.

- P. **Weapon** means any BB gun, any blackjack, any metal or brass knuckles, any police baton or nightstick, any dirk knife or switch knife, any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, any stiletto, any knife the edged portion of the blade of which is four inches and over in length, any martial arts weapon or electronic defense weapon, or any other dangerous or deadly weapon or instrument, unless permitted by law under Section 29-38 of the Connecticut General Statutes.
- Q. Notwithstanding the foregoing definitions, the reassignment of a student from one regular education classroom program in the district to another regular education classroom program in the district shall not constitute a suspension or expulsion.

R. For purposes of this policy, references to “school” and “classroom” shall include physical educational environments, as well as virtual educational environments, whether synchronous or asynchronous, which occur on Internet-based platforms that allow students to engage in remote learning.

## II. Scope of the Student Discipline Policy

### A. *Conduct on School Grounds or at a School-Sponsored Activity:*

Students may be disciplined for conduct on school grounds or at any school-sponsored activity that **endangers persons or property, is seriously disruptive of the educational process, or that violates a publicized policy of the Board.**

### B. *Conduct off School Grounds:*

1. Students may be disciplined for conduct off school grounds if such conduct **is seriously disruptive of the educational process and violative of a publicized policy of the Board.** In making a determination as to whether such conduct is seriously disruptive of the educational process, the Administration and an Impartial Hearing Board or the Board of Education may consider, but such consideration shall not be limited to, the following factors: (1) **whether the incident occurred within close proximity of a school;** (2) **whether other students from the school were involved or whether there was any gang involvement;** (3) **whether the conduct involved violence, threats of violence, or the unlawful use of a weapon,** as defined in Section Conn. Gen. Stat. § 29-38, and **whether any injuries occurred;** and (4) **whether the conduct involved the use of alcohol.**

In making a determination as to whether such conduct is seriously disruptive of the educational process, the Administration and/or an Impartial Hearing Board or the Board of Education may also consider **whether such off-campus conduct involved the illegal use of drugs.**

## III. Actions Leading to Disciplinary Action, including Removal from Class, Suspension and/or Expulsion

Conduct which may lead to disciplinary action (including, but not limited to, removal from class, suspension and/or expulsion in accordance with this policy) includes conduct on school grounds or at a school-sponsored activity (including on a school bus), and conduct off school grounds, as set forth above. Such conduct includes, but is not limited to, the following:

1. Striking or assaulting a student, members of the school staff or other persons.
2. Theft.
3. The use of obscene or profane language or gestures, the possession and/or display of obscenity or pornographic images or the unauthorized or inappropriate possession and/or display of images, pictures or photographs depicting nudity.
4. Violation of smoking, dress, transportation regulations, or other regulations and/or policies governing student conduct.
5. Refusal to obey a member of the school staff, law enforcement authorities, or school volunteers, or disruptive classroom behavior.
6. Any act of harassment based on an individual's sex, sexual orientation, race, color, religion, disability, national origin, ancestry, gender identity or expression or any other characteristic protected by law.
7. Refusal by a student to identify himself/herself to a staff member when asked, misidentification of oneself to such person(s), lying to school officials or otherwise engaging in dishonest behavior.
8. Inappropriate displays of public affection of a sexual nature and/or sexual activity on school grounds or at a school-sponsored activity.
9. A walk-out from or sit-in within a classroom or school building or school grounds.
10. Blackmailing, threatening or intimidating school staff or students (or acting in a manner that could be construed to constitute blackmail, a threat, or intimidation, regardless of whether intended as a joke), or making an untrue statement of fact about a staff member with malice or reckless disregard for the truth.
11. Possession of any weapon, weapon facsimile, deadly weapon, martial arts weapon, electronic defense weapon, pistol, knife, blackjack, bludgeon, box cutter, metal knuckles, pellet gun, air pistol, explosive device, firearm, whether loaded or unloaded, whether functional or not, or any other dangerous object or instrument. The possession and/or use of any object or device that has been converted or modified for use as a weapon.
12. Possession of any ammunition for any weapon described above in paragraph 11.

13. Unauthorized entrance into any school facility or portion of a school facility or aiding or abetting an unauthorized entrance.
14. Possession or ignition of any fireworks, combustible or other explosive materials, or ignition of any material causing a fire. Possession of any materials designed to be used in the ignition of combustible materials, including matches and lighters except with prior written permission from the principal or his/her designee and consistent with applicable law.
15. Unlawful possession, sale, distribution, use, or consumption of tobacco, electronic nicotine delivery systems (e.g. e-cigarettes), vapor products, drugs, narcotics or alcoholic beverages (or any facsimile of tobacco, drugs, narcotics or alcoholic beverages, or any item represented to be tobacco, drugs or alcoholic beverages), including being under the influence of any such substances or aiding in the procurement of any such substances. For the purposes of this Paragraph 15, the term "electronic nicotine delivery system" shall mean an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or electronic hookah and any related device and any cartridge or other component of such device. For the purposes of Paragraph 15, the term "vapor product" shall mean any product that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape or size, to produce a vapor that may or may not include nicotine, that is inhaled by the user of such product. For the purposes of this Paragraph 15, the term "drugs" shall include, but shall not be limited to, any medicinal preparation (prescription and non-prescription) and any controlled substance whose possession, sale, distribution, use or consumption is illegal under state and/or federal law.
16. Sale, distribution, or consumption of substances contained in household items; including, but not limited to glue, paint, accelerants/propellants for aerosol canisters, and/or items such as the aerators for whipped cream; if sold, distributed or consumed for the purpose of inducing a stimulant, depressant, hallucinogenic or mind-altering effect.
17. Unlawful possession of paraphernalia used or designed to be used in the consumption, sale or distribution of drugs, alcohol or tobacco, as described in subparagraph (15) above. For purposes of this policy, drug paraphernalia includes any equipment, products and materials of any kind which are used, intended for use or designed for use in growing, harvesting, manufacturing, producing, preparing, packaging, storing, containing or concealing, or injecting, ingesting, inhaling or otherwise introducing controlled drugs or controlled substances into the human body, including but not limited to items such as "bongs," pipes, "roach clips," vials, tobacco rolling papers, and any object or container used, intended or designed for use in storing, concealing, possessing, distributing or selling controlled drugs or controlled substances.



18. The destruction of real, personal or school property, such as, cutting, defacing or otherwise damaging property in any way.
19. Accumulation of offenses such as school and class tardiness, class or study hall cutting, or failure to attend detention.
20. Trespassing on school grounds while on out-of-school suspension or expulsion.
21. Making false threats (e.g. bomb, fire, gun violence) to the safety of students, staff members, and/or other persons.
22. Defiance of school rules and the valid authority of teachers, supervisors, administrators, other staff members and/or law enforcement authorities.
23. Throwing snowballs, rocks, sticks and/or similar objects, except as specifically authorized by school staff.
24. Unauthorized and/or reckless and/or improper operation of a motor vehicle on school grounds or at any school-sponsored activity.
25. Leaving school grounds, school transportation or a school-sponsored activity without authorization.
26. Use of or copying of the academic work of another individual and presenting it as the student's own work, without proper attribution; or any other form of academic dishonesty, cheating or plagiarism.
27. Possession and/or use of a cellular telephone, radio, portable audio player, CD player, blackberry, personal data assistant, walkie talkie, Smartphone, mobile or handheld device, or similar electronic device, on school grounds or at a school-sponsored activity in violation of Board policy and/or administrative regulations regulating the use of such devices.
28. Possession and/or use of a beeper or paging device on school grounds or at a school-sponsored activity without the written permission of the principal or his/her designee.
29. Unauthorized use of or tampering with any school computer, computer system, computer software, Internet connection or similar school property or system, or the use of such property or system for inappropriate purposes.
30. Possession and/or use of a laser pointer, unless the student possesses the laser pointer temporarily for an educational purpose while under the direct supervision of a responsible adult.
31. Hazing.
32. Bullying, defined as the repeated use by one or more students of a written, oral or electronic communication, such as cyberbullying, directed at

another student attending school in the same district, or a physical act or gesture by one or more students repeatedly directed at another student attending school in the same school district, which:

- a. causes physical or emotional harm to such student or damage to such student's property;
- b. places such student in reasonable fear of harm to himself or herself, or of damage to his or her property;
- c. creates a hostile environment at school for such student;
- d. infringes on the rights of such student at school; or
- e. substantially disrupts the education process or the orderly operation of a school.

Bullying includes, but is not limited to, repeated written, oral or electronic communications or physical acts or gestures based on any actual or perceived differentiating characteristics, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics.

- 33. Cyberbullying, defined as any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications.
- 34. Acting in any manner that creates a health and/or safety hazard for staff members, students, or the public, regardless of whether the conduct is intended as a joke, including but not limited to violating school or district health and safety protocols developed in connection with the COVID-19 pandemic, such as, but not limited to, physical distancing and mask-wearing requirements.
- 35. Engaging in a plan to stage or create a violent situation for the purposes of recording it by photographing, audio, or video; or recording by photographic, audio, or video acts of violence for purposes of later publication.
- 36. Engaging in a plan to stage sexual activity for the purposes of recording it by photographing, audio, or video; or recording by photographing, audio, or video sexual acts for purposes of later publication.
- 37. Using computer systems, including email, distance learning platforms, instant messaging, text messaging, blogging or the use of social media, or other forms of electronic communications, to engage in any conduct prohibited by this policy.

38. Use of a privately owned electronic or technological device in violation of school rules, including, without limitation, the unauthorized photographic, audio, and/or video recording of another individual without permission of the individual or a school staff member.
39. Engaging in teen dating violence, defined as any act of physical, emotional or sexual abuse, including stalking, harassing and threatening, that occurs between two students who are currently in or who have recently been in a dating relationship.
40. Any action prohibited by any Federal or State law.
41. Any other violation of school rules or regulations or a series of violations which makes the presence of the student in school seriously disruptive of the educational process and/or a danger to persons or property.
42. Violation of the district's "Acceptable Use Agreement: Intranet/Internet" for the applicable grade level.

#### IV. Discretionary and Mandatory Expulsions

- A. A principal may consider recommendation of expulsion of a student in **grades three to twelve, inclusive**, in a case where he/she has reason to believe the student has engaged in conduct described at Sections II.A. or II.B., above.
- B. A principal must recommend expulsion proceedings in all cases against any student in **grades kindergarten to twelve, inclusive**, whom the Administration has reason to believe:
  1. was in **possession on school grounds** or at a **school-sponsored activity** of a **deadly weapon, dangerous instrument, martial arts weapon, or firearm** as defined in 18 U.S.C. § 921 as amended from time to time; or
  2. **off school grounds, possessed a firearm** as defined in 18 U.S.C. § 921, in violation of Conn. Gen. Stat. § 29-35, or **possessed and used a firearm** as defined in 18 U.S.C. § 921, a **deadly weapon, a dangerous instrument** or a **martial arts weapon** in the **commission of a crime** under chapter 952 of the Connecticut General Statutes; or
  3. was engaged **on or off school grounds** in **offering for sale or distribution a controlled substance** (as defined in Conn. Gen. Stat. § 21a-240(9)), whose manufacturing, distribution, sale, prescription, dispensing, transporting, or possessing with intent to sell or dispense, offering or administering is subject to criminal penalties under Conn. Gen. Stat. §§21a-277 and 21a-278.

The terms "**dangerous instrument**," "**deadly weapon**," **electronic defense weapon**," "**firearm**," and "**martial arts weapon**," are defined above in Section I.

- C. In any preschool program provided by the Board of Education or provided by a

regional educational service center or a state or local charter school pursuant to an agreement with the Board of Education, no **student enrolled in such a preschool program** shall be expelled from such preschool program, except an expulsion hearing shall be conducted by an Impartial Hearing Board or the Board of Education in accordance with Section VIII of this policy whenever the Administration has reason to believe that a student enrolled in such preschool program was in **possession of a firearm** as defined in 18 U.S.C. § 921, as amended from time to time, on or off school grounds or at a preschool program-sponsored event. The term “**firearm**” is defined above in Section I.

- D. Upon receipt of an expulsion recommendation, the Superintendent may conduct an inquiry concerning the expulsion recommendation.

If the Superintendent or his/her designee determines that a student should or must be expelled, he or she shall forward his/her recommendation to an Impartial Hearing Board (or the Board of Education, where applicable) so that the Impartial Hearing Board (or the Board, where applicable) can consider and act upon this recommendation.

- E. In keeping with Conn. Gen. Stat. § 10-233d and the Gun-Free Schools Act, it shall be the policy of the Board to expel a student in grades kindergarten to twelve, inclusive, for one (1) full calendar year for the conduct described in Section IV.B(1), (2) and (3) of this policy and to expel a student enrolled in a preschool program for one (1) calendar year for the conduct described in Section IV.C. For any mandatory expulsion offense, an Impartial Hearing Board (or the Board, where applicable) may modify the term of expulsion on a case-by-case basis.

#### V. Procedures Governing Removal from Class

- A. A student may be removed from class by a teacher or administrator if he/she deliberately causes a serious disruption of the educational process. When a student is removed, the teacher must send him/her to a designated area and notify the principal or his/her designee at once.
- B. A student may not be removed from class more than six (6) times in one school year nor more than twice in one week unless the student is referred to the building principal or designee and granted an informal hearing at which the student should be informed of the reasons for the disciplinary action and given an opportunity to explain the situation.
- C. The parents or guardian of any minor student removed from class shall be given notice of such disciplinary action within twenty-four (24) hours of the time of the institution of such removal from class.

#### VI. Procedures Governing Suspension

- A. The principal of a school, or designee on the administrative staff of the school, shall have the right to suspend a student for breach of conduct as noted in Section II of this policy for not more than ten (10) consecutive school days. In cases where suspension is contemplated, the following procedures shall be followed.

1. Unless an emergency situation exists, no student shall be suspended prior to having an informal hearing before the principal or designee at which the student is informed of the charges and given an opportunity to respond. In the event of an emergency, the informal hearing shall be held as soon after the suspension as possible.
2. If suspended, such suspension shall be an in-school suspension, except the principal or designee may impose an out-of-school suspension on any pupil:
  - a. in grades three to twelve, inclusive, if, during the informal hearing, (i) the principal or designee determines that the student poses such a danger to persons or property or such a disruption of the educational process that he or she should be excluded from school during the period of suspension; or (ii) the principal or designee determines that an out-of-school suspension is appropriate based on evidence of (A) the student's previous disciplinary problems that have led to suspensions or expulsion of such student, and (B) previous efforts by the Administration to address the student's disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or
  - b. in grades preschool to two, inclusive, if the principal or designee determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons.
3. Evidence of past disciplinary problems that have led to removal from a classroom, suspension, or expulsion of a student who is the subject of an informal hearing may be received by the principal or designee, but only considered in the determination of the length of suspensions.
4. By telephone, the principal or designee shall make reasonable attempts to immediately notify the parent or guardian of a minor student following the suspension and to state the cause(s) leading to the suspension.
5. Whether or not telephone contact is made with the parent or guardian of such minor student, the principal or designee shall forward a letter promptly to such parent or guardian to the last address reported on school records (or to a newer address if known by the principal or designee), offering the parent or guardian an opportunity for a conference to discuss same.
6. In all cases, the parent or guardian of any minor student who has been suspended shall be given notice of such suspension within twenty-four (24) hours of the time of the institution of the suspension.
7. Not later than twenty-four (24) hours after the commencement of the suspension, the principal or designee shall also notify the Superintendent or his/her designee of the name of the student being suspended and the

reason for the suspension.

8. The student shall be allowed to complete any classwork, including examinations, without penalty, which he or she missed while under suspension.
  9. The school Administration may, in its discretion, shorten or waive the suspension period for a student who has not previously been suspended or expelled, if the student completes an Administration-specified program and meets any other conditions required by the Administration. Such Administration-specified program shall not require the student and/or the student's parents to pay for participation in the program.
  10. Notice of the suspension shall be recorded in the student's cumulative educational record. Such notice shall be expunged from the cumulative educational record if the student graduates from high school. In cases where the student's period of suspension is shortened or waived in accordance with Section VI.A(9), above, the Administration may choose to expunge the suspension notice from the cumulative record at the time the student completes the Administration-specified program and meets any other conditions required by the Administration.
  11. If the student has not previously been suspended or expelled, and the Administration chooses to expunge the suspension notice from the student's cumulative record prior to graduation, the Administration may refer to the existence of the expunged disciplinary notice, notwithstanding the fact that such notice may have been expunged from the student's cumulative file, for the limited purpose of determining whether any subsequent suspensions or expulsions by the student would constitute the student's first such offense.
  12. The decision of the principal or designee with regard to disciplinary actions up to and including suspensions shall be final.
  13. During any period of suspension served out of school, the student shall not be permitted to be on school property and shall not be permitted to attend or participate in any school-sponsored activities, unless the principal specifically authorizes the student to enter school property for a specified purpose or to participate in a particular school-sponsored activity.
- B. In cases where a student's suspension will result in the student being suspended more than ten (10) times or for a total of fifty (50) days in a school year, whichever results in fewer days of exclusion, the student shall, prior to the pending suspension, be granted a formal hearing before an Impartial Hearing Board. Notwithstanding the foregoing, the Board reserves the right to conduct formal suspension hearings itself, in which case such hearings will be conducted by any three or more Board members. The principal or designee shall report the student to the Superintendent or designee and request a formal hearing. If an emergency situation exists, such hearing shall be held as soon after the suspension as possible.

## VII. Procedures Governing In-School Suspension

- A. The principal or designee may impose in-school suspension in cases where a student's conduct endangers persons or property, violates school policy, seriously disrupts the educational process or in other appropriate circumstances as determined by the principal or designee.
- B. In-school suspension may not be imposed on a student without an informal hearing by the building principal or designee.
- C. In-school suspension may be served in the school that the student regularly attends or in any other school building within the jurisdiction of the Board.
- D. No student shall be placed on in-school suspension more than fifteen (15) times or for a total of fifty (50) days in one school year, whichever results in fewer days of exclusion.
- E. The parents or guardian of any minor student placed on in-school suspension shall be given notice of such suspension within twenty-four (24) hours of the time of the institution of the period of the in-school suspension.

## VIII. Procedures Governing Expulsion Hearing

### A. ***Emergency Exception:***

Except in an emergency situation, the Board of Education shall, prior to expelling any student, conduct a hearing to be governed by the procedures outlined herein and consistent with the requirements of Conn. Gen. Stat. § 10-233d or Conn. Gen. Stat. § 10-233l, if applicable, as well as the applicable provisions of the Uniform Administrative Procedures Act, Conn. Gen. Stat. §§ 4-176e to 4-180a, and § 4-181a. Whenever an emergency exists, the hearing provided for herein shall be held as soon as possible after the expulsion.

### B. ***Hearing Board:***

- 1. The Board delegates the authority to conduct expulsion hearings and render a final decision on expulsion matters to an Impartial Hearing Board.
- 2. Notwithstanding Section VIII.B.1 of this policy, the Board reserves the right to conduct expulsion hearings itself, in which case such hearings will be conducted by any three or more Board members. A decision to expel a student must be supported by a majority of the Board members present, provided that no less than three (3) affirmative votes to expel are cast.

### C. ***Hearing Notice and Rights of the Student and Parent(s)/Guardian(s):***

- 1. Written notice of the expulsion hearing must be given to the student, and, if the student is a minor, to his/her parent(s) or guardian(s) at least five (5) business days before such hearing.

2. A copy of this Board policy on student discipline shall also be given to the student, and if the student is a minor, to his/her parent(s) or guardian(s), at the time the notice is sent that an expulsion hearing will be convened.
3. The written notice of the expulsion hearing shall inform the student of the following:
  - a. The date, time, place and nature of the hearing, including if the hearing will be held virtually, via video conference.
  - b. The legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the legal statutes involved.
  - c. A short, plain description of the conduct alleged by the Administration.
  - d. The student may present as evidence relevant testimony and documents concerning the conduct alleged and the appropriate length and conditions of expulsion; and that the expulsion hearing may be the student's sole opportunity to present such evidence.
  - e. The student may cross-examine witnesses called by the Administration.
  - f. The student may be represented by an attorney or other advocate of his/her choice at his/her expense or at the expense of his/her parent(s) or guardian(s).
  - g. A student is entitled to the services of a translator or interpreter, to be provided by the Board of Education, whenever the student or his/her parent(s) or guardian(s) requires the services of an interpreter because he/she/they do(es) not speak the English language or is(are) disabled.
  - h. The conditions under which the Board is not legally required to give the student an alternative educational opportunity (if applicable).
  - i. Information concerning the parent's(s') or guardian's(s') and the student's legal rights and concerning about free or reduced-rate legal services and how to access such services.
  - j. The parent(s) or guardian(s) of the student have the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.



D. *Hearing Procedures:*

1. The hearing will be conducted by the Presiding Officer of the Impartial Hearing Board (or the Board, where applicable), who will call the meeting to order, introduce the parties, introduce any Board members and counsel present, briefly explain the hearing procedures, and swear in any witnesses called by the Administration or the student.
2. The hearing will be conducted in executive session. A verbatim record of the hearing will be made, either by tape recording or by a stenographer. A record of the hearing will be maintained, including the verbatim record, all written notices and documents relating to the case and all evidence received or considered at hearing.
3. The Administration shall bear the burden of production to come forward with evidence to support its case and shall bear the burden of persuasion. The standard of proof shall be a preponderance of the evidence.
4. Formal rules of evidence will not be followed. The Impartial Hearing Board (or the Board, where applicable) has the right to accept hearsay and other evidence if it deems that evidence relevant or material to its determination. The Presiding Officer will rule on testimony or evidence as to it being immaterial or irrelevant.
5. The hearing will be conducted in two (2) parts. In the first part of the hearing, the Impartial Hearing Board (or the Board, where applicable) will receive and consider evidence regarding the conduct alleged by the Administration.
6. In the first part of the hearing, the charges will be introduced into the record by the Superintendent or his/her designee.
7. Each witness for the Administration will be called and sworn. After a witness has finished testifying, he/she will be subject to cross-examination by the opposite party or his/her legal counsel, by the Presiding Officer and by Board members, where applicable.
8. The student shall not be compelled to testify at the hearing.
9. After the Administration has presented its case, the student will be asked if he/she has any witnesses or evidence to present concerning the charges. If so, the witnesses will be sworn, will testify, and will be subject to cross examination and to questioning by the Presiding Officer (and/or by the Board, where applicable). The student may also choose to make a statement at this time. If the student chooses to make a statement, he or she will be sworn and subject to cross examination and questioning by the Presiding Officer (and/or by the Board, where applicable). Concluding statements will be made by the Administration and then by the student and/or his or her representative.

10. In cases where the student has denied the allegation, the Impartial Hearing Board (or the Board, where applicable) must determine whether the student committed the offense(s) as charged by the Superintendent.
11. If the Impartial Hearing Board (or the Board, where applicable) determines that the student has committed the conduct as alleged, then the Impartial Hearing Board (or the Board, where applicable) shall proceed with the second portion of the hearing, during which the Impartial Hearing Board (or the Board, where applicable) will receive and consider relevant evidence regarding the length and conditions of expulsion.
12. When considering the length and conditions of expulsion, the Impartial Hearing Board (or the Board, where applicable) may review the student's attendance, academic and past disciplinary records. The Impartial Hearing Board (or the Board, where applicable) may not review notices of prior expulsions or suspensions which have been expunged from the student's cumulative record, except as so provided in Section VI.A (9), (10), (11), above, and Section X, below. The Impartial Hearing Board (or the Board, where applicable) may ask the Superintendent for a recommendation as to the discipline to be imposed.
13. Evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of a student being considered for expulsion may be considered only during the second portion of the hearing, during which the Impartial Hearing Board (or the Board, where applicable) is considering length of expulsion and nature of the alternative educational opportunity to be offered.
14. Where administrators presented the case in support of the charges against the student, such administrative staff shall not be present during the deliberations of the Impartial Hearing Board (or the Board, where applicable) either on questions of evidence or on the final discipline to be imposed. The Superintendent may, after reviewing the incident with administrators, and reviewing the student's records, make a recommendation to the Impartial Hearing Board (or the Board, where applicable) as to the appropriate discipline to be applied.
15. The Impartial Hearing Board (or the Board, where applicable) shall make findings as to the truth of the charges, if the student has denied them; and, in all cases, the disciplinary action, if any, to be imposed. While the hearing itself is conducted in executive session, any Board vote regarding expulsion must be made in open session and in a manner that preserves the confidentiality of the student's name and other personally identifiable information.
16. Except for a student who has been expelled based on possession of a firearm or deadly weapon as described in subsection IV.B(1) and (2) above, the Impartial Hearing Board (or the Board, where applicable) may, in its discretion, shorten or waive the expulsion period for a student who has not previously been suspended or expelled, if the student completes a program specified by the Impartial Hearing Board or the Board, where

applicable (a “Board-specified program”), and meets any other conditions required by the Impartial Hearing Board (or the Board, where applicable). The Board-specified program shall not require the student and/or the student’s parents to pay for participation in the program.

17. The Impartial Hearing Board (or the Board, where applicable) shall report its final decision in writing to the student, or if such student is a minor, also to the parent(s) or guardian(s), stating the reasons on which the decision is based, and the disciplinary action to be imposed. Said decision shall be based solely on evidence presented at the hearing. The parents or guardian or any minor student who has been expelled shall be given notice of such disciplinary action within twenty-four (24) hours of the time of the institution of the period of the expulsion.

18. The hearing may be conducted virtually, via video conference, at the direction of the Board, in the event school buildings are closed to students or individuals are provided limited access to school buildings as a result of the COVID-19 pandemic. Any virtual hearing must provide the student the due process rights identified in this Subsection D.

E. ***Presence on School Grounds and Participation in School-Sponsored Activities During Expulsion:***

During the period of expulsion, the student shall not be permitted to be on school property and shall not be permitted to attend or participate in any school-sponsored activities, except for the student’s participation in any alternative educational opportunity provided by the district in accordance with this policy, unless the Superintendent specifically authorizes the student to enter school property for a specified purpose or to participate in a particular school-sponsored activity.

F. ***Stipulated Agreements:***

In lieu of the procedures used in this Section, the Administration and the parent(s) or legal guardian(s) of a student facing expulsion may choose to enter into a Joint Stipulation of the Facts and a Joint Recommendation to the Impartial Hearing Board (or the Board, where applicable) concerning the length and conditions of expulsion. Such Joint Stipulation and Recommendation shall include language indicating that the parent(s) or legal guardian(s) understand their right to have an expulsion hearing held pursuant to these procedures, and language indicating that the Impartial Hearing Board (or the Board, where applicable), in its discretion, has the right to accept or reject the Joint Stipulation of Facts and Recommendation. If the Impartial Hearing Board (or the Board, where applicable) rejects either the Joint Stipulation of Facts or the Recommendation, an expulsion hearing shall be held pursuant to the procedures outlined herein. If the Student is eighteen years of age or older, the student shall have the authority to enter into a Joint Stipulation and Recommendation on his or her own behalf.

If the parties agree on the facts, but not on the disciplinary recommendation, the Administration and the parents (or legal guardians) of a student facing expulsion may also choose to enter into a Joint Stipulation of the Facts and submit only the

Stipulation of the Facts to the Impartial Hearing Board (or the Board, where applicable) in lieu of holding the first part of the hearing, as described above. Such Joint Stipulation shall include language indicating that the parents understand their right to have a hearing to determine whether the student engaged in the alleged misconduct and that the Impartial Hearing Board (or the Board, where applicable), in its discretion, has the right to accept or reject the Joint Stipulation of Facts. If the Impartial Hearing Board (or the Board, where applicable) rejects the Joint Stipulation of Facts, a full expulsion hearing shall be held pursuant to the procedures outlined herein.

IX. Alternative Educational Opportunities for Expelled Students

- A. For the purposes of this Section, and subject to Subsection IX.E, below, any alternative educational opportunity to which an expelled student is statutorily entitled shall be (1) alternative education, as defined by Conn. Gen. Stat. § 10-74j, with an individualized learning plan, if the Board provides such alternative education, or (2) in accordance with the standards adopted by the State Board of Education.

B. ***Students under sixteen (16) years of age:***

Whenever the Board of Education expels a student under sixteen (16) years of age, it shall offer any such student an alternative educational opportunity.

C. ***Students sixteen (16) to eighteen (18) years of age:***

1. The Board of Education shall provide an alternative educational opportunity to a sixteen (16) to eighteen (18) year-old student expelled for the first time if he/she requests it and if he/she agrees to the conditions set by the Board of Education. Such alternative educational opportunity may include, but shall not be limited to, the placement of a pupil who is at least sixteen years of age in an adult education program. Any pupil participating in an adult education program during a period of expulsion shall not be required to withdraw from school as a condition to his/her participation in the adult education program.
2. The Board of Education is not required to offer an alternative educational opportunity to any student between the ages of sixteen (16) and eighteen (18) who is expelled for a second, or subsequent, time.
3. The Board of Education shall count the expulsion of a pupil when he/she was under sixteen (16) years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he/she is between the ages of sixteen and eighteen.

D. ***Students eighteen (18) years of age or older:***

The Board of Education is not required to offer an alternative educational opportunity to expelled students eighteen (18) years of age or older.

E. ***Students identified as eligible for services under the Individuals with***

***Disabilities Education Act (“IDEA”):***

Notwithstanding Sections IX.B. through D. above, if the Board of Education expels a student who has been identified as eligible for services under the Individuals with Disabilities Education Act (“IDEA”), it shall offer an alternative educational opportunity to such student in accordance with the requirements of IDEA, as it may be amended from time to time.

***F. Students for whom an alternative educational opportunity is not required:***

The Board of Education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required by law or as described in this policy. In such cases, the Impartial Hearing Board (or the Board, where applicable), or if delegated by the Impartial Hearing Board (or the Board, where applicable), the Administration, shall determine the components, including the nature, frequency and duration of such services, of any such alternative educational opportunity.

***X. Notice of Student Expulsion on Cumulative Record***

Notice of expulsion and the conduct for which the student was expelled shall be included on the student’s cumulative educational record. Such notice, except for notice of an expulsion of a student in grades nine through twelve, inclusive, based upon possession of a firearm or deadly weapon, shall be expunged from the cumulative educational record by the Board if the student graduates from high school.

In cases where the student’s period of expulsion is shortened or waived in accordance with Section VIII.D(14), above, the Impartial Hearing Board (or the Board, where applicable) may choose to expunge the expulsion notice from the cumulative record at the time the student completes the Board-specified program and meets any other conditions required by the Impartial Hearing Board (or the Board, where applicable).

If a student’s period of expulsion was not shortened or waived, the Impartial Hearing Board (or the Board, where applicable) may choose to expunge the expulsion notice from the student’s cumulative record prior to graduation if such student has demonstrated to the Board or Board designee that the student’s conduct and behavior in the years following such expulsion warrants an expungement. In deciding whether to expunge the expulsion notice, the Board or Board designee may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of the student.

If the student has not previously been suspended or expelled, and the Impartial Hearing Board (or the Board, where applicable) chooses to expunge the expulsion notice from the student’s cumulative record prior to graduation, the Administration may refer to the existence of the expunged notice, notwithstanding the fact that such notice may have been expunged from the student’s cumulative file, for the limited purpose of determining whether any subsequent suspension or expulsion by the student would constitute the student’s first such offense.

XI. Change of Residence During Expulsion Proceedings

A. *Student moving into the school district:*

1. If a student enrolls in the district while an expulsion hearing is pending in another district, such student shall not be excluded from school pending completion of the expulsion hearing unless an emergency exists, as defined above. The Board shall retain the authority to suspend the student or to conduct its own expulsion hearing.
2. Where a student enrolls in the district during the period of expulsion from another public school district, the Board may adopt the decision of the student expulsion hearing conducted by such other school district. The student shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with statutory requirements. The Board shall make its determination based upon a hearing held by the Impartial Hearing Board (or the Board, where applicable), which hearing shall be limited to a determination of whether the conduct which was the basis of the previous public school district's expulsion would also warrant expulsion by the Board.

B. *Student moving out of the school district:*

Where a student withdraws from school after having been notified that an expulsion hearing is pending, but before a decision has been rendered by the Impartial Hearing Board (or the Board, where applicable), the notice of the pending expulsion hearing shall be included on the student's cumulative record and the Impartial Hearing Board (or the Board, where applicable) shall complete the expulsion hearing and render a decision. If the Impartial Hearing Board (or the Board, where applicable) subsequently renders a decision to expel the student, a notice of the expulsion shall be included on the student's cumulative record.

XII. Procedures Governing Suspension and Expulsion of Students Identified as Eligible for Services under the Individuals with Disabilities Education Act ("IDEA")

A. *Suspension of IDEA students:*

Notwithstanding the foregoing, if the Administration suspends a student identified as eligible for services under the IDEA (an "IDEA student") who has violated any rule or code of conduct of the school district that applies to all students, the following procedures shall apply:

1. The Administration shall make reasonable attempts to immediately notify the parents of the student of the decision to suspend on the date on which the decision to suspend was made, and a copy of the special education procedural safeguards must either be hand-delivered or sent by mail to the parents on the date that the decision to suspend was made.

2. During the period of suspension, the school district is not required to provide any educational services to the IDEA student beyond that which is provided to all students suspended by the school district.

**B. *Expulsion and Suspensions that Constitute Changes in Placement for IDEA students:***

Notwithstanding any provision to the contrary, if the Administration recommends for expulsion an IDEA student who has violated any rule or code of conduct of the school district that applies to all students, the procedures described in this section shall apply. The procedures described in this section shall also apply for students whom the Administration has suspended in a manner that is considered under the IDEA, as it may be amended from time to time, to be a change in educational placement:

1. Upon the decision by the Administration to recommend expulsion or impose a suspension that would constitute a change in educational placement, the Administration shall promptly notify the parent(s)/guardian(s) of the student of the recommendation of expulsion or the suspension that would constitute a change in educational placement, and provide the parents(s)/guardian(s) a copy of the special education procedural safeguards either by hand-delivery or by mail (unless other means of transmission have been arranged).
2. The school district shall immediately convene the student's planning and placement team ("PPT"), but in no case later than ten (10) school days after the recommendation for expulsion or the suspension that constitutes a change in placement was made. The student's PPT shall consider the relationship between the student's disability and the behavior that led to the recommendation for expulsion or the suspension which constitutes a change in placement, in order to determine whether the student's behavior was a manifestation of his/her disability.
3. If the student's PPT finds that the behavior was a manifestation of the student's disability, the Administration shall not proceed with the recommendation for expulsion or the suspension that constitutes a change in placement.
4. If the student's PPT finds that the behavior was not a manifestation of the student's disability, the Administration may proceed with the recommended expulsion or suspension that constitutes a change in placement.
5. During any period of expulsion, or suspension of greater than ten (10) days per school year, the Administration shall provide the student with an alternative education program in accordance with the provisions of the IDEA.
6. When determining whether to recommend an expulsion or a suspension that constitutes a change in placement, the building administrator (or his or

her designee) should consider the nature of the misconduct and any relevant educational records of the student.

C. ***Removal of Special Education Students for Certain Offenses:***

1. School personnel may remove a student eligible for special education under the IDEA to an appropriate interim alternative educational setting for not more than forty-five (45) school days if the student:
  - a. Was in possession of a dangerous weapon, as defined in 18 U.S.C. 930(g)(2), as amended from time to time, on school grounds or at a school-sponsored activity, or
  - b. Knowingly possessed or used illegal drugs or sold or solicited the sale of a controlled substance while at school or at a school-sponsored activity; or
  - c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.
2. The following definitions shall be used for this subsection XII.C.:
  - a. **Dangerous weapon** means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2.5 inches in length.
  - b. **Controlled substance** means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act, 21 U.S.C. 812(c).
  - c. **Illegal drug** means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.
  - d. **Serious bodily injury** means a bodily injury which involves: (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

XIII. Procedures Governing Expulsions for Students Identified as Eligible under Section 504 of the Rehabilitation Act of 1973 (“Section 504”)

- A. Except as provided in subsection B below, notwithstanding any provision to the contrary, if the Administration recommends for expulsion a student identified as eligible for educational accommodations under Section 504 who has violated any rule or code of conduct of the school district that applies to all students, the following procedures shall apply:



1. The parents of the student must be notified of the decision to recommend the student for expulsion.
  2. The district shall immediately convene the student's Section 504 team ("504 team") for the purpose of reviewing the relationship between the student's disability and the behavior that led to the recommendation for expulsion. The 504 team will determine whether the student's behavior was a manifestation of his/her disability.
  3. If the 504 team finds that the behavior was a manifestation of the student's disability, the Administration shall not proceed with the recommended expulsion.
  4. If the 504 team finds that the behavior was not a manifestation of the student's disability, the Administration may proceed with the recommended expulsion.
- B. The Board may take disciplinary action for violations pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who currently is engaging in the illegal use of drugs or alcohol to the same extent that such disciplinary action is taken against nondisabled students. Thus, when a student with a disability is recommended for expulsion based solely on the illegal use or possession of drugs or alcohol, the 504 team *shall not be required to meet* to review the relationship between the student's disability and the behavior that led to the recommendation for expulsion.

#### XIV. Procedures Governing Expulsions for Students Committed to a Juvenile Detention Center

- A. Any student who commits an expellable offense and is subsequently committed to a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement for such offense may be expelled by the Board in accordance with the provisions of this section. The period of expulsion shall run concurrently with the period of commitment to a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement.
- B. If a student who committed an expellable offense seeks to return to a school district after having been in a juvenile detention center, the Connecticut Juvenile Training School or any other residential placement and such student has not been expelled by the board of education for such offense under subdivision (A) of this subsection, the Board shall allow such student to return and may not expel the student for additional time for such offense.

#### XV. Early Readmission to School

An expelled student may apply for early readmission to school. The Board delegates the authority to make decisions on readmission requests to the Superintendent. Notwithstanding the foregoing, the Board reserves the right to make decisions on readmission requests itself, in which case hearings regarding any such requests will be conducted by any three or more Board members. Students desiring readmission to school shall direct such readmission requests to the Superintendent (or the Board, where

applicable). The Superintendent (or the Board, where applicable) has the discretion to approve or deny such readmission requests, and may condition readmission on specified criteria.

XVI. Dissemination of Policy

The Board of Education shall, at the beginning of each school year and at such other times as it may deem appropriate, provide for an effective means of informing all students, parent(s) and/or guardian(s) of this policy.

XVII. Compliance with Documentation and Reporting Requirements

- A. The Board of Education shall include on all disciplinary reports the individual student's state-assigned student identifier (SASID).
- B. The Board of Education shall report all suspensions and expulsions to the State Department of Education.
- C. If the Board of Education expels a student for sale or distribution of a controlled substance, as defined in Conn. Gen. Stat. § 21a-240(9), whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is the subject to criminal penalties under Conn. Gen. Stat. §§ 21a-277 and 21a-278, the Board shall refer such student to an appropriate state or local agency for rehabilitation, intervention or job training and inform the agency of its action.
- D. If the Board of Education expels a student for possession of a firearm, as defined in 18 U.S.C. § 921, or deadly weapon, dangerous instrument or martial arts weapon, as defined in Conn. Gen. Stat. § 53a-3, the Board shall report the violation to the local police.

Legal References:

Connecticut General Statutes:

Public Act 17-237, An Act Concerning Education Mandate Relief  
Public Act 16-147, An Act Concerning the Recommendations of the Juvenile Justice Policy and Oversight Committee  
§§ 4-176e through 4-180a and § 4-181a, Uniform Administrative Procedures Act  
§ 10-222d Safe school climate plans. Definitions. Safe school climate assessments  
§§ 10-233a through 10-233f Suspension and expulsion of students  
§ 10-233i Expulsion and suspension of children in preschool programs  
§ 19a-342a Use of electronic nicotine delivery system or vapor product prohibited  
§§ 21a-408a through 408p Palliative Use of Marijuana  
§ 29-38 Weapons in vehicles  
§ 53a-3 Definitions  
§ 53-344b Sale and delivery of electronic nicotine delivery system or vapor products to minors  
§ 53-206 Carrying of dangerous weapons prohibited.

*Packer v. Board of Educ. of the Town of Thomaston*, 246 Conn. 89 (1998).  
*State v. Hardy*, 896 A.2d 755, 278 Conn. 113 (2006).  
*State v. Guzman*, 955 A.2d 72, 2008 Conn. App. LEXIS 445 (Sept. 16, 2008).

Federal law:

Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, as amended by the Individuals with Disabilities Education Improvement Act of 2004, Pub. L. 108-446.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a).

18 U.S.C. § 921 (definition of “firearm”)

18 U.S.C. § 930(g)(2) (definition of “dangerous weapon”)

18 U.S.C. § 1365(h)(3) (identifying “serious bodily injury”)

21 U.S.C. § 812(c) (identifying “controlled substances”)

34 C.F.R. § 300.530 (defining “illegal drugs”)

Gun-Free Schools Act, 20 U.S.C. § 7961

*Honig v. Doe*, 484 U.S. 305 (1988)

Policy adopted: December 16, 2002

Revised: April 2, 2018

[Revised:](#)

WESTPORT PUBLIC SCHOOLS

Westport, Connecticut

## Students

### Transportation

#### I. Statement of Policy

The Board of Education will provide transportation for students under provisions of state law and regulations. In determining the provision of transportation, the superintendent of schools shall consider the guidelines contained in this policy and shall administer the operation so as to:

1. provide for the safety of students, including consideration of hazardous conditions whether or not described in this policy;
2. provide for appropriate supervision for students while on school transportation, consistent with the Board's student discipline policy; and
3. assist disabled students by providing appropriate specialized transportation when required by law.

#### II. Definitions

1. "School transportation" means the procedure, program, or implemented plan by which a pupil is transported to and/or from school from his/her residence or the assigned bus stop at public expense, whether by use of publicly owned equipment or by contract. Such transportation shall be over public roads approved and maintained by the municipality or the state of Connecticut, or private roads approved pursuant to C.G.S. Section 10-220c.
2. "Walking distance" means the linear measure of a prescribed or authorized pedestrian route between the pupil's residence and his/her school from a point at the curb or edge of a public or private road nearest the pupil's residence to a point at the entrance of the school, or a safe entrance to the school grounds located within one hundred feet of the school building entrance or the bus pick-up area, or the route from the point on the public thoroughfare nearest the residence to the school bus or vehicle embarkation point established by the Westport Board of Education.
3. "One mile walking distance" means a reasonable measurement of a route to be traversed extending from the point of measurement at least 5,280 feet, but not more than 5,380 feet.
4. "Grade K" means kindergarten, or a school program appropriate to a beginning pupil.
5. "Hazard" means a thing or condition, as prescribed in this policy under "Hazardous Conditions" that affects the safety of pupils walking to or from school and/or to or from a designated bus pick-up area.
6. "Sidewalk" means a portion of the landscape right of way approximately three feet wide, usually parallel to the traffic lanes which may be paved or unpaved, and marked by curbing, drainage ditch, grass area or fencing; apart from and independent of any white line safety markings along the street pavement.

7. "Raised walk area" means a portion of the landscape right of way approximately three feet wide, usually parallel to the traffic lanes which may be paved or unpaved, distinguished by some elevation above the street pavement level and marked by curbing, drainage ditch, grass area or fencing; apart from and independent of any painted safety markings along the street pavement.
8. "Walking route" means the route that the student is expected to travel between his/her residence to and from school and/or an assigned bus stop.
9. "Bus stop" shall be defined as a geographical location designated by the Board of Education, school administration or their designee where students can safely wait for purposes of embarking or disembarking a school bus.
10. "Pupil" means any individual of school age enrolled in a public or nonprofit private school located within the school district or contiguous school district as the case may be.

### III. Provision of Transportation

Transportation by private carrier may be provided whenever such practice is more economical than using school district-owned/leased facilities. The Board will request that parents volunteer to transport eligible students, without reimbursement, in order to reduce the number of students transported on buses to protect the health and safety of students and staff.

In determining the provision of transportation for resident public and eligible private school students, the following guidelines regarding walking distances will be considered. Distance measurements will be based on the most direct route from the student's home beginning at a point at the curb or edge of a public road or highway nearest the home to the edge of the school property or bus pickup areas.

<u>Grade</u>	<u>Limit</u>
<u>K</u>	<u>1 mile</u>
<u>1-3</u>	<u>1 mile</u>
<u>4-8</u>	<u>1 1/2 miles</u>
<u>9-12</u>	<u>2 miles</u>

Students living within the stated distance limits will receive transportation when, in the opinion of the Superintendent of Schools, it is in the best interests of the district to provide transportation.

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### IV. Access to Bus Stops/Transportation

Parents and/or guardians are responsible for ensuring the safety of their children up until the point when students board the school bus or other school provided transportation, and after students get off the bus after school. This responsibility includes the selection of walking routes to/from any bus stop and/or the school building, compliance with COVID-19 related safety precautions at the bus stop and along walking routes, and the provision of supervision that is appropriate to the student's age, maturity and conditions along the walking route and/or at the bus stop at all times.

Given that bus pick up times may vary, the Board expects that parents and/or guardians will ensure that their children arrive at the bus stop in advance of any scheduled pick up time. Bus pick up/drop off times and routes may change during the school year in connection with the

COVID-19 pandemic and changing public health conditions. The Board will notify all parents and guardians in advance of such changes.

## **V. Hazardous Conditions**

The administration shall consider the following guidelines for hazardous conditions when making decisions regarding the transportation of children:

1. Except as provided in Paragraph 7 of this Section, a street or road, along a designated walking route to or from school and/or to or from a designated bus pick-up area, having an adjacent or parallel sidewalk or raised walk area shall be deemed hazardous when any one of the following conditions exist:
  - a) For pupils under age ten, or enrolled in grades K through 3:
    - (i) the absence of a pedestrian crossing light or crossing guard where three or more streets intersect, and a pupil is expected to cross the street; OR
    - (ii) street crossings where there are no stop signs or crossing guards and the traffic count during the time that pupils are walking to or from school exceeds sixty vehicles per hour at the intersection, and a pupil is expected to cross the street.
  - b) For pupils over age ten, or enrolled in grades 4 through 12, the absence of a traffic light or stop signs or crossing guard at an intersection where three or more streets intersect which has a traffic count which exceeds ninety vehicles per hour during the time that pupils are walking to or from school, and such pupils are expected to cross the street;
  - c) For all pupils:
    - (i) any street, road, or highway with speed limits in excess of forty miles per hour which does not have pedestrian crossing lights or crossing guards or other safety provisions at points where pupils must cross when going to or from school or the bus stop; OR
    - (ii) the usual or frequent presence of any nuisance such as open man-holes, construction, snow plowed or piled on the walk area making walkways unusable, loading zones where delivery trucks are permitted to park on walkways, commercial entrances and exits where cars are crossing walking areas at speeds in excess of five miles per hour, and the like, including such nuisances which are hazardous or attractive to children.
2. Any street, road, or highway, along a designated walking route to or from school and/or to or from a designated bus pick-up area, that has no sidewalks or raised walk areas shall be deemed hazardous if any one of the following conditions exist:
  - a) For pupils under age ten, or enrolled in grade K through 3:
    - (i) any street, road, or highway possessing a traffic count of sixty or more vehicles per hour at the time that pupils are walking to or from school; OR
    - (ii) any street, road, or highway possessing a speed limit in excess of thirty miles per hour.
  - b) For all pupils:

- (i) the presence of man-made hazards including attractive nuisances, as stated in 1(c)(ii) above; OR
  - (ii) any roadway available to vehicles that does not have a minimum width of approximately twenty-two feet; OR
  - (iii) any roadway available to vehicles that, when plowed free of snow accumulations, does not have a minimum width of approximately twenty feet; OR
  - (iv) any street, road, or highway where the line-of-sight visibility together with posted speed limits do not permit vehicular braking/stopping in accordance with the Connecticut Drivers Manual or Department of Transportation, Division of Design Standard, or other reasonable standard.
- 3. Any walkway, path, or bridge, along a designated walking route to or from school and/or to or from a designated bus pick-up area, in an area adjacent or parallel to railroad tracks shall be considered hazardous unless a suitable physical barrier along the entire pedestrian route is present and fixed between pupils and the track; and any crossing of railroad tracks carrying moving trains during hours that pupils are walking to or from school or to and from a designated bus pick-up area shall be deemed hazardous unless:
  - a) a crossing guard is present; OR
  - b) for pupil under age ten, an automatic control bar is present at crossings; OR
  - c) for pupils over age ten, a bar or red flashing signal light is operational.
- 4. For pupils in grades K through 4, the following conditions shall be deemed hazardous:
  - a) a lake, pond, stream, culvert, water-way, or bridge shall be deemed a hazard in the absence of a fence or other suitable barrier fixed between the pupil and the water; OR
  - b) any area adjacent to a roadway, sidewalk, or bridge, along a designated walking route to or from school and/or to or from a designated bus pick-up area, having a drop of three or more feet per four feet of travel length on either side of the established lanes, in the absence of a fence or other suitable barrier.
- 5. For pupils in grades K through 8, walking to or from school or the bus stop at any time prior to one-half hour before sunrise or any time one-half hour after sunset shall be deemed hazardous.
- 6. For all students, walking along any street, road, walkway, sidewalk, or path designated as a walking route which passes through an area which has a history of aggressive acts of molestation resulting in actual or threatened physical harm or moral degradation during the hours when pupils ordinarily walk to or from school shall be deemed hazardous.
- 7. It shall not be a “hazard” or “hazardous condition” for a pupil whose residence abuts a public street, road or highway to (1) wait for the bus on the private property where the pupil resides for the school bus, until the school bus’s flashing red lights are activated to

stop traffic so that the student can enter onto or cross the public street, road or highway to get on a school bus; or (2) exit a school bus that is stopped on the public street, road or highway, when the bus's flashing red lights are activated to stop traffic so that the pupil can enter onto or cross such street, road or highway to access the private property where the pupil resides.

## VI. Applicability and Exceptions

1. This policy is applicable to public roads approved and maintained by the municipality or state of Connecticut, or private roads approved for passage of school transportation vehicles in accordance with C.G.S. Section 10-220c.
2. Special Education pupils and pupils eligible for accommodations under Section 504 of the Rehabilitation Act shall be judged on an individual basis, and appropriate transportation provided.
3. The Superintendent of Schools may grant an exception to any guideline set forth in this policy where a peculiar condition or combination of conditions renders such condition(s) a hazard based upon reasonable judgment; or where under the circumstances, other conditions exist under which the safety of students necessitates a variance with the guidelines within this policy.

## VII. Complaint Procedure

All complaints concerning school transportation safety shall be made in writing to the Superintendent of Schools or designee. The Superintendent or designee shall maintain a written record of all such complaints, and shall conduct appropriate investigations of the allegations in a timely manner. The investigation shall include 1) the review of the complaint raised with appropriate personnel responsible for transportation of students and 2) the opportunity for the parent or other person making the complaint to meet with the Superintendent to discuss the complaint and any possible resolution thereof. If a complaint covered by Section 10-186 of the Connecticut General Statutes, and is not resolved by the Superintendent, the Superintendent shall inform parent or guardian, or an emancipated minor or a pupil eighteen years of age or older, of his or her right to request a hearing regarding the complaint. Such hearing, if requested, shall be held in accordance with Section 10-186 of the Connecticut General Statutes, as it may be amended from time to time.

## Legal Reference:

- 10-186 Duties of local and regional boards of education re: school attendance. Hearings. Appeals to state board. Establishment of hearing board. Readmission. Transfers.
- 10-187 Appeal from finding of hearing board.
- 10-220 Duties of boards of education.
- 10-220c Transportation of children over private roads. Immunity from Liability.
- 10-221c Development of policy for reporting complaints regarding school transportation safety.



10-273a Reimbursement for transportation to and from elementary and secondary schools.

10-280a Transportation for students in non-profit private schools outside school district.

10-281 Transportation for pupils in nonprofit private schools within school district.

14-275 Equipment and color of school buses.

14-275b Transportation of mobility impaired students.

14-275c Regulations re: school buses and motor vehicles used to transport special education students.

## **Students**

### **Use of Private Technology Devices by Students**

Students may possess privately-owned technological devices on school property and/or during school-sponsored activities, in accordance with the mandates of this policy and any applicable administrative regulations as may be developed by the Superintendent of Schools.

### **Definitions**

#### **Board Technology Resources**

For the purposes of this policy, “Board Technology Resources” refers to the Board’s computers and instructional technologies; communications and data management systems; informational technologies and the Internet; and any other technology resources owned and/or used by the school district and accessible by students.

#### **Privately Owned Technological Devices**

For the purposes of the this policy, “Privately Owned Technological Devices” refers to privately owned desktop computers, wireless and/or portable electronic hand-held equipment that can be used for word processing, wireless Internet access, image capture and recording, sound recording, information transmitting and/or receiving, storing, etc. These devices may include, but are not limited to, desktops, personal laptops, Smartphones, network access devices, Kindles, Nooks, cellular telephones, radios, personal audio players, I-Pads or other tablet computers, walkie-talkies, Blackberries, personal data assistants, I-Phones, Androids and other electronic signaling devices.

### **Use of Privately-Owned Technological Devices**

Privately-owned technological devices may not be used during instructional time, except as specifically permitted by instructional staff or unless necessary for a student to access the district’s digital learning platform or otherwise engage in remote learning during the COVID-19 pandemic.

On school property, at a school-sponsored activity, while in use for a remote learning activity, or while being used to access or utilize the Board’s technology resources, the use Use of any such device for an improper purpose is prohibited. Improper purposes include, but are not limited to:

- Sending any form of harassing, threatening, or intimidating message, at any time, to any person (such communications may also be a crime);
- Gaining or seeking to gain unauthorized access to Board technology resources;
- Damaging Board technology resources;
- Accessing or attempting to access any material that is obscene or contains pornography;

- Cyberbullying;
- Using such device to violate any school rule, including the unauthorized recording (photographic, video, or audio) of another individual without the permission of the individual or a school staff member; or
- Taking any action prohibited by any Federal or State law.

### **Search of Privately Owned Technological Devices**

A student's privately owned technological device may be searched if the device is on Board property or in a student's possession at a school-sponsored activity and if there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. Any such search shall be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

### **Responsibility for Privately Owned Technological Devices**

Students are responsible for the safety and use of their privately owned technological devices. If a privately owned technology device is stolen, lost, or damaged, while the device is on school property or during a school-sponsored activity, a report should be made to the building principal, who will investigate the loss in a manner consistent with procedures for stolen or damaged personal property. Students and parents should be aware that the Board is not liable for any privately-owned technological device that is stolen, lost, or damaged while at school or during a school-sponsored activity. For that reason, students are advised not to share or loan their privately-owned technological devices with other students.

### **Disciplinary Action**

Misuse of the Board's technology resources and/or the use of privately-owned technological devices to access or utilize the Board's technology resources in an inappropriate manner or the use of such devices in any manner inconsistent with this policy will not be tolerated and will result in disciplinary action. For students, a violation of this policy may result in loss of access privileges, a prohibition on the use and/or possession of privately-owned technological devices on school property or at school-sponsored activities, and/or suspension or expulsion in accordance with the Board's policies related to student discipline.

### **Access to Board Technology Resources**

It is the policy of The Westport Board of Education to may permit students, using their privately owned technology devices, to access the Board's computers and instructional technologies; communications and data management systems; informational technologies and the Internet; and any other technology resources used by the school district and accessible by students. Additionally, it is the expectation of the Board of Education that students who access these resources while using privately-owned technology devices will act at all times appropriately in ways which are fully in accord with applicable policies concerning technology use as well as all local, state, and federal laws.

Through the publication and dissemination of this policy statement and others related to use of the Board's computer systems, as well as other instructional means, the Board educates students about the Board's expectations for technology users.

The Board technology resources shall only be used to access educational information and to promote learning activities both at home and at school. ~~The Board considers access to its technology resources to be a privilege and not a right.~~ Students are expected to act at all times appropriately in ways which are fully in accord with applicable policies concerning technology use as well as all local, state, and federal laws when using the Board technology resources. Failure to do so will result in the consequences outlined herein and in other applicable policies (including, but not limited to, the Safe School Climate Plan, the Student Discipline Policy and the Use of Computers Policy).

Students must abide by the procedures outlined in this policy and all policies and applicable regulations outlined in the Board's computer use and other applicable policies. Students will be given specific information for log-on and access procedures for using school accounts. No user may deviate from these log-on/access procedures. Students are advised that the Board's network administrators have the capability to identify users and to monitor all privately-owned technological devices while they are logged on to the network. Students must understand that the Board has reserved the right to conduct monitoring of Board technology resources and can do so despite the assignment to individual users of passwords for system security. Any password systems implemented by the Board are designed solely to provide system security from unauthorized users, not to provide privacy to the individual system user. The system's security aspects, message delete function and personal passwords can be bypassed for monitoring purposes. Therefore, students should be aware that they should not have any expectation of personal privacy in the use of privately owned technological devices to access Board technology resources. This provision applies to any and all uses of the Board's technology resources and any privately-owned technological devices that access the same.

### **Harm to Board Technology Resources**

Any act by a student using a privately-owned technological device that harms the Board's technology resources or otherwise interferes with or compromises the integrity of Board technology resources will be considered vandalism and will be subject to discipline and/or appropriate criminal or civil action.

### **Closed Forum**

This policy shall not be construed to establish a public forum or a limited open forum.

### **Legal References:**

Conn. Gen. Stat. § 10-233j

Conn. Gen. Stat. § 31-48d

Conn. Gen. Stat. §§ 53a-182; 53a-183; 53a-250, *et seq.*

Policy adopted: \_\_\_\_\_ WESTPORT PUBLIC SCHOOLS  
\_\_\_\_\_ Westport, Connecticut

## Instruction

### Policy Concerning Health and Safety Protocols Related to the COVID-19 Pandemic

The Westport Board of Education (the “Board”) recognizes the importance of developing health and safety protocols to protect the health and safety of students, staff, and the community during the COVID-19 pandemic. The Board thus directs the administration of the Westport Public Schools (the “Administration”) to develop health and safety protocols consistent with applicable laws, rules, regulations and requirements, and to consider current guidance in the development of such protocols.

Compliance with such health and safety protocols shall be mandatory for all individuals while on school property or participating in a school-sponsored activity, unless a legally recognized exemption or exception applies. Failure to comply with such health and safety protocols may lead to disciplinary action for students and staff, and exclusion from school property or the school-sponsored activity for members of the community, in accordance with applicable laws, rules, regulations, and/or Board policies.

The Administration shall provide appropriate notice of such health and safety protocols. Notice may be provided by way of electronic mail, regular mail, website posting, student handbooks, employee handbooks, and/or any other appropriate methods.

#### Legal Reference:

Connecticut General Statutes § 10-221

Adapt, Advance, Achieve: Connecticut’s Plan to Learn and Grow Together, Connecticut State Department of Education (June 29, 2020)

Policy adopted:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut

## **Instruction**

### **Electronic Resources/Internet Safety**

~~The Board of Education has installed electronic resources including but not limited to computers, a computer network, Internet access, and an e-mail system (referred collectively as “the computer systems”), in order to enhance both the educational opportunities for our students and the business operations of the district.~~ Computers, computer networks, electronic devices, Internet access, and e-mail are effective and important technological resources. The Board of Education provides has installed computers, and a computer network, including Internet access and an e-mail system, on Board premises and may provide as well as other electronic devices that can access the network such as wireless and/or portable electronic hand-held equipment that can be used for word processing, wireless Internet access, image capture and recording, sound recording, information transmitting and/or receiving, storing etc. (including, but not limited to, laptops, Kindles, radios, I-Pads or other tablet computers);. The Board’s computers, computer network, electronic devices, Internet access, and e-mail are referred to collectively as “the computer systems”; and are provided in order to enhance both the educational opportunities for our students and the business operations of the district.

These computer systems are business and educational tools. As such, they are available to students and staff in the district for education related uses. The Administration shall develop regulations setting forth procedures to be used by the Administration in an effort to ensure that such computer systems are used by students and staff solely for education related purposes.

The Board will educate minor students about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyber-bullying awareness and response. Additionally, the Board will implement a technology protection measure to block ~~or~~ filter Internet access to visual depictions that contain ~~obscene~~ material that is obscene or obscene as to minors or contains, contain child pornography, ~~or are harmful to minors~~ and ensure that such filtering technology is operative during computer use by minor students to the extent practicable when such students are using Board-owned computers or devices and Board-provided Internet access.

As the owner of the computer systems, the Board reserves the right to monitor the use of the district’s computers and computer systems.

~~Information about the Board of Education Policy on use of Electronic Resources and Internet Safety will be disseminated annually to students and parents through the distribution of the parent handbook. It will also be posted on the district website.~~

~~The principals are responsible for assuring that this policy has been publicized and disseminated to new enrollees during the school year.~~

~~Parental and administrative permission is required before students are given the privilege of using electronic information and communication resources including but not limited to websites, databases, interactive media sites, and online collaboration and publishing tools.~~

~~Students themselves, as well as parents of students under 18, are required to sign the attached Acceptable Use Agreement.~~

**P-6141.321(a)**

~~Principals are responsible for securing permission forms and agreements prior to granting students independent access to electronic resources.~~

~~The agreements are to be renewed as students enter grades three, middle school, and high school. The agreements are in effect for use of computers systems and electronic resources provided by the Westport Public Schools and for use of privately owned resources while on school properties.~~

~~Electronic resources of all formats including text, images, audio, and video are considered an extension of the classroom, and the same standards of acceptable behavior apply. Student use of electronic information and communication resources is essential for academic achievement. Abuse of these resources will result in disciplinary action.~~

**P-6141.321(b)**

## **Instruction**

### **Electronic Resources/Internet Safety**

~~Students are prohibited from using the Internet or other electronic technology whether on or off campus, to interfere with educational process in any way. Abuses and violations should be reported to the administration. In accordance with the Board of Education policies and the school's disciplinary procedures, the administrator may invoke consequences, up to and including permanent revocation of electronic resource use, additional disciplinary measures, or legal action.~~

### Legal References:

[Conn. Gen. Stat. § 10-221](#)

[Conn. Gen. Stat. §§ 53a-182b; 53a-183; 53a-250](#)

[Electronic Communication Privacy Act of 1986, Public Law 99-508, codified at 18 U.S.C. §§ 2510 through 2520](#)

[Children's Internet Protection Act, Pub. L. 106-554, codified at 47 U.S.C. § 254\(h\)](#)

[No Child Left Behind Act of 2001, Pub. L. 107-110, codified at 20 U.S.C. § 6777](#)

[Protecting Children in the 21st Century Act, Pub. Law 110-385, codified at 47 U.S.C. § 254\(h\)\(5\)\(B\)\(iii\)](#)

Policy adopted: 1997  
Policy amended: October 5, 2009  
Revised:

WESTPORT PUBLIC SCHOOLS  
Westport, Connecticut



## Bylaws of the Board

### MEETING CONDUCT

#### 1. Meeting Conduct

- A. Meetings of the Board of Education shall be conducted by the Chairperson in a manner consistent with the provisions of the Freedom of Information Act ~~and~~ the adopted bylaws of the Board, and any applicable laws, rules, executive orders, and/or public health advisories pertaining to the COVID-19 pandemic.
- B. All Board meetings shall commence at, or as close as practicable to, the stated time, provided there is a quorum.
- C. All regular and special Board meetings shall be guided by an agenda which will have been prepared and delivered in advance to all Board members and other designated persons.
- D. Robert's Rules of Order shall govern the proceedings of the Board except as otherwise provided by these bylaws.

#### 2. Smoking, Vaping, and Use of Electronic Nicotine Delivery Systems

- A. Use of tobacco, electronic nicotine delivery systems (e.g. e-cigarettes), or vapor products will not be permitted in any ~~room~~ physical location in which a meeting of the Board of Education is being conducted, nor during the time immediately prior to the meeting.
- B. When applicable, Aa sign notifying the public that no smoking is allowed in the ~~place~~ physical location designated for the meeting will be prominently posted.

#### 3. Procedures for Participation By Means of Electronic Equipment

- A. Board members may participate in meetings by means of electronic equipment (e.g., telephone, video conference) under the conditions set forth herein. When such conditions are met, any Board member participating by means of electronic equipment shall be counted for the purpose of constituting a quorum. Conditions for participation are as follows:

1. The facility that is made available to the public that wishes to attend the meeting must be located where the greatest number of Board of Education members are located;
  2. Any physical or demonstrable material that is used in the course of the proceedings must be present in the place where the public is located; and
  3. All those in attendance at the meeting, at whatever location, must be able to hear and identify all participants in the proceeding, including their individual remarks and votes.
- B. When a Board member is participating in a meeting by means of electronic equipment, the Chairperson shall take the necessary steps to ensure that the three conditions enumerated above are met. In addition, the Chairperson shall take the necessary steps to ensure that a Board member participating by means of electronic equipment has adequate opportunity to express himself/herself in Board discussion, including the opportunity to take the floor and make motions.
- C. Notwithstanding any provisions to the contrary set forth in Sections 3.A and 3.B above, Board members may participate in meetings by means of electronic equipment (e.g., telephone, video conference) or any other remote platform as permitted by, and subject to any conditions set forth in, any applicable law, rule, executive order, and/or public health advisory related to the COVID-19 pandemic.

#### 34. Public Address

- A. The Board may permit any town resident or employee to address the Board concerning any subject that lies within its jurisdiction during a portion of the Board's regular meetings so designated for such purpose.
- (1) Two (2) minutes may be allotted to each speaker on non-agenda items and three (3) minutes on agenda items with a maximum of fifteen (15) minutes on non-agenda items. The Board may modify these limitations at the beginning of a meeting if the number of persons wishing to speak makes it advisable to do so.
  - (2) A Board of Education member shall be appointed by the Chairperson prior to the meeting to act as timekeeper for the meeting, if deemed necessary by the Chairperson.
  - (3) No boisterous conduct shall be permitted at any Board of Education meeting. Persistence in boisterous conduct shall be grounds for summary termination, by the Chairperson, of that person's privilege of address.
  - (4) All speakers must identify themselves by name and address.

B. Notwithstanding any provisions to the contrary set forth in Section 4.A above or in any other bylaw of the Board, the Board may modify the procedures for, or eliminate, public address if Board meetings are conducted remotely due to the COVID-19 pandemic. The Board authorizes the administration to develop procedures for public address during Board meetings that are conducted remotely.

#### Legal References:

##### Connecticut General Statutes

- 1-200 Definitions
- 1-206 Denial of access of public records or meeting. Notice. Appeal.
- 1-225 Meetings of government agencies to be public.
- 1-232 Conduct of meetings. (re: disturbances)

Freedom of Information Commission Advisory Opinion #41 (April 9, 1980)

Bylaw adopted by the Board: November 11, 2019

Revised:

WESTPORT PUBLIC SCHOOLS

Westport, Connecticut



Please share this  
informative  
publication with  
your Policy  
Review  
Committee



## Policy Update Service

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This third issue of the *Policy Update* for the 2020-2021 school year includes topics of current interest.

## Policy Topics

- A. Continuous Improvement
- B. Paid Family and Medical Leave Act (P.A. 19-25)
- C. Resolution to the Rogue School Board Member
- D. Board Member's Standard/Code of Conduct
- E. Free Speech Rights of Employees

**SAMPLE POLICIES & REGULATIONS ARE INCLUDED.**

# PLEASE NOTE:

Sample policies are distributed for demonstration purposes only. Unless so noted, contents do not necessarily reflect official policies of the Connecticut Association of Boards of Education.

The Update Service is a subscription service which provides a brief discussion of current policy issues of concern to Connecticut school districts. Sample policies, which reflect changes in state and federal law and judicial action affecting policy, are part of the newsletter.

The sample policies are intended to provide a basis for drafting policy which meets the needs of the local school district. The samples should always be considered as open to modification nor do they replace the advice of the district's legal counsel. Rarely does one policy statement reflect the needs and concerns of all districts.

To make the best use of the Update Service, it is suggested that a discussion on the various issues be held. The sample policies should be used to determine the areas for which policy should be developed or revised, to get ideas for what a policy should contain and as a starting point for editing, modifying and discussing the local district's positions.

If you have questions about Update Service, sample policies or about policy in general, please call CABE Policy Services Department at (860) 571-7446 or (800) 317-0033.

## *Does your Policy Manual need a Spring Cleaning?*



Let CABE dust the cobwebs off and develop a policy manual specifically for your district.

For more information, contact CABE's Policy Department.



# CONTINUOUS IMPROVEMENT

~PAGE 1~

UPDATE MAILING NO. 3

APRIL 23, 2021

Improving the quality of K-12 education in America remains a high priority. Achieving desired outcomes is crucial to improving education. Further, the processes that make those outcomes possible are also important. Continuous improvement is a promising approach that educators can use to achieve improved outcomes. The approach has a history of success in the healthcare, manufacturing and technology fields. However, education has been slower to incorporate the practice of continuous improvement. Impressive results have been achieved by school districts utilizing the approach.

*Education Week*, in its November 3, 2020 issue, stated “Continuous school improvement is a cyclical process intended to help groups of people in a system – from a class to a school district or even a network of many districts – set goals, identify ways to improve, and evaluate change in a sort of continuous feedback loop. It has quickly become a buzzword in K-12 policy and practice, as states, districts, and schools strive for systemic, long-term gains in student achievement, instead of looking for the next, shiniest silver bullet.”



“Continuous improvement” has been a part of the educational vocabulary for many years. It has been used to refer to efforts to improve instruction, district and school improvement plans, and state accountability systems. Continuous improvement is not new, being grounded in systems thinking from the late 1930s. Results of such efforts have left much to be desired. Regretfully, zip codes remain a strong predictor of student success because of the continuing impact of poverty on school quality.

The principles of continuous improvement are straightforward, but putting them into practice has proven challenging because of the many pressures impacting school districts. Yet, Phi Delta Kappa, through its AdvancED Improvement Network, has shown in more than 34,000 schools and school systems across the country and worldwide that continuous improvement systems can improve outcomes for schools and for students. Observations in more than 250,000 classrooms in the Network demonstrated strong relationships between effective continuous improvement practices and high performance.

The continuous improvement cycle consists of the general components of assess, analyze, adjust and repeat. Schools and other educational institutions are considered “living systems” comprised of various interconnected parts both inside and outside of the institutions, consisting of classrooms, teachers, students, leaders, and outside stakeholders. A basic premise of continuous improvement is that the success of the organization is related to its ability to make sense of these interconnected elements.

Mark Elgart, in an article in *Phi Delta Kappan*, stated, “An effective continuous improvement system in a school system emphasizes the learner’s experience, stakeholder engagement, and data collection and analysis to guide and inform both planning and executing a school’s improvement journey.” He adds that continuous improvement is defined as “an embedded behavior within the culture of a school that constantly focuses on the conditions, processes, and practices that will improve teaching and learning.”



# CONTINUOUS IMPROVEMENT

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It has also been referred to as a school's or district's ongoing commitment to quality improvement efforts that are evidence-based, integrated into the daily work of individuals, contextualized within a system and iterative, i.e., a series of steps that are repeated to achieve a given result. (Park et al. 2013) In classrooms, continuous improvement may refer to using timely and accurate data to regularly inform and to improve teacher practice. At a school or district level the practice may refer to ongoing efforts to improve operational practices and processes related to efficiency, effectiveness, and student outcomes. In all cases, continuous improvement involves a cyclical approach to problem solving. There are multiple continuous improvement models built on this same basic cycle.

One long-standing model, "Plan, Do, Study, Act (PDSA)" illustrates the continuous improvement process.

The PDSA cycle is a four-step process that is useful in guiding continuous improvement to test a change practice in a real-world setting. Once the Improvement Team has defined the problem and sets an aim, it can use the cycle to guide rapid learning through four steps that are repeated as part of an ongoing cycle of improvement.

## Plan-Do-Study-Act (PDSA) Cycles

- **Plan.** A Continuous Improvement Team studies a problem that needs to be solved, collects data on that problem, elaborates potential solutions to that problem and develops an action plan. This may include formulating a theory about why the specific change practice selected might make a difference or hypothesizing about what outcomes are expected. During this step the team will also define the metrics for assessing implementation and outcomes of the specific change practice.
- **Do.** The team implements the action plan and collects data on its intervention, and records developments. During this step a specific change practice is tested. Some initial data analyses may also take place during this step.
- **Study.** The team gauges the success of the intervention by comparing baseline and new data, analyzes results, and documents lessons learned. In this step participants use a guided protocol to examine the data and consider the extent to which the specific targets or objectives for the previous step were met. During this step the Improvement Team compares the data with the predictions or hypotheses put forward in the Plan step to see whether there are signs of progress toward the aim or problems or areas worthy of further consideration or modifications.
- **Act.** The team determines what to do with the results. Depending on the success of its intervention, the team may choose to adopt, adapt, or abandon its tested solution.

This last step integrates all the learning that was generated throughout the process, which can be used to adjust the tools or processes being tested or to further the objectives or targets; to formulate new theories or predictions; and to make changes to the overarching aim. In this step participants may be ready to implement the change practice more broadly, or they may require another test in a different context or with other variables. Then the cycle begins again. Often, multiple PDSA cycles are necessary to determine whether a change practice is resulting in improvement. Each cycle builds on the previous cycle as evidence builds about the implementation and outcomes of the change.





## CONTINUOUS IMPROVEMENT

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After completing one cycle, the team begins a new cycle to test different solutions or address new problems.

Jane Best and Allison Dunlap, in "Continuous Improvement in Schools and Districts: Policy Considerations" provided that allowing for continuous improvement in schools and districts at the policy level requires consideration of numerous factors, including the following:

**1. Fewer, Specific, and Measurable**

**Goals:** Schools with improvement projects frequently include more goals and action items than can be realistically implemented. A continuous improvement approach involves addressing fewer problems more effectively by systematically testing potential solutions against specific, measurable goals. Focusing on fewer goals at a time and later concentrate on others may achieve better results in the long term. The challenge with reducing the number of goals that schools must reach, of course, is the high number of competing demands that schools currently manage. Reducing the number of goals as feasible, can support continuous improvement efforts.

**2. Flexibility:** A continuous improvement approach to problem solving requires using rapid prototyping to test evidence- and context-based solutions. Participants must research evidence-based solutions; select one to implement; and adapt, adopt, or abandon that solution based on evaluation results. Such a process requires that schools and districts have the flexibility to take risks, test various possible solutions, and adjust programs midcourse.

**3. Time:** The continuous improvement process requires time to research and introduce new instructional strategies;

teachers may need to collaborate with and observe other educators, and others may need to monitor progress and collect data. Allowing schools and districts the time necessary to implement programs using a continuous improvement approach may increase the likelihood of successful implementation.

**4. Data Use and Capacity:** Participants in continuous improvement processes must collect and use data to evaluate the efficacy of interventions, make midterm corrections, and plan future actions. Such data must be timely, useful, reliable, and easily available. All involved must have the capacity to understand and use data. Policy needs to allow for the creation of reliable data collection systems and training for relevant parties on how to use data.

**5. Evaluation:** Participants must regularly evaluate the efficacy of their interventions. Continuous improvement requires that evaluation occurs throughout a program and allows for midcourse corrections and changes. Designing policy to provide for evaluation from the beginning of a program, the collection of baseline data, and the flexibility to implement midcourse corrections based on evaluation results can help make interventions in schools and districts more effective.

**6. Leadership:** Leaders play a crucial role in successful continuous improvement efforts. Successful leaders use a formal improvement methodology, create a vision for improvement, enable others to pursue that vision, and monitor progress toward goals. Policy that provides for the training of school and district leaders in continuous improvement may help those leaders successfully incorporate continuous improvement into their work.



# CONTINUOUS IMPROVEMENT

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**7. Knowledge Sharing:** Successful continuous improvement efforts require that knowledge is shared across different parts of organizations. Teachers in continuously improving systems share best practices with their peers and leaders, leaders share with their teachers and educators in other schools, and districts share with their schools and other districts. Knowledge-sharing policies, both those that focus within and across schools and districts, help support continuous improvement efforts.

**8. Capacity Building and Stakeholder Investment:** Introducing continuous improvement to schools may require a major cultural shift. It requires new practices to be incorporated into the daily work of all participants. Further, organizational structures may need to change. Stakeholder investment, fostered by the inclusion of student, educator and community input increases the likelihood that the interventions will be successful. Policy must allow staff training and promote shared decision making.

The following is excerpted from *“Continuous Improvement in Education: A Toolkit for Schools and Districts,”* a publication of the National Center for Education Evaluation and Regional Assistance at IES, Regional Educational Laboratory Northeast & Islands, by K. Shakman, D. Wogan, S. Rodriguez, J. Boyce, and D. Shaver, October 2020.

Continuous improvement is premised on three core principles about how sustainable change is achieved:

1. Change takes time and involves collective effort.
2. Change is context-specific and therefore requires constant adaptation, data collection, and learning.

3. Focusing on a series of small changes, combined with ongoing evidence collection and review, can lead to large-scale change.

Continuous improvement processes engage key players in a system to focus on a specific problem of practice and, through a series of iterative cycles, identify and test change practices, make predictions, collect data about the change practices, and study the potential influence of those change practices on outcomes of interest, such as student attendance or math performance. Through these cycles the members of the system build their capacity to test proposed change practices; refine those change practices based on evidence; and increase the scale, scope, and spread of a change effort over time.

Different terms such as “improvement science,” “quality improvement,” and “performance management” are used to represent continuous improvement philosophies and practices. Continuous improvement models and approaches include various approaches.

The various approaches share the common trait that they offer a systematic process through which practitioners can engage in identifying needs, defining the problem, implementing new or modified practices, collecting data, and reflecting. In addition, continuous improvement approaches can help practitioners implement existing evidence-based strategies by examining the results of the strategies at regular, short-term intervals in their own context. The continuous improvement process provides a set of tools and routines for adapting and refining evidence-based strategies to address local needs.

Most of the continuous improvement methods in use today stem from work by W. Edward Deming and others in industry in the mid-20th century and remain prevalent in manufacturing and other industries to improve products, processes, and services.



# CONTINUOUS IMPROVEMENT

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Continuous improvement approaches have also been widely used in healthcare for many years. Recently, education and human services have turned to continuous improvement approaches to improve outcomes for children, families, and adults.

Continuous improvement approaches have been used in healthcare to improve customer service to patients, reduce medication errors, reduce the number of ventilator days for intensive care patients, and reduce patient waiting time. In education, improvement science has been used, for example, to improve college credit accumulation in math and to reduce teacher turnover. While the research on the effectiveness of continuous improvement in education is limited, continuous improvement holds promise as a way to support schools and districts in engaging in systematic processes to support change practices that have the potential to improve teaching and learning.

The Model for Improvement refers to the three essential questions that guide the continuous improvement process:

***What problem are we trying to solve?*** For a school, district, or organization to improve, key participants must set clear and specific goals derived from a clear articulation of a problem or issue that requires attention. In defining the problem, participants identify an objective (the aim statement) that they intend to accomplish through the continuous improvement effort. The aim statement should target a specific population, be time specific, and be measurable. The aim statement goes beyond the overall focus that the CI leader has identified as part of pre-planning and recruitment.

***What change might we introduce and why?*** Continuous improvement requires key participants to develop, test, and implement change practices.

Selecting, testing, and implementing these change practices – for example, by trying out new protocols or processes – are at the core of continuous improvement.

***How will we know that a change is an improvement?*** An essential part of continuous improvement is examining whether the change practice has in fact addressed the problem and made some meaningful improvement. Clear and specific measures to capture both the processes and the outcomes are therefore at the heart of continuous improvement. The Improvement Team sets measurable targets and then collects and analyzes data to determine whether progress is being made toward those targets.

What is the right context for implementing continuous improvement? Continuous improvement can be used with a team of practitioners who have a common challenge, which can be quite broad, such as below grade-level math performance among all or a subgroup of students, or more specific, such as low student engagement in literature discussions. Employing the strategies that are part of continuous improvement can help the Improvement Team, which may include teachers, curriculum coordinators, content coaches, principals, and others, further refine the problem and generate ideas to address it. In a school or school district, educators face many problems for which continuous improvement may be appropriate.

## Policy Implications

A new policy, #0500.1, “Strategic Planning for Continuous Improvement,” with an accompanying regulation has been developed and follow for your consideration and use. This is considered an optional policy for inclusion in the district’s policy manual.

April 2021

*A sample policy to consider.*

## **Mission - Goals - Objectives**

### **Comprehensive Improvement Plans/Schedules**

#### **Strategic Planning for Continuous Improvement (Version #1)**

##### **I. Purpose**

The Board of Education is committed to strategic planning for continuous improvement in order to meet the established goals of the Strategic Plan. In cooperation with the Superintendent, key performance indicators will be mutually agreed on in order to monitor key metrics and desired results. The Board and Superintendent will ensure that the budget process is aligned with the Strategic Plan.

*Alternate Language:* The purpose of this policy is to ensure the principles and practices of continuous improvement are implemented throughout the District, including at school, classroom and District-wide department levels.

##### **II. Definitions**

- a. **Strategic Plan:** The overall guiding principles for accomplishing an organization's mission and vision.
- b. **Continuous Improvement:** A systems management process that involves an on-going effort to improve various outcomes, using accurate data, thorough analysis, reflection, documented processes and accountability.

*Alternate Definition:* A continuous improvement process is the process by which districts and schools determine what is working and what needs to change; establish a process to engage stakeholders to effect change; leverage effective practices to implement a plan; and use data to monitor and make timely adjustments to improve outcomes. The process results in the development of an ambitious, priority-driven action plan where routine collaboration and decision-making among district and school leaders is reflected throughout implementation.

*Alternate Definition:* Continuous school improvement is a cyclical process intended to help groups of people in a system, from a class to a school district or even a network of many districts, set goals, identify ways to improve, and evaluate change.

- c. **Shared Leadership:** District level and building level leaders in collaboration with District stakeholders form shared leadership teams to assist in the implementation of the Strategic Plan, to annually create and deploy building-level, aligned School Continuous Improvement Plans (SCIP) and assist in developing aligned professional development opportunities.

## Mission - Goals - Objectives

### Comprehensive Improvement Plans/Schedules

#### Strategic Planning for Continuous Improvement (*Version #1*)

## II. Definitions (continued)

- d. **Dashboard of Key Performance Indicators:** District-level metrics aligned to each area of the strategic plan. The dashboard should be reviewed at least annually, and periodically as necessary, to inform goals, align resources and monitor the progress of the Strategic Plan.
- e. **Malcolm Baldrige Education Criteria for Performance Improvement:** This criterion provides a valuable framework for performance excellence and can help assess and measure performance on a wide range of key institutional performance indicators. The self-assessment identifies strengths and opportunities for improvement in each of seven criteria areas.
- f. **Plan, Do, Study, Act (PDSA):** The PDSA is a four step process useful in guiding continuous improvement to test a change practice. A problem is identified, an aim is established and the cycle is used to guide learning through four steps that are repeated as part of an ongoing cycle of improvement.

## III. General Statement of Policy

The process of continuous improvement will be implemented by the Board of Education, Superintendent, and throughout the District, including departments, schools, and classrooms, to achieve the Strategic Plan. Such plan will contain the major goal areas of (1) student success, (2) school climate, (3) premier workforce, and (4) resource stewardship.

**Alternate Language:** Implementation of the principles and practices of continuous improvement will maintain a focus on the needs of students and stakeholders and examine key student and stakeholder requirements to define the strategic direction of the District. Guided by this philosophy, District leadership will use data from a variety of sources, including, but not limited to, satisfaction data, to develop aims, goals, measures and results.

**Alternate Language:** The Board expects that the District and each school be engaged in a process of continuous improvement. This process is an avenue for the District and its schools to report on and monitor its work. Through such a process, the District and the schools reflect on their goals, assess their progress and strategies and refine their approach as necessary. The desired end result is a roadmap for achieving excellence.

## Mission - Goals - Objectives

### Comprehensive Improvement Plans/Schedules

#### Strategic Planning for Continuous Improvement (*Version #1*) (continued)

The Board's view of continuous school improvement is that this cyclical process looks at problems as part of a system, not as isolated episodes; works to improve policies and processes within that system; repeatedly tests assumptions about the causes of problems and their possible solutions; and involves those most affected by changes in deciding what steps or changes to make. This cyclical process involves the following:

- The mission, philosophy, vision and core beliefs of \_\_\_\_\_ Public Schools will be reflected in the District's strategic planning process;
- The Strategic Plan will align with the needs and requirements of students and stakeholders;
- Data from a variety of sources, including satisfaction and performance data, will be used to ensure continuous improvement, develop targets and measures, and report results;
- A process/program, such as the Baldrige Criteria for Performance Excellence, will be used to promote leadership; strategic planning; students; stakeholder and community focus; measurement analysis and knowledge management; workforce focus; process management; and desired results;
- A multi-year plan will be established to describe the goals of the District and strategies used to reach the goals; the plan will guide the development and improvement of new and existing processes, strategies, and initiatives to ensure that all students receive a high level, world class education;
- School Continuous Improvement Plans will be established annually in each school building through Shared Leadership Teams;
- Budget priorities will be based on and aligned to the Strategic Plan; and
- The dashboard of Key Performance Indicators will be reviewed annually by the Board of Education and available to all stakeholders.

(cf. 0500 – Comprehensive Improvement Plans/Schedules)

Legal Reference: Connecticut General Statutes

10-220 Duties of boards of education

Policy adopted:

cps 4/21

*Another version of this sample policy to consider.*

## **Mission - Goals - Objectives**

### **Comprehensive Improvement Plans/Schedules**

#### **Strategic Planning for Continuous Improvement (Version #2)**

The Board of Education (Board) recognizes that it plays an important role in establishing and promoting a clear vision of student achievement. It is the policy of the Board to establish annually a Continuous Improvement Plan (CIP) for the district as a whole, as well as individual CIPs for each District school. These plans must be based on student achievement and shall set forth goals and associated resources needed to improve student performance.

The Superintendent will ensure development and implementation of a comprehensive, collaborative planning process that engages the school community in the District's continuous student achievement improvement program efforts.

The major steps in this planning process includes the following:

- I. Set the Direction/Vision
- II. Assess Needs
- III. Create a Strategic Plan
- IV. Implement the Strategic Plan
- V. Monitor Work, Adjust, and Provide Feedback Loops

The District's program will be consistent with Connecticut Department of Education requirements and reflected in school and District improvement plans.

The Board, in striving for continuous improvement of student achievement, will annually review District and individual school data on student achievement, and prioritize, allocate and realign resources as necessary.

(cf. 0500 – Comprehensive Improvement Plans/Schedules)

Legal Reference: Connecticut General Statutes

10-220 Duties of boards of education

Policy adopted:  
cps 4/21

*An administrative regulation to consider.*

## **Mission - Goals - Objectives**

### **Comprehensive Improvement Plans/Schedules**

### **Strategic Planning for Continuous Improvement**

### **Core Principles**

Continuous improvement is premised on three core principles about how sustainable change is achieved:

1. Change takes time and involves collective effort.
2. Change is context-specific and therefore requires constant adaptation, data collection, and learning.
3. Focusing on a series of small changes, combined with ongoing evidence collection and review, can lead to large-scale change.

Different terms such as “improvement science,” “quality improvement,” and “performance management” represent continuous improvement philosophies and practices. Continuous improvement models include various approaches.

### **The Context for Implementing Continuous Improvement**

Continuous improvement can be used with a team of practitioners who have a common challenge, which can be quite broad, such as below grade-level math performance among all or a subgroup of students, or more specific, such as low student engagement in literature discussions. Employing the strategies that are part of continuous improvement can help the Improvement Team, which may include teachers, curriculum coordinators, content coaches, principals, and others, further refine the problem and generate ideas to address it. In a school or school district, educators face many problems for which continuous improvement may be appropriate.

### **Approaches to Continuous Improvement**

The various approaches share the common trait that they offer a systematic process through which practitioners engage in identifying needs, define the problem, implement new or modified practices, collect data, and reflect. In addition, continuous improvement approaches can help practitioners implement existing evidence-based strategies by examining the results of the strategies at regular, short-term intervals in their own context.

Continuous improvement is the District’s and school level ongoing commitment to quality improvement efforts that are evidence-based, integrated into the daily work of individuals, contextualized within a system and iterative. In classrooms, continuous improvement refers to using timely and accurate data to regularly inform and to improve teacher practice and student performance. At the school and district level the practice refers to ongoing efforts to improve operational practices and processes related to efficiency, effectiveness, and student outcomes.



## Mission - Goals - Objectives

### Comprehensive Improvement Plans/Schedules

### Strategic Planning for Continuous Improvement

### Approaches to Continuous Improvement (continued)

In all cases, continuous improvement involves a cyclical approach to problem solving. There are multiple continuous improvement models built on this same basic cycle which may be used. The long-standing model, “Plan, Do, Study, Act (PDSA)” illustrates the continuous improvement process.

The PDSA cycle is a four-step process used in guiding continuous improvement to test a change practice. Once the Improvement Team has defined the problem and set an aim, the cycle is used to guide rapid learning through four steps that are repeated as part of an ongoing cycle of improvement.

### Plan-Do-Study-Act (PDSA) Cycles

- **Plan.** A Continuous Improvement Team will study a problem that needs to be solved, collect data on that problem, elaborate potential solutions to that problem and develop an action plan. This may include formulating a theory about why the specific change practice selected might make a difference or hypothesizing about what outcomes are expected. During this step the team will also define the metrics for assessing implementation and outcomes of the specific change practice.
- **Do.** The team will implement the action plan and collect data on its intervention, and record developments. During this step a specific change practice is tested. Some initial data analyses may also take place during this step.
- **Study.** The team will gauge the success of the intervention by comparing baseline and new data, analyze results, and document lessons learned. In this step participants will use a guided protocol to examine the data and consider the extent to which the specific targets or objectives for the previous step were met. During this step the Improvement Team will compare the data with the predictions or hypotheses put forward in the Plan step to see whether there are signs of progress toward the aim or problems or areas worthy of further consideration or modifications.
- **Act.** The team will determine what to do with the results. Depending on the success of its intervention, the team may choose to adopt, adapt, or abandon its tested solution.

This last step integrates all the learning that was generated throughout the process, which can be used to adjust the tools or processes being tested or to further the objectives or targets; to formulate new theories or predictions; and to make changes to the overarching aim. In this step participants may be ready to implement the change practice more broadly, or they may require another test in a different context or with other variables.

## Mission - Goals - Objectives

### Comprehensive Improvement Plans/Schedules

### Strategic Planning for Continuous Improvement

### Plan-Do-Study-Act (PDSA) Cycles (continued)

- **Act.** (continued) Then the cycle will begin again. Often, multiple PDSA cycles may be necessary to determine whether a change practice is resulting in improvement. Each cycle builds on the previous cycle as evidence builds about the implementation and outcomes of the change.

After completing one cycle, the team begins a new cycle to test different solutions or address new problems.

### Essential Questions

The Model for Improvement refers to the three essential questions that guide the continuous improvement process:

1. ***What problem are we trying to solve?*** Participants in the process must set clear and specific goals derived from a clear articulation of a problem or issue that requires attention. In defining the problem, participants identify an objective (the aim statement) that they intend to accomplish through the continuous improvement effort. The aim statement should target a specific population, be time specific, and be measurable.
2. ***What change might we introduce and why?*** Continuous improvement requires participants to develop, test, and implement change practices. Selecting, testing, and implementing these change practices, for example, by trying out new protocols or processes, are at the core of continuous improvement.
3. ***How will we know that a change is an improvement?*** An essential part of continuous improvement is examining whether the change practice has in fact addressed the problem and made some meaningful improvement. Clear and specific measures to capture both the processes and the outcomes are at the heart of continuous improvement. The Improvement Team will establish targets and then collect and analyze data to determine whether progress is being made toward those targets.

Regulation approved:

cps 4/21



## PAID FAMILY & MEDICAL LEAVE (P.A. 19-25)

~PAGE 1~

UPDATE MAILING NO. 3

APRIL 23, 2021

P.A. 19-25, "An Act Concerning Paid Family and Medical Leave" was passed in the 2019 session of the General Assembly and signed into law by the Governor. The Act created the Family and Medical Leave Insurance (FMLI) program to provide wage replacement benefits to certain employees taking leave for reasons allowed under the state's (1) Family and Medical Leave Act (FMLA), which the Act also amends, or (2) family violence leave law.

The Act is very long and a large section of it pertains to the manner in which the State will set up and run the program. This review will pertain mainly to the benefit program itself as applicable to private sector employees and those in the public sector, such as boards of education, whose bargaining units negotiated for inclusion in the program.



The law covers private sector employees, non-union State employees, as well as unionized municipal and local and regional board of education employees whose bargaining units have negotiated inclusion in the paid leave program. In situations where unionized public employees have negotiated inclusion, non-union employees for those employers would also be covered.

It provides them with up to 12 weeks of FMLI benefits over a 12-month period. The program also provides two additional weeks of benefits for a serious health condition that results in incapacitation during pregnancy. Under the Act, individuals eligible for benefits are those who earned at least \$2,325 during their highest earning quarter within their base period (i.e., the first four of the five most recently completed quarters) and

(1) are private-sector employees or certain "covered public employees," (2) were employed in the previous 12 weeks by a covered employer, or (3) are sole proprietors or self-employed people who voluntarily enroll in the program.

The program is funded by employee contributions, and collections began in January 2021. The Paid Family and Medical Leave Insurance Authority (i.e., "authority"), which the Act creates, must annually determine the employee contribution rate, which cannot exceed 0.5% of an employee's "subject earnings." The Act caps the amount of an employee's earnings that is subject to FMLI contributions at the same amount that is subject to Social Security tax. A covered employee's weekly benefits under the program are generally calculated as 95% of his or her average weekly wage, up to 40 times the state minimum wage, plus 60% of his or her average weekly wage that exceeds 40 times the minimum wage, with total weekly benefits capped at 60 times the minimum wage.

If employee contributions are at the maximum rate allowed and the authority determines that they are insufficient to ensure the program's solvency, the Act requires it to reduce the benefit by the minimum amount needed to ensure the program's solvency. The Act allows employers to alternatively provide benefits through a private plan, which must provide their employees with at least the same level of benefits under the same conditions and employee costs as the FMLI program. Private plans must meet certain requirements for approval, and employees covered by an employer's private plan do not have to contribute to the FMLI program.



The Act establishes the authority as a quasi-public agency to develop and administer the program. It creates a 15-member board of directors for the authority and requires it to, among other things, develop written procedures to implement the program in accordance with the law governing the adoption of procedures by quasi-public agencies. The Act authorizes the authority to (1) design the process by which covered employees will make contributions to the program; (2) adopt procedures for (a) determining a covered employee's benefits eligibility, (b) establishing the program's contribution rate, and (c) certifying the program's solvency; (3) enter into contracts as needed; and (4) take various other actions related to implementing and administering the program.

The Act establishes the FMLI Trust Fund, administered by the state treasurer, to hold employee contributions and pay FMLI benefits and the program's administrative costs. It requires that any funds expended from the General Fund to administer the program or provide benefits be repaid by October 1, 2022.

Starting on January 1, 2022, the Act also changes various provisions of the state's FMLA, which generally requires certain private-sector employers to provide job-protected, unpaid leave to employees for various reasons related to their health or their family members' health.

#### **Covered Employees and Employers (§§1 & 9)**

Under the Act, "covered employees" (i.e., those eligible for benefits) are individuals who earned at least \$2,325 during their highest earning quarter within their base period (i.e., the first four of the five most recently completed quarters) and (1) are employed by an employer with at least one employee, (2) were employed by an

employer in the previous twelve weeks, or (3) are sole proprietors and self-employed people who live in the state and voluntarily enroll in the program.

"Employers" under the Act are private-sector employers (except nonpublic elementary or secondary schools) with at least one employee. The state, municipalities, and local or regional boards of education are also "employers" under the Act, but only for each of their "covered public employees." Covered public employees are (1) state employees (i.e., individuals employed in state service) who are not in a collective bargaining unit and (2) state, municipal, or local or regional board of education (BOE) employees whose exclusive collective bargaining agent negotiates inclusion in the program. Once a municipal employer or BOE negotiates inclusion in the program for one of its bargaining units, any of the municipality's or BOE's employees (as appropriate) who are not part of a collective bargaining unit also become covered public employees.

#### **Employee Contributions (§§1 & 3)**

Starting on January 1, 2021, and not later than February 1, 2021, the Act requires each private-sector employee (except nonpublic elementary or secondary school employees), covered public employees, and self-employed individuals and sole proprietors who opt into the program to contribute a percentage of their "subject earnings" to the FMLI Trust Fund.

"Subject earnings" are total wages, as defined in the state's unemployment law (i.e., all remuneration for employment and dismissal payments), or self-employment income as defined in the federal tax law, up to the amount of earnings subject to Social Security tax.



### Contribution Rate and Adjustments

The Act requires the authority to establish the contribution rate but caps it at 0.5% of subject earnings. It caps a person's subject earnings at the Social Security contribution base (i.e., amount of earnings subject to Social Security tax, currently \$132,900).

The Act allows the authority, annually beginning November 1, 2022, to announce a revision to the contribution rate, subject to the 0.5% cap, that must be sufficient to ensure that the trust fund will achieve and maintain the target fund balance. The new contribution rate supersedes the previous rate and becomes effective on the following January 1.

### FMLI Benefits (§3)

Starting on January 1, 2022, and no later than February 1, 2022, the Act requires that the program begin paying FMLI benefits to covered employees who (1) provide notice to the authority and, if applicable, the employee's employer, about the need for benefits in a form and manner prescribed by the authority and (2) provide certification, upon the authority's request, about their need for leave and compensation. The certifications must be provided in the same manner the state FMLA requires for medical certifications. Under the Act, the program must provide up to 12 weeks of FMLI benefits to covered employees during any 12-month period, plus two additional weeks of benefits for a serious health condition resulting in incapacitation that occurs during a pregnancy. In addition, the Act allows two spouses employed by the same employer to each be eligible for up to 12 weeks of benefits in any 12-month period. It specifies that this eligibility for benefits does not increase their eligibility for job-protected leave beyond what is allowed under the state's FMLA (which generally requires an employer to provide such spouses with 12

weeks of leave in the aggregate). The Act allows a covered employee to receive FMLI benefits for leave taken for the same reasons allowed under the state's FMLA, which the Act also amends, or family violence leave law.

### Benefit Uses Under FMLA

Under the FMLA, as amended by the Act, eligible employees may take leave:

1. on the birth of the employee's son or daughter;
2. on the placement of a son or daughter with the employee for adoption or foster care;
3. for a spouse's, son's, daughter's, parent's, or other family member's serious health condition;
4. for the employee's own serious health condition;
5. to serve as an organ or bone marrow donor;
6. for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty; and
7. under certain circumstances when certain family members are in the armed forces and on active duty or have been notified of an impending call or order to active duty.

Since the Act also adds to the family members for whom an employee can take FMLA leave (see §§17-22 below), FMLI benefits must also be available for leave taken with respect to these family members. Under the Act, the added family members include the employee's siblings, grandparents, grandchildren, and anyone else related by blood or affinity who has a close association with the employee that the employee shows to be the equivalent of spouse, sibling, son or daughter, grandparent, grandchild, or parent.



The Act allows the program to begin paying benefits for parental bonding leave (i.e., for the birth, adoption, or foster placement of an employee's child) before it begins paying benefits for the other types of leave, if the authority determines that it is administratively feasible and prudent.

### **Benefit Uses Under Family Violence Leave Law**

The family violence leave law allows leave for family violence victims to (a) seek medical care or psychological counseling, (b) obtain services from a victim services organization, (c) relocate because of family violence, or (d) participate in any civil or criminal proceeding related to, or resulting from, the family violence.

Total benefits cannot exceed 60 times the minimum wage (i.e., \$606 currently). Under the Act, if a covered employee elects to have income taxes deducted and withheld from his or her benefits, the amount specified must be deducted and withheld in a way consistent with state law. The Act allows covered employees to receive benefits for nonconsecutive hours of leave and requires that benefits be available on a prorated basis. Employees may also receive FMLI benefits concurrently with any employer provided employment benefits as long as their total compensation while they are on leave does not exceed their regular compensation rate.

Under the Act, no employees can receive FMLI benefits concurrently with unemployment compensation benefits, workers' compensation benefits, or any other state or federal program that provides wage replacement benefits.

### **Private Plan Option (§11)**

The Act allows an employer to apply to the authority for approval to meet its obligations under the program through a private plan,

which the authority must evaluate in coordination with the Insurance Department, as appropriate. If the plan is self-insured, the employer must also provide a surety bond to the state from a surety company authorized to do business in the state as a surety. The Act allows the authority to withdraw its approval of a private plan when the plan's terms or conditions have been violated.

### **Expanded Family Members (§§17-18)**

Until January 1, 2022, the law allows employees to take leave for their own serious health condition or to provide care for the serious health condition of their (1) children who are either younger than age 18 or unable to care for themselves, (2) spouses, or (3) parents (including in-laws). Starting January 1, 2022, the Act expands the family members for whom an employee can take leave to include the employee's siblings, grandparents, grandchildren, and adult children. All of these family members include those related by adoption and through foster care. Siblings, grandparents, and grandchildren also include those related by marriage. The Act also allows an employee to take leave to care for anyone else with a serious health condition if they are related by blood or affinity and have a close association with the employee that the employee shows to be the equivalent of spouse, sibling, son or daughter, grandparent, grandchild, or parent.

### **Maximum Leave Duration (§18)**

Starting January 1, 2022, the Act changes the maximum amount of leave to which an eligible employee is entitled from 16 weeks over a 24-month period to 12 weeks over a 12-month period. It allows an additional two weeks of leave due to a serious health condition that results in incapacitation during pregnancy.



### Employer-Provided Paid Leave (§§18 & 21)

The law allows an employer to require employees to use their accrued employer-provided paid vacation, personal, family, medical, or sick leave when they are on FMLA leave. Starting January 1, 2022, the Act limits the extent to which employers may impose this requirement by requiring them to allow employees to retain at least two weeks of their employer-provided paid leave. The law also requires employers to allow their employees to use up to two weeks of their employer-provided paid sick leave for a parent, spouse, or child's serious health condition or the birth or adoption of a child. Starting January 1, 2022, the Act expands this requirement to include serious health conditions of other family members, as specified in the Act (see §§17 & 18 above). Military Caregiver Leave (§18) The law allows employees covered by the FMLA to take a one-time benefit of up to 26 weeks of unpaid leave when certain family members or "next of kin" in the armed forces undergo treatment for an injury or illness incurred in the line of duty. Starting January 1, 2022, the Act allows the injured armed forces member to designate someone as their "next of kin" (thus making him or her eligible for the leave and FMLI benefits) if their close association is the equivalent of a family member.

### Confidentiality (§20)

With certain exceptions, the FMLA requires employers to keep records and documents related to their employees' medical histories and medical certifications as confidential medical records under the state's Personnel Files Act. The Act extends this requirement

to include the same records related to providing FMLI benefits.

### DOL Regulations (§22)

The Act requires the Commissioner of Labor, by January 1, 2022, to adopt new regulations establishing the procedures and guidelines needed to implement the FMLA as amended by the Act. The regulations must at least include (1) guidelines on the factors to be considered when determining



whether someone's close association with an employee is the equivalent of a family member's and (2) as under prior law, procedures for hearings and redress, including restoration and restitution, for an employee who believes an employer has violated any of the Act's or these laws' provisions. Unlike the required process

for adopting the current FMLA regulations, the Commissioner does not have to make reasonable efforts to ensure these new regulations are compatible with the federal FMLA and its regulations.

### Policy Implications

This law, as previously indicated, beginning January 1, 2022, provides paid family and medical leave benefits to all private sector employees except private schools, all non-union state employees and public sector employees (boards of education) whose unions collectively bargain for them to join the new program. In such a situation any BOE's employees (as appropriate) who are not part of a collective bargaining unit also become covered public employees.



## PAID FAMILY & MEDICAL LEAVE (P.A. 19-25)

~PAGE 6~

Therefore, keep in mind, this new legislation and the benefits it provides does **not** apply to the employees of a regional or local board of education **unless** it has been collectively bargained for them to join this new program.

Eligible employees will be provided with up to 12 weeks of paid leave, or 14 weeks for those incapacitated by pregnancy, in a twelve-month period to care for themselves or loved ones. To fund the law, payroll deductions from employee paychecks began in January 2021, via a mandatory payroll tax.

A supplement to existing policy 4152.6/4252.6, "Family Medical Leave" has been developed. This supplement would become applicable only in those situations in which a bargaining unit recognized by the local or regional board of education has successfully negotiated inclusion in the State's paid family medical leave program. Further, if this occurred, any non-unionized employees of the board of education would then be covered under the paid family medical leave program.

# PAID FAMILY & MEDICAL LEAVE

## Family Medical Leave

April 2021



*A supplement to the policy pertaining to the Family and Medical Leave Act. This would be applicable only if a bargaining unit recognized by the Board has successfully negotiated for its members to be included in the Connecticut Paid Family Medical Leave Program. If a bargaining unit negotiated such inclusion, it would also be applicable to all non-unionized district employees.*

## **Personnel – Certified/Non-Certified**

### **Personal Leaves**

#### **Family and Medical Leave Act**

#### **Paid Connecticut Family and Medical Leave Program – Eligible Employees**

The Board of Education (Board) recognizes that the State of Connecticut enacted the Paid Family and Medical Leave Act (PFMLA/P.A.19-25). This law requires all private employers with Connecticut employees to provide paid leave to eligible employees. This law is also applicable only to those employees of the Board whose collective bargaining unit successfully negotiated with the Board to join the program and as a result, also to any employees of the Board not represented by a collective bargaining group.

Employees are eligible, as determined above, if they have earned wages of at least \$2,325 in the “base period” (which is the first 4 of the 5 most recently completed quarters) and are currently employed or have been employed within the last twelve weeks.

#### **Definition of “Family Member”**

A family member includes spouse, child, parent including parent-in-law, grandparent or grandchild, sibling, and any other individual related to the employee by blood or affinity whose close association with the employee shows to be the equivalent of those family relationships.

#### **Amount of Leave**

An eligible employee will be entitled to twelve weeks in a 12-month period with two additional weeks available for a pregnancy-related health condition resulting in incapacitation.

#### **Reasons for Taking Paid Leave**

1. Upon the birth of a child of the employee.
2. Upon placement of a child with the employee for adoption or foster care.
3. To care for a family member of the employee if such family member has a serious health condition.
4. Because of a serious health condition of the employee.

## **Personal Leaves**

### **Family and Medical Leave Act**

#### **Paid Connecticut Family and Medical Leave Program – Eligible Employees**

##### **Reasons for Taking Paid Leave (continued)**

5. To service as an organ or bone marrow donor.
6. For a qualifying exigency related to the employee's spouse, son, daughter, or parent on active duty or having been notified of an impending call or order to active duty in the armed forces; or to care for a military family member who is injured during active duty.
7. If an employee is experiencing family violence.

##### **Procedures**

1. Eligible employees will contribute 0.5 percent of their incomes via a mandatory payroll deduction. Such funds will be submitted to the CT Paid Leave Authority quarterly.
2. The CT Paid Leave Authority will accept applications, beginning January 1, 2022, for paid leave benefits, and will review and approve such applications and administer the benefits to eligible employees.
3. Employees will need to apply to the Board of Education for time away from work and also to the CT Paid Leave Authority for paid leave benefits. The employee, Board and the Paid Leave Authority will communicate in order to establish the reason for leave or to verify the duration and frequency of the leave.
4. The Connecticut Department of Labor is responsible for hearing any grievances related to claims.
5. A covered employee may elect to have income taxes deducted and withheld from his or her benefits. The amount specified must be deducted and withheld in a way consistent with state law.
6. Covered employees may receive benefits for nonconsecutive hours of leave and benefits will be available on a prorated basis.
7. Leave can be taken in the following formats:
  - a. Block Leave-several days in a row for the same qualifying reason.
  - b. Reduced schedule-adjustment of working hours less than the routine schedule.
  - c. Intermittent leave-may use time in at least 15-minute increments, for example: doctor's appointments, physical therapy, chronic migraines, etc.
8. Covered employees may also receive FMLI benefits concurrently with any Board provided employment benefits as long as their total compensation while they are on leave does not exceed their regular compensation rate.

## **Personal Leaves**

### **Family and Medical Leave Act**

#### **Paid Connecticut Family and Medical Leave Program – Eligible Employees**

##### **Procedures (continued)**

9. Covered employees may also receive FMLI benefits concurrently with any employer provided employment benefits as long as their total compensation while they are on leave does not exceed their regular compensation rate.
10. Covered employees cannot receive FMLI benefits concurrently with unemployment compensation benefits, workers' compensation benefits, or any other state or federal program that provides wage replacement benefits.

##### **Notification to Employees**

Starting January 1, 2022, the Board will provide covered eligible employees written notice at the time of hire and annually thereafter, of their entitlement to the CT Paid Leave Program. Such notification shall include information that the Paid Family Medical Leave Act prohibits retaliation for requesting or using paid leave under the Paid Leave Program and inform eligible employees of the right to file a complaint with the Connecticut Department of Labor for violations of the law.

(cf. 4118.14 - Disabilities)

(cf. 4151.2 - Family Illness)

(cf. 4152.3 - Maternity; Adoptive; Child Care)

Legal Reference: Connecticut General Statutes

46b-380o Applicability of statutes to civil unions and parties to a civil union.

PA 07-245 An Act Concerning Family and Medical Leave for Municipal Employees.

PA 12-43 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees.

*United States v. Windsor*, U.S. 133 S. Ct. 2675 (2013).

*Obergefell v. Hodges*, No. 14-556, 135 S. Ct. 2584 (2015).

PA 19-25 An Act Concerning Paid Family Leave.

Policy adopted:

cps 4/21



## RESOLUTION TO THE ROGUE SCHOOL BOARD MEMBER

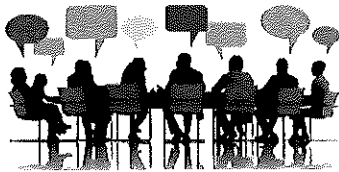
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UPDATE MAILING NO. 3

APRIL 23, 2021

Generally speaking, the purpose of a board of education is to facilitate the business of the school system. Board members act on behalf of the public, which is the reason they run for election. Board members may represent different points of view, but it is essential that they work in harmony with each other as well as with the superintendent, administrators, teachers, staff and the general public.

Effective board members are willing to stand up for what they believe, but understand that their major purpose is to set policy and goals for the school district. Their responsibilities are best fulfilled when they operate as a team, rather than on an individual level.



It is highly likely that at some time a board of education is going to have to deal with a member of the board whose attitude and temperament go beyond merely "disagreeable" and is viewed as antagonistic. Such board members can be discourteous, obstructionist and at times, hostile, to other board members or administrators and staff.

School boards with single or multiple members who work behind closed doors or without listening to the will of their electorate cause "enormous damage," according to higher education leadership consultant Terry O'Banion. In an article for the National Association of Secondary School Principals (NASSP), O'Banion identified several ways board members can interfere with a board's ability to serve the district's students. They include the following:

- Disregarding ideas from the school superintendent
- Behaving counter to written (or unwritten) rules of conduct
- Supporting policies that are not in students' best interests
- Making inappropriate deals with faculty or other board members in exchange for favors
- Breaching the board's code of ethics

A "rogue" board member frequently operates beyond any legal authority, using implied authority to bully and intimidate other board members, administration, staff, and the public. They often push a personal agenda that is sympathetic to special-interest groups with whom they may have ties officially or unofficially within the community or school board.

Such individuals may be micro-managers, interfering in the district's day-to-day operations, but not necessarily. They may have overinflated opinions of their abilities and contributions to school governance but, may be convincing and may seek temporary allegiances to further their personal agendas.

The rogue member does not subscribe to a code of ethics, content to do what is necessary to further the cause at hand. In such situations, they may see rules as made to be broken. The rogue member often refuses to support the board's majority decisions and works to disrupt and undermine board authority when it conflicts with his/her own interests or preferences.

Keep in mind that the great majority of board members, nationally and in Connecticut, are elected officials. Therefore, only the electorate can remove them through the regular election process. Connecticut does not have a statutorily-provided recall procedure to remove a board member.



## RESOLUTION TO THE ROGUE SCHOOL BOARD MEMBER

~PAGE 2~

Therefore, boards of education have no power to remove a board member for what might otherwise amount to poor conduct, no matter how negatively that conduct may impact the district and the operation of its board of education.

Some board members and community members may hold the misconception that CABE holds some form of enforcement power over school boards and their members. This is not true. CABE is a support organization with no investigative role and no punitive authority. However, as part of CABE's support services, workshops are offered on a number of topics to assist boards to remedy board dysfunction. In addition, consultation with CABE staff to discuss issues is always available and encouraged.

Boards are responsible for complying with the many state and federal laws impacting education. However, there is no statutory mechanism through which a board might address or remedy the misbehavior of one or more of its members. This does not mean that there aren't steps for the board to consider in its attempts to improve the situation. A passive approach or just appealing to rogue members has been found to usually not be very successful.

The board of education has the ability to collectively speak out against members whose actions are deemed detrimental to the board or district, or who behave in some manner that may require an official response from the board as a whole. Lecturing the rogue member about appropriate board behavior is apt to not have much effect. A motion can be made during an open meeting to censure or otherwise admonish a particular board member.

However, such measures do not carry any authority pertaining to redirecting the behavior of such censured individual. A

censure can serve to distance the board as a whole from the censured member and may serve a message to the voters of the community. It is important, however, to realize that a public admonishment could have little impact, if any, and possibly reinforce the misbehavior. The board member in question, as a result, may see themselves as some type of anti-establishment crusader.

### Solutions to Consider

When faced with a rogue member, there are a number of actions which can be taken. The school district should have a clear educational mission against which to judge the actions of the entire school district. This can assist to unify disparate members by reminding them that their focus should be working toward the common goal which is what is best for the school district and its students.

Adopting a code of ethics for the board and requiring all serving on the board to adhere to it can help to ensure that board members know what is expected of them. Also helpful is to adopt a code of conduct for the board. (See the next item in this publication). It is also important to remember that board members should be evaluated. Creating district policy that supports annual board self-evaluation can be essential to controlling rogue members.

Citizens, administrators, and teachers should also pay close attention to a board's behavior. It is essential that the public be able to attend school board meetings and that the media has easy access to the meetings. Public access to board of education meetings has increased greatly as a result of the Covid-19 pandemic. Health restrictions have forced boards of education to hold their meetings electronically which has facilitated the public's ability to witness them.



## RESOLUTION TO THE ROGUE SCHOOL BOARD MEMBER

~PAGE 3~

An obvious first step is to talk to the board member in question. See if he/she understands what they are doing and the impact of their behavior on the board and district. Regretfully, this approach has a mixed record of success.

Also, containment is a solution to consider. Containment is defined as redefining the rogue's circle of influence. This involves strictly adhering to the board's operating practices and procedures and a strong chairperson in charge. The chairperson and the board must never be hesitant or afraid to enforce the policies and procedures outlined in its bylaws. Containment does not mean ignoring the rogue. Such member must be considered capable of providing some good ideas or input.

The board can consider reprimanding or "censuring" a board member, which may be considered a drastic action. First, before taking such a step, discuss the potential action with legal counsel. Also, thoroughly review the board's bylaws and policies.

As previously indicated, the board, through censure, cannot limit the individual board member's ability to carry out their duties as a publicly elected official. Censure, as a very public reprimand, should specifically address the offenses concerning any violations of federal, state, or local laws and regulations as well as board policies and bylaws including board conduct and ethics and/or the violation of board standards, if the board has adopted such a document. Censure can only take place through the action of the board voting to endorse a resolution concerning the matter. Such action should not take place without seeking legal counsel.

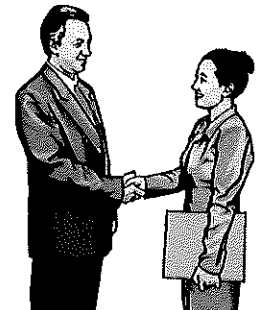
While not legally binding, censure may prove useful for shaping public perceptions to better understand the effect of a disruptive members actions and at some point may be

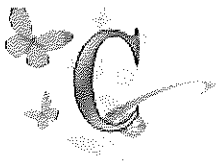
preferable to trying to ignore unacceptable behavior. In short, censure is more or less a symbolic gesture that the board as a whole does not approve of the activities of one of its board members. However, it has no teeth!

It is important to state that dealing with a rogue member is a board problem, not an administrative one. If a rogue member causes problems for the administration, it can be the impetus for action on the part of the board.

Obviously, the ideal is not to bring a rogue onto the board in the first place. The most effective way to maintain a civil and productive board of education is to identify community members who would make a positive contribution to the board and encourage them to run for a position on the board. The board should consider developing a profile of desirable board member attributes and qualifications which would be shared widely in the community. Such dissemination could be accomplished by board member presentations at such forums as meetings of the chamber of commerce, service clubs, civic organizations and school parent organizations. A strong recruitment process can bring new board members into a strong board culture.

The qualifications to be included on the profile could include service on other boards, a passionate commitment to public education, active participation in a PTO/PTA, volunteer experiences in the district and the attributes of open-mindedness and being a collaborative team player. The goal is to interest qualified people to run for the board to do high-impact governing work.



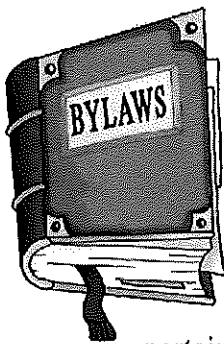


## RESOLUTION TO THE ROGUE SCHOOL BOARD MEMBER

~PAGE 4~

In addition, take the time to support informed and even-minded candidates during the election process to reduce the likelihood of having to deal with an elected member who is incapable of contributing in a productive and respectful manner. However, the board must not collectively endorse any particular board candidate. Individual board members should work to identify people with the proper demeanor and skillsets to serve effectively and engage them in an honest conversation about the need for good board members as well as the demands and rewards of the position.

Lastly, strengthen the board as a governing organization. This can be accomplished by adopting necessary bylaws which describe the board's major governing functions and responsibilities, establishing well-designed board standing committees, mapping out detailed processes for meaningful board engagement in such governing functions as strategic planning, budgeting, performance monitoring and board self-evaluation. Standards can focus on the norms governing



board members' interactions with each other, with the superintendent, with district administrators and rules to govern such activities as visiting the schools.

Doug Edie, author and consultant on matters pertaining to school boards stated, "The more fully developed your board is as a governing body, and the more effective its governing performance is, the more likely rogue board members are to be seen by the general public as outliers deserving public censure. And, believe it or not, I've actually seen rogues become more productive team players as a result of their involvement in a well-developed governing body."

### Policy Implications

Dealing with a rogue board member presents a difficult, not easily solved problem, for boards of education. Basically, a multifaceted approach is suggested, beginning with steps taken to recruit future board members, to having a strong board culture based on its bylaws and adherence to them to the use of censure.

A number of bylaws and/or policies pertain to this issue and can contribute to the manner in which board members conduct themselves. They include the following:

- #9005 – Statement of Integrity
- #9010 – Limits of Authority
- #9012 – Legal Responsibilities of Boards of Education
- #9020 – Public Statements
- #9121 – Chairperson
- #9030.1 – Conflict in Public Education
- #9222 – Resignation/Removal from Office/Censure
- #9223 – Board Succession Planning
- #9230 – New Board Member Orientation
- #9240 – Board Member Development
- #9270 – Conflict of Interest
- #9271 – Code of Ethics
- #9273 – Civility
- #9274 – Board Member Code of Conduct (*See next section of this publication*)
- #9325 – Meeting Conduct
- #9325.5 – Requests for Information by Board Members
- #9327 – Electronic Mail Communications
- #9327.1 – Board Member Use of Social Networks
- #9400 – Board Self Evaluation
- #2000.1 – Board-Superintendent Relationship



## RESOLUTION TO THE ROGUE SCHOOL BOARD MEMBER

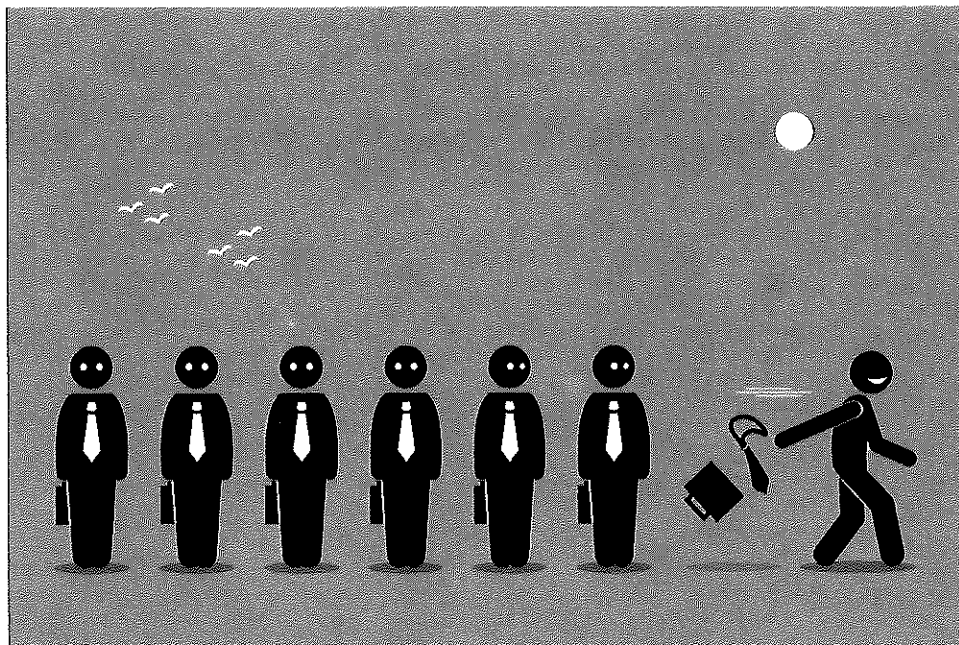
~PAGE 5~

Included in this publication is bylaw #9222, "Resignation/Removal from Office/Censure," with a revised and expanded section pertaining to censure. Also included are sample public censure statements. In addition, a new bylaw, #9271.1, "Ethics Violations," has been developed and follows for consideration.

In addition, samples of some existing bylaws which have a bearing on this topic are also provided. These have not been revised. In a number of cases, additional samples are available upon request.

The bylaws included are the following:

- #9005 – Statement of Integrity
- #9030.1 – Commitment to Democratic Principles in Relation to Community, Staff and Students
- #9223 – Board Succession Planning
- #9271 – Code of Ethics
- #9273 – Civility Code



April 2021



*Suggested bylaw to consider, with a revised and expanded section pertaining to censure.*

## **Bylaws of the Board**

### **Resignation/Removal from Office/Censure**

#### **Resignation**

If for reasons of health, change in domicile, or any other compelling reason a member does decide to terminate service, the Board requests as early as possible notification of intent to resign so that the Board may plan appropriately.

When a member of a Board of Education shall cease to be a bona fide resident of the Town membership in the Board shall immediately cease.

State law provides that municipal officers seeking to resign from office must submit a written resignation to the municipal clerk. The resignation takes effect upon the date specified in the resignation or, if no date is specified, upon the date of its submission to the clerk.

#### **Removal from Office**

Any Board officer may be removed from office by a two-thirds majority vote of the membership of the entire Board. A vote to remove a Board officer shall only take place at a regular meeting or a special meeting called for that purpose. "Cause" includes, but is not limited to, any conduct that:

1. Specifically relates to and affects the administration of the office in a manner deemed deleterious to Board operations;
2. Negatively and directly affects the rights and interests of the public;
3. Violates Board policies, rules and regulations; or
4. Conduct that interferes with the orderly and efficient operation of the Board.

#### **Procedure for Removal:**

Prior to any vote to remove a Board officer for cause:

1. The Board may review the performance and/or conduct of the Board officer in open or executive session (as determined by the Board and the Board officer) prior to taking any formal action;
2. If the Board determines that formal action is necessary, the Board officer shall be provided with reasonable notice of the Board's intent to consider possible removal from office (such notice to be given in writing after being authorized by Board vote at a prior meeting of the Board);
3. Upon the written request of the Board officer within seven (7) days of such action, he/she shall be provided with an opportunity for a hearing before the Board of Education before the Board votes on removal;
4. At any such hearing, the Board officer shall have the right to be represented by counsel at his/her own expense and to present relevant evidence to the Board.

## Bylaws of the Board

### Resignation/Removal from Office/Censure (continued)

#### Standard for Removal

Service as a Board officer is a privilege, not a right, the purpose of which is to assist the Board in conducting its business in an appropriate, orderly, and efficient manner. Therefore, any Board member serving as an officer shall have no legally-protected right to continue in that position. A decision that there is cause for removal shall be made by two-thirds of the entire Board.

#### Censure

Each member of the Board is expected to act in complete accordance with the provisions and tenor of the policies and bylaws of the Board. Should any Board member fail to so act, such failure shall constitute cause for censure or other such action as deemed appropriate by the Board.

Prior to any vote to censure a Board member for cause:

1. The Board may review the performance and/or conduct of the Board member in open or executive session, as determined by the Board and Board member, prior to taking any formal action.
2. If the Board determines that formal action is necessary, the Board member shall be provided with reasonable notice of the Board's intent to consider possible censure. Such notice is to be given in writing after being authorized by Board vote at a prior meeting of the Board.
3. A vote to censure a Board member shall only take place at a regular meeting or a special meeting called for that purpose.
4. Such censure may be enacted for cause by a majority vote of the membership of the whole Board or the Board may vote to censure or reprimand a member by a two-thirds majority vote of the membership of the whole Board.

If the Board is considering adoption of this language pertaining to censure, keep in mind that censure has no legal effect and that the legal question regarding the potential violation of an individual's First Amendment rights is still unanswered. *Consult your Board's attorney for further advice.*

(cf. 9120 – Officers and Auxiliary Personnel)

(cf. 9221 – Filling Vacancies)

Legal Reference:      Connecticut General Statutes  
                              7-103 Resignation of municipal officers  
                              10-218.1.1 Officers. Meetings  
                              10-220.1 Duties of boards of education

Bylaw adopted by the Board:

rev. 4/16, rev.12/19, rev. 4/21

**Sample Public Censure Statement (#1)**

PUBLIC CENSURE OF BOARD MEMBER \_\_\_\_\_. Motion made by \_\_\_\_\_; seconded by \_\_\_\_\_.

**WHEREAS**, the Board of Education of the \_\_\_\_\_ School District is committed to the principles of authority, ethics, and responsibility established in Board Policy and its Board Bylaws;

**WHEREAS**, these principles manifest in the Board of Education's expectation that members will listen to and respect the opinions of others; will recognize that the authority of the Board rests with the Board as a whole taking action at lawfully noticed meetings; will refrain from disparaging other Board members and employees; and will support Board decisions once made;

**WHEREAS**, the Board of Education values diverse opinions, but expects Board members to conduct themselves in a manner that is consistent with their oath of office and with decorum;

**WHEREAS**, the Board believes Board Member \_\_\_\_\_ has been disruptive, uncooperative, disrespectful, and belligerent at School Board meetings by regularly and persistently talking over other Board members without allowing them to speak or finish their statements, raising his voice and becoming combative with other Board members, threatening Board members and the Board as whole, using vulgarity in Board meetings, and accusing or berating Board members without addressing the issues properly under consideration;

**WHEREAS**, Board Member \_\_\_\_\_ has been confrontational, threatening, vulgar, and sarcastic when addressing the Superintendent;

**WHEREAS**, the Board of Education has requested the resignation of Board Member \_\_\_\_\_ and, as in the past, he has dismissed the concerns which triggered the request as contrived or as a reflection of personal disputes;

**WHEREAS**, Board Member \_\_\_\_\_ has, by these actions, violated Board Policy \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, and Board Bylaw \_\_\_\_\_ and Bylaw \_\_\_\_\_-Exhibit;

**NOW, THEREFORE**, be it resolved that the Board of Education for the \_\_\_\_\_ School District hereby publicly censures Board Member \_\_\_\_\_ for conduct unbecoming of a School Board member.

**Finally**, the Board of Education gives the Superintendent the authority to take the following actions:

1. If, while attending a school meeting, conference, event or extracurricular function, Board Member \_\_\_\_\_ is disruptive and/or fails to act in accordance with the rules of conduct, Board Member \_\_\_\_\_ may be designated a trespasser or a disruption to school operations and be removed from school property by law enforcement;
2. Further, should Board Member \_\_\_\_\_ be disruptive at any school function, Board Member \_\_\_\_\_ may be banned for a period of time not to exceed one semester from any and all attendance on school property except for duly-called meetings of the Board of Education (and Committees of the Board).

**Sample Public Censure Statement (#1)**

The Board of Education hereby gives notice to the public that Board Member \_\_\_\_\_, acting individually and outside of duly-called and open meeting of the Board of Education, does not have any legal authority or power to act on behalf of the Board of Education and his opinions or statements are not necessarily that of the Board of Education unless specifically acted upon at a duly-called meeting.

**APPROVED** by majority vote of the Board of Education of the \_\_\_\_\_ School District.

\_\_\_\_\_  
**Board Chairperson** **Date**

\_\_\_\_\_  
**Board Secretary** **Date**

**Sample Public Censure Statement (#2)**

**A RESOLUTION OF THE \_\_\_\_\_ SCHOOLS BOARD OF EDUCATION  
TO CENSURE DISTRICT BOARD MEMBER, \_\_\_\_\_.**

**WHEREAS**, the \_\_\_\_\_ Board of Education is deeply committed to the effective operation of the \_\_\_\_\_ Schools District, in order to provide governance and leadership for the District; and

**WHEREAS**, the \_\_\_\_\_ Board of Education needs all of its members to contribute to a positive working environment for the Superintendent and for colleagues on the Board; and

**WHEREAS**, the \_\_\_\_\_ Board of Education is deeply committed to upholding policies providing for open, honest, and respectful communication, adherence to state law and policies governing the Board's actions and behaviors, and to acting in a concerted fashion to set an example of positive leadership for the \_\_\_\_\_ Schools District; and

**WHEREAS**, the \_\_\_\_\_ Board of Education is deeply committed to open and positive communication with \_\_\_\_\_ Schools, District parents and residents; and

**WHEREAS**, the \_\_\_\_\_ Board of Education has established and adopted a Code of Ethics for the Board; and

**WHEREAS**, the \_\_\_\_\_ Board of Education Chairman, \_\_\_\_\_ in an email dated, \_\_\_\_\_, directed Board Member, \_\_\_\_\_ to protocols regarding his/her actions, further stating that "Any attempt to do otherwise will compel me to recommend to this Board 'censure' of your actions at the next available meeting."; and

**WHEREAS**, the \_\_\_\_\_ Schools Board of Education presented evidence at the Regular Board Meeting \_\_\_\_\_, that Board Member, \_\_\_\_\_ violated (name portions of the Code of Ethics which were allegedly violated).

**NOW, THEREFORE, BE IT RESOLVED:** That the \_\_\_\_\_ Board of Education does hereby censure Board Member, \_\_\_\_\_ for repeated violations of the adopted Code of Ethics and the negative impact his/her actions have brought upon the District; and

**BE IT FURTHER RESOLVED:** That the \_\_\_\_\_ Board of Education does hereby demand that Board Member, \_\_\_\_\_, abide by the Board's adopted Code of Ethics; and

**BE IT FURTHER RESOLVED:** That the \_\_\_\_\_ Board of Education does hereby demand that Board Member, \_\_\_\_\_ cease all public actions negatively impacting the Superintendent, staff, teachers, families, and most importantly, children of the \_\_\_\_\_ Schools District.

Votes: \_\_\_\_\_

Against \_\_\_\_\_

Abstain \_\_\_\_\_

Absent \_\_\_\_\_

The Board authorizes its Chairperson to sign below, the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

**Sample Resolution Disclaiming Statements of a Board Member**

I move the adoption of the following Resolution:

WHEREAS \_\_\_\_\_ Board of Education Board Member \_\_\_\_\_ has made public statements regarding \_\_\_\_\_; and

WHEREAS these statements do not reflect the opinion of the \_\_\_\_\_ Board of Education or its other members; and

WHEREAS the \_\_\_\_\_ Board of Education has not authorized \_\_\_\_\_ to speak on behalf of the Board of Education or other members in their individual capacity on these issues or any future issues;

NOW THEREFORE, the Board of Education specifically disclaims the statements made by \_\_\_\_\_ regarding \_\_\_\_\_.

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

*Suggested bylaw to consider.*

## **Bylaws of the Board**

### **Ethics Violations**

The \_\_\_\_\_ Board of Education (Board) believes serious violations of its Code of Ethics (Bylaw #9271) by members of the Board may be extremely damaging to the District's reputation or to its ability to function effectively. The Board bears the sole responsibility for remediation and may/will/is directed to take the following steps whenever a majority of the Board has expressed its concerns about a violation of ethics by one or more Board members to the officers of the Board:

1. The Board as a whole will review its adopted Code of Ethics policy during a regularly scheduled meeting or work session and use that opportunity to discuss the consequences of ethics violations.
2. One member of the Board, preferably the Board Chairperson will visit informally with the identified member, identifying the specific instances in which that person has allegedly behaved unethically and describing the negative impact of those actions on his/her fellow Board members or on the school District as a whole. Alternatively, the Board as a whole will enter into executive session during a regular meeting, following appropriate protocols regarding executive session, to confront the individual's unethical behavior and to discuss such behavior's negative impact.
3. The Board may invite its attorney to participate in an executive session to explain the potential legal ramifications that may arise from certain violations such as, but not limited to, disclosing confidential information to the public.
4. The Board may make a motion to "censure" the individual for his/her unethical behavior. Based on the fact that the Board's motions are published as part of the minutes, the motion for censure will specifically identify the Code of Ethics violations and the negative impact on the effectiveness of the Board or the District. This process enables the Board to be able to alert the community to the fact that an individual Board member is not properly fulfilling the responsibilities for which he or she was elected.
5. In order to assure responsible school leadership, Board members may actively urge competent individuals to run for election to Board service. Board members shall not utilize any district resources in the effort, but may legally recruit and campaign as private citizens for others to run for the Board of Education.

(cf. 9010 – Limits of Authority)

(cf. 9012 – Legal Responsibilities of Boards of Education)

(cf. 9270 – Conflict of Interest)

(cf. 9271 – Code of Ethics)

Reference: "Connecticut Code of Ethics for Boards of Education", printed in Responsibilities of Board of Education Membership (revised June 1989)

Bylaw adopted by the Board:

4/21

*Sample bylaw A. Other versions of a Code of Ethics are available upon request.*

## **Bylaws of the Board**

### **Code of Ethics**

1. I will be a staunch advocate of high quality free public education for all Connecticut children. In fulfilling my responsibilities, I will think of “children first”.
2. I will, as an agent of the state, uphold and enforce all laws, rules, regulations and court orders pertaining to public schools. I will strive to bring any needed change only through legal and ethical procedures.
3. I will strive to help create public schools which meet the individual educational needs of all children regardless of their ability, race, creed, sex, physical condition or social standing.
4. I will work unremittingly to help my community understand the importance of proper support for public education, whether it be in providing adequate finances, optimum facilities, staffing and resources, or better educational programs for children.
5. I will join with my Board, staff, community and students in becoming fully informed about the nature, value and direction of contemporary education in our society. I will support needed change in our schools.
6. I will strive to ensure that the community is fully and accurately informed about our schools, and will try to interpret community aspirations to the school staff.
7. I will recognize that my responsibility is not to “run the schools” through administration, but together with my fellow Board members, to see that they are well-run through effective policies.
8. I will attempt to confine my Board action to policy-making, planning and appraisal, and will help to frame policies and plans only after my Board has consulted those who will be affected by its actions.
9. I will arrive at conclusions only after discussing all aspects of the issue at hand with my fellow Board members in a meeting. I will respect the opinions of others, and abide by the principle of majority-rule.
10. I will recognize that authority rests only with the whole Board assembled in a meeting, and will make no personal promises nor take any private action which may compromise the Board.
11. I will acknowledge that the Board represents the entire school community, and will refuse to surrender my independent judgment to special interests or partisan political groups. I will never use my position on the Board for gain of myself or my friends.
12. I will hold confidential all matters pertaining to schools which, if disclosed, might needlessly injure individuals or the schools.
13. I will hold confidential all matters pertaining to schools which, if disclosed, might needlessly injure individuals or the schools.



## Bylaws of the Board

### Code of Ethics (continued)

14. I will hold confidential all matters pertaining to schools which, if disclosed, might needlessly injure individuals or the schools.
15. I will strive to appoint the best professional leader available when a vacancy exists in the chief administrative position.
16. I will strive to appoint the best trained technical and professional personnel available, upon recommendation by the appropriate administrative officer.
17. I will support and protect school personnel in the proper performance of their duties. I will strive to ensure that all personnel have not only the requisite responsibilities, but the necessary authority to perform effectively.
18. I will refer all complaints through the proper "chain of command" within the system, and will act on such complaints at public meetings only when administrative solutions fail.

Reference: "Connecticut Code of Ethics for Boards of Education", printed in Responsibilities of Board of Education Membership (revised June 1989)

Bylaw adopted by the Board:

*This code of conduct was adopted by the CABE Board of Directors on February 12, 2020.*

## **Bylaws of the Board**

### **Conflict of Interest**

### **Civility Code**

*As a member of the \_\_\_\_\_ Board of Education, I will strive to improve student achievement in public education, and to that end I will:*

- Attend all Board meetings insofar as possible, review relevant information and become informed concerning the issues to be considered at those meetings;
- Recognize my responsibility as an agent of the State to seek the improvement of education throughout the State;
- Focus my attention on fulfilling the Board's responsibilities of goal setting, policymaking, and evaluation;
- Ensure that all sides have a fair opportunity to present their respective positions;
- Recognize that a Board member has no authority as an individual, and that decisions can only be made by a majority vote at a Board meeting;
- Ensure that criticism of opposing viewpoints is expressed as criticism of a position, not a person when advocating for a belief or position;
- Arrive at conclusions only after discussing all aspects of the issue at hand with my fellow Board members in a meeting;
- Respect the opinions of others, and abide by each decision of the Board as a whole, regardless of my personal vote;
- Listen respectfully to those who communicate with the Board, seeking to understand their views, while recognizing my responsibility to represent the interests of the entire community;
- Strive for a positive working relationship with the Superintendent, respecting the Superintendent's authority to advise the Board, implement Board policy, and administer the district;
- Recognize the importance of an effective governance team;
- Respect the rights of the minority while working toward the will of the majority, and recognize the importance of achieving consensus as an important tool in community-building;
- Work with other Board members to establish effective Board policies and to delegate authority for the administration of the schools to the Superintendent;
- Support the employment of those persons best qualified to serve as school staff, and insist on a regular and impartial evaluation of all staff by appropriate supervisors;

## **Bylaws of the Board**

### **Conflict of Interest**

### **Civility Code (continued)**

- Conduct all business in an open and transparent manner, consistent with the intent and spirit of the open meeting law requirements;
- Respect the confidentiality of information that is privileged under applicable law and refrain from unauthorized disclosure of matters discussed in executive session;
- Model civility to students, employees, and all elements of the community by encouraging the free expression of opinion by all Board members and engaging in respectful dialogue with fellow Board members on matters being considered by the Board;
- Present personal criticism of district operations or of any employee directly to the Superintendent;
- Understand the chain of command and refer problems or complaints to the proper administrative office while refraining from actions that could compromise my ability to act if the issue rises to the Board level;
- Take no private action that will compromise the Board and administration;
- Refrain from using the Board position for personal or partisan gain and avoid any conflict of interest or the appearance of impropriety;
- Be informed about the duties of school Board members and current educational issues through professional development, such as programs sponsored by my state and national school boards associations;
- Remember always that my first and greatest concern must be the educational welfare of the students attending the \_\_\_\_\_ Public Schools.

### **Sources:**

CABE Model Policy  
 Virginia School Boards Association Code of Conduct for School Board Members  
 Texas Association of School Boards Ethics for Board Members  
 North Carolina School Boards Association Code of Ethics  
 Illinois Association of School Boards Code of Conduct  
 Hamden and Norwalk Board of Education Code of Ethics

### **Meeting Protocol**

To ensure that the Board's meetings are conducted with maximum effectiveness and efficiency, members will:

- come to meetings adequately prepared;
- identify issues of concern before the meeting, whenever possible;

## Bylaws of the Board

### Civility Code

#### Meeting Protocol (continued)

- circulate proposed motions and amendments, whenever possible, at least 48 hours before meeting;
- speak only when recognized;
- not interrupt each other during debate;
- not engage in disruptive and disrespectful side conversations;
- minimize unnecessary repetition;
- not monopolize the discussion;
- address the merits of the issue being discussed without appealing to the biases, prejudices and emotions of the audience;
- support the chair of the meeting's efforts to facilitate an orderly meeting;
- communicate openly and actively in discussion and dialog to avoid surprises;
- value equal participation of all members;
- practice respectful body language;
- listen actively when other members speak; and
- not surprise or embarrass each other or members of the staff.

(cf. 9005 – Statement of Integrity)

(cf. 9270 – Conflict of Interest)

(cf. 9271 – Code of Ethics)

Bylaw adopted by the Board:

cps 1/14

rev 2/20

*Norwalk's version to consider.*

## **Bylaws of the Board**

### **Conflict of Interest**

### **Civility Code**

#### **Norwalk Board of Education Civility Code**

*As a Member of the Norwalk Board of Education, I will strive to improve education, and to that end I will:*

1. Attend all regularly scheduled Board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
2. Recognize that I should endeavor to make policy decisions only after full discussion at publicly held Board meetings;
3. Clearly distinguish opinions from facts. And, render all decisions based on the available and verifiable facts and my independent judgment, and refuse to surrender that judgment to individuals or special interest groups;
4. Respect all Board members through words and actions, and demonstrate respect for the diverse views of all citizens in our society;
5. When advocating for a belief or position, ensure that criticism of opposing viewpoints is expressed as criticism of a position, not a person;
6. Be a positive role model for public discourse - practice courtesy, politeness, and consideration;
7. Ensure that all sides have a fair opportunity to present their respective positions;
8. Work with other Board members to establish effective Board policies and to delegate authority for the administration of the schools to the Superintendent;
9. Take no private action that will compromise the Board and administration; and
10. Remember always that my first and greatest concern must be the educational welfare of the students attending the Norwalk Public Schools.

**Note:** *The members of the Norwalk Board of Education sign this document.*

Bylaw adopted by the Board:

cps 1/14

*An optional bylaw to consider.*

## **Bylaws of the Board**

### **Role of the Board and Its Members**

#### **Statement of Integrity**

The long term health of a representative democracy requires that citizenship and leadership act upon what is right, rather than what is popular. As Board of Education members, our goal is to improve the education of our children and to advocate for them and their best interests. Board members must be working effectively together and with others in the community to successfully reach this goal. A Board of Education that operates with integrity will be a more effective Board. Integrity is first, discerning what is right and what is wrong, second, acting upon what you have discerned even at personal cost; and third, saying openly that you are acting on your understanding of right from wrong. It requires that students, colleagues, constituents, and others in the community be considered in every decision. A Board of Education with a sense of integrity will consider what is right, and what is wrong. This takes discipline and an awareness of one's environment.

To this end, as a Board of Education with integrity, we will:

- Understand that our first and greatest concern is the educational welfare of the students, and that all decisions must be based on this understanding;
- Render all decisions based solely on our judgment of the available facts and not surrender that judgment to individuals, special interests, or our own personal agendas;
- Attend all Board meetings insofar as possible, and be responsible for becoming informed on any and all issues coming before the Board, as well as being prepared to discuss and/or act upon all agenda items;
- Be responsible for becoming informed on any and all issues coming before the Board;
- Seek to facilitate ongoing communication between the Board and students, staff, parents and all elements of the community;
- Conduct our meetings and foster an environment where all elements of the community can express their ideas;
- Declare a conflict of interest when it arises and excuse ourselves from related discussion and action on that issue;
- Refrain from using our position on the Board for personal or partisan gain;

## **Bylaws of the Board**

### **Role of the Board and Its Members**

#### **Statement of Integrity (continued)**

- Insist on regular and impartial evaluation of all staff, and conduct a yearly self-evaluation and set annual goals;
- Fairly assess all non-instructional aspects of the school operation;
- Support all decisions by the Board to the community once a decision has been reached;  
**AND**
- Understand that we have no authority beyond that which is exercised at the Board meeting, and that we shall not lend the impression that we are speaking on the Board's behalf unless that authority has been so delegated.

The Board of Education is committed to the highest legal and ethical standards essential in governing its school system. It endeavors to encourage growth and support established and innovative educational objectives.

(cf. 9000 - Role of Board and its Members)

(cf. 9271 - Code of Ethics)

Bylaw adopted by the Board:

*An optional bylaw. Through its bylaws, boards can specify a method for filling vacancies.*

## **Bylaws of the Board**

### **Filling Vacancies**

#### **Board Succession Planning**

It's inevitable that Board member seats will become vacant periodically. Such vacancies can occur as the result of the regular Board of Education election process, or through a resignation from an existing Board member (illness, change of residency etc.) or death. In the interest of Board continuity, the \_\_\_\_\_ Board of Education (Board) recognizes the need to prepare for vacancies on the Board, whether they are planned or unplanned. The Board shall be the primary body responsible for implementing a Board succession planning policy and any related procedures.

The Board adopts this policy in an effort to ensure that there is adequate time to make sure that future members of the Board reflect the diversity of the community and will be qualified, capable, and be a good fit with the mission of the school district and will commit and contribute to its vision, values, goals and objectives.

It is the policy of the Board to develop a diverse roster of potential Board member candidates on a continual basis. To attain the objective of this policy, the Board hereby establishes a Nominating Governance Committee (or a Board Succession Committee) with the following charge:

1. The Committee shall actively seek and vet appropriate candidates for potential Board membership on a continual basis.
2. The Committee shall collect resumes for consideration on a continual basis.
3. The Committee shall refer to the Board job description and Board member expectations in seeking qualified candidates for Board directorships.

In fulfilling this charge, the Board directs the Committee to refrain from seeking the assistance of any third-party consultant for the purpose of recruiting potential Board members without the approval of the Board.

In addition, in order to draw Board of Education (Board) member candidates from the widest possible number of active, well-informed citizens, the Superintendent or his/her designee shall publicize widely all Board meetings, committee meetings, community related school events, and shall encourage the participation of parents/guardians and members of the professional and business communities and the community at large in these activities.

Board of Education members shall publicize school Board elections well in advance so that prospective Board candidates will have time to investigate the responsibilities of Board membership and to comply with all legal responsibilities. Those individuals interested in being a candidate for Board membership shall also be informed of the programs offered by the Connecticut Association of Boards of Education (CABE) pertaining to learning about what Board of Education membership entails.



## **Bylaws of the Board**

### **Filling Vacancies**

#### **Board Succession Planning (continued)**

(cf. 9110 – Number of Members, Terms of Office, Oath of Office)

(cf. 9221 – Filling Vacancies)

(cf. 9222 – Resignation/Removal from Office)

Legal Reference: Connecticut General Statutes

7-107 Vacancy appointments by selectmen.

9-204 Minority representation on boards of education.

10-219 Procedure for filling vacancy on board of education.

10-156e Employees of boards of education permitted to serve as elected officials; exception.

10-232 Restriction on employment of members of the board of education.

Bylaw adopted by the Board:

cps 6/20

*Optional bylaw to consider. It provides a basis to resolve conflict, especially those pertaining to religious issues within the schools.*

## **Bylaws of the Board**

### **Commitment to Democratic Principles in Relation to Community, Staff, Students**

#### **Conflicts in Public Education**

Our nation urgently needs a reaffirmation of our shared commitment, as American citizens, to the guiding principles of the Religious Liberty clauses of the First Amendment to the Constitution. The rights and responsibilities of the Religious Liberty clauses provide the civic framework within which we are able to debate our differences, to understand one another, and to forge public policies that serve the common good in public education.

Today, many American communities are divided over educational philosophy, school reform, and the role of religion and values in our public schools. Conflict and debate are vital to democracy. Yet, if controversies about public education are to advance the best interests of the nation, then how we debate, and not only what we debate, is critical.

This Statement of Principles is not an attempt to ignore or minimize differences that are important and abiding, but rather a reaffirmation of what we share as American citizens across our differences.

Democratic citizenship does not require a compromise of our deepest convictions. We invite all men and women of good will to join us in affirming these principles and putting them into action. The time has come for us to work together for academic excellence, fairness, and shared civic values in our nation's schools.

In the spirit of the First Amendment, we propose the following principles as civic ground rules for addressing conflicts in public education:

#### **I. RELIGIOUS LIBERTY FOR ALL**

**Religious liberty is an inalienable right of every person.**

As Americans we all share the responsibility to guard that right for every citizen. The Constitution of the United States with its Bill of Rights provides a civic framework of rights and responsibilities that enables Americans to work together for the common good in public education.

#### **II. THE MEANING OF CITIZENSHIP**

**Citizenship in a diverse society means living with our deepest differences and committing ourselves to work for public policies that are in the best interest of all individuals, families, communities and our nation.**

The framers of our Constitution referred to this concept of moral responsibility as civic virtue.

## **Bylaws of the Board**

### **Commitment to Democratic Principles in Relation to Community, Staff, Students**

#### **Conflicts in Public Education (continued)**

### **III. PUBLIC SCHOOLS BELONG TO ALL CITIZENS**

**Public schools must model the democratic process and constitutional principles in the development of policies and curricula.**

Policy decisions by officials or governing bodies should be made only after appropriate involvement of those affected by the decision and with due consideration for the rights of those holding dissenting views.

### **IV. RELIGIOUS LIBERTY AND THE PUBLIC SCHOOLS**

**Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect.**

Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study about religion, where appropriate, as an important part of a complete education.

### **V. THE RELATIONSHIP BETWEEN PARENTS AND SCHOOLS**

**Parents are recognized as having the primary responsibility for the upbringing of their children, including education.**

Parents who send their children to public schools delegate to public school educators some of the responsibility for their children's education. In so doing, parents acknowledge the crucial role of educators without abdicating their parental duty. Parents may also choose not to send their children to public schools and have their children educated at home or in private schools. However, private citizens, including business leaders and others also have the right to expect public education to give students tools for living in a productive democratic society. All citizens must have a shared commitment to offer students the best possible education. Parents have a special responsibility to participate in the activity of their children's schools. Children and schools benefit greatly when parents and educators work closely together to shape school policies and practices and to ensure that public education supports the societal values of their community without undermining family values and convictions.

## **Bylaws of the Board**

### **Commitment to Democratic Principles in Relation to Community, Staff, Students**

#### **Conflicts in Public Education (continued)**

#### **VI. CONDUCT OF PUBLIC DISPUTES**

**Civil debate, the cornerstone of a true democracy, is vital to the success of any effort to improve and reform America's public schools.**

Personal attacks, name-calling, ridicule, and similar tactics destroy the fabric of our society and undermine the educational mission of our schools. Even when our differences are deep, all parties engaged in public disputes should treat one another with civility and respect, and should strive to be accurate and fair. Through constructive dialogue we have much to learn from one another.

Bylaw adopted by the Board:



## BOARD MEMBER'S STANDARD/CODE OF CONDUCT

~PAGE 1~

UPDATE MAILING NO. 3

APRIL 23, 2021

Public oversight of local government is the foundation of American democracy. This is evident in our public schools where local boards of education are entrusted by their communities to uphold the constitution, protect the public interest in schools and ensure each student is provided with a high quality education.

In order to gain the public's confidence in local government, boards of education must govern responsibly and effectively. Professional standards/codes of conduct for board of education members can enhance the public's understanding of the critical responsibilities of local boards and can support boards in their efforts to govern effectively.

Adopting standards or a code of conduct can send a powerful message to community members that the board of education understands its critical role and is dedicated to carrying out its responsibilities and focusing on student learning and achievement. In addition, a framework is provided for board members and the superintendent to work effectively as a governance team.

The job of being a good board member is very complex, and there are no hard and fast rules that deal with all aspects of the job. Experienced board members state that it takes about two years to learn the job. If the statement is true, it behooves new board members to carefully observe how the system works.

There are some generally accepted hints or guide to assist an individual in becoming an effective board member. An effective board member:

1. Attends all meetings of the board.

2. Is legally a board member only when the board of education is in session. No one person, unless authorized, should speak on behalf of the board.
3. Recognizes his responsibility is not to run the schools, but to see that they are run well by others.
4. Is well acquainted with school policies.
5. Voices opinions frankly in board meetings and votes for what is in the best interest for the children of the district.
6. Is flexible and realizes there are times when changes must be made, when tradition cannot be honored, and when pressure must be ignored.
7. Remembers that board business, at times, requires confidentiality, especially in processes involving personnel, legal matters, school security, and land acquisition.
8. Is interested in obtaining facts, but remembers that the administration has the responsibility of operating the schools, not spending an inordinate amount of time gathering data or making reports to the individual board member.
9. Knows that the reputation of the entire school district is reflected in his/her behavior and attitude.
10. Is able to sift fact from fiction, to sort out rumors from reality, and to know the difference.
11. Refers all complaints and requests to the appropriate administrative officer.
12. Maintains harmonious relations with other board members when harmonious relations are consistent with his/her obligations to the schools.
13. Uses good ethical and moral judgment in all decisions that he/she makes.



## BOARD MEMBER'S STANDARD/CODE OF CONDUCT

~PAGE 2~

Unfortunately, too often concerns over the rules of conduct for school board members have been on the rise in many communities. Districts have found that the discussion of ethics codes can become divisive if not handled properly. School board members have indicated the need for guidance on hazier issues involving proper conduct, civility and communication within the board and between board members and the public. This relates to taking board leadership to a higher plane. School administrators have a major stake in such discussions because proper board behavior is critical to a district's success or failure, not to mention a superintendent's quality of life.

Most school board codes of conduct include strong reminders of the limitations of a board member's power, that members have authority only when acting along with the rest of the board and that the board is responsible for district policy, not day-to-day operations. A common problem cited by superintendents is the board's difficulty with delegating proper authority to the superintendent and allowing as a result, the superintendent to perform his/her job without undue meddling. However, school executives must tread lightly. If they are perceived as either interfering in board policies or being critical of the behavior of certain board members, they could worsen a rift on the board or even become a target themselves.

Nationally, some states and state associations have aggressively marketed codes of conduct to local boards. Sample codes of ethical behavior are very common. Many states, but not Connecticut, also have mandatory school board training. However, most state associations have no enforcement power regarding the adopted codes. Such codes are a way for school board members to police themselves instead of someone telling them they're wrong.

New Jersey's code of conduct, created by the state school boards association, has been incorporated into state law. The state legislature folded the code into its existing School Ethics Law, requiring school boards to follow it. The code contains such self-limiting statements for board members as:

- "I will confine my board action to policymaking, planning and appraisal, and I will help to frame policy and plans only after the board has consulted those who will be affected by them;" and
- "I will carry out my responsibility not to administer the schools, but, together with my fellow board members, to see that they are well-run."



New Jersey board members are required to learn about the code, and failure to be conversant with it is no defense. Lack of participation in the ethics training is itself a violation of the state code.

Absent a forceful push from the state, school boards must decide for themselves what type of ethics policy and related code of conduct, if any, they may want to adopt.

Nationally, most state school board associations have recommended codes of conduct. But as some local boards have found, broaching discussions about the civil behavior of school board members can turn ugly quickly, especially when they are prompted by the perceived bad conduct of a member. Some board members may view the signing of such a code as a potential weapon being wielded by the board majority.



## BOARD MEMBER'S STANDARD/CODE OF CONDUCT

~PAGE 3~

It is important to consider carefully the timing and motives for introducing or revising such codes of conduct. It must be done for the appropriate reasons. A need for trust on the board is essential to its development, passage and use. It is as important as having a policy is the process used to get to that policy.

# WE ARE A COMMUNITY

### Policy Implications

School boards play an important role in the success of the school district. The school board member responsibilities are not accomplished through individual members, but through the collection of these representatives of the community that comprise the board.

Each school board member brings specific talents, skills, and expertise to contribute to the collaboration of accomplishing the work of the board for the benefit of the district and its students. School board members are individuals elected by their community to serve as representatives of the public. As champions for the community, school board members work to make sure the needs and desires of the public are brought to life through successfully carrying out their responsibilities.

School board member responsibilities can be burdensome, as they work to serve as representatives and advocates for their local district. However, the work completed by board members is vital to the success of the district and its students.

It is recommended that in addition to a code of ethics, boards also adopt code of conduct applicable to board members in order to help increase the effectiveness of the boards, and to raise parent, public and media awareness about the critical role of the board of education.

Local boards of education are critical to positive, sustained public school reform. The reasons to adopt and utilize a board member code of conduct are to:

- Help keep the board of education focused on learning and achievement for all students.
- Promote dialogue about governance, which leads to a greater understanding among members of the governance team about roles and expectations.
- Help establish a common vocabulary about governance and serve as a framework for building or maintaining a district culture focused on effective governance.
- Publicly affirm the board's commitment to effective governance.
- Demonstrate the willingness of board members to be accountable to each other and to the public.
- Provide a tool for boards to evaluate their effectiveness.
- Help boards identify areas where continuing education would be useful.
- Help formalize a positive governance culture for when new board members or superintendents join the governance team.
- Promote a greater awareness and understanding among parents, the media and the public about what boards do and how they can operate most effectively.



## BOARD MEMBER'S STANDARD/CODE OF CONDUCT

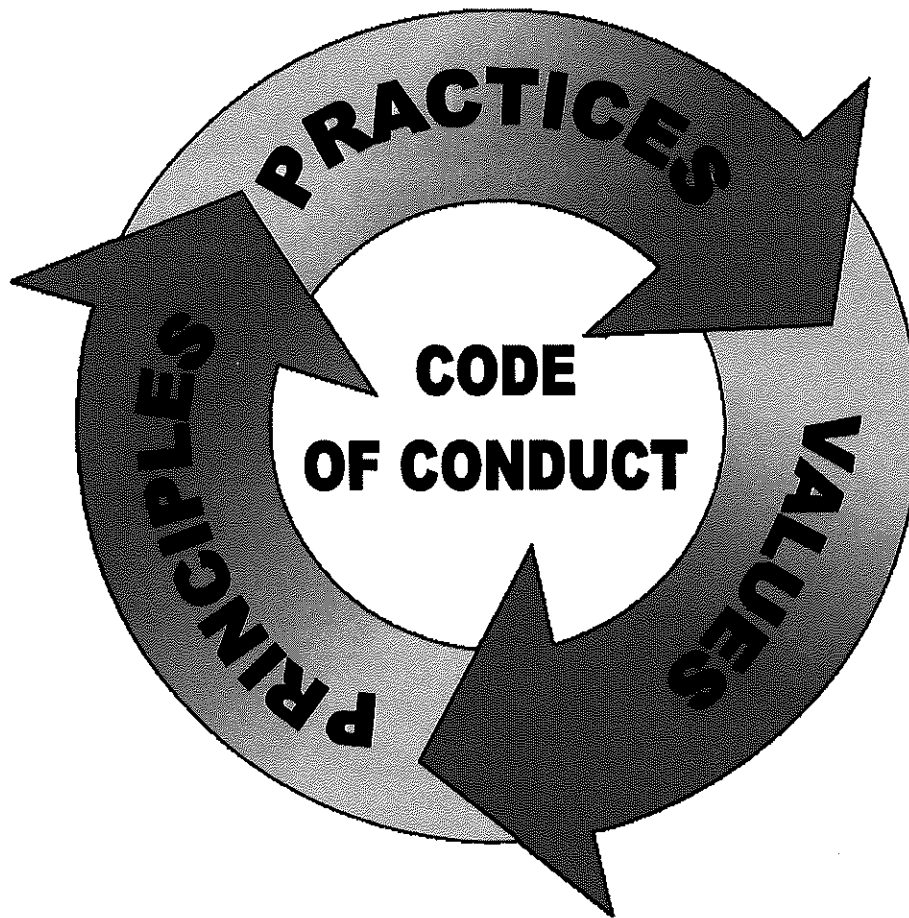
~PAGE 4~

- Help build trust and foster greater participation by parents and the public in the schools.
- Provide parents, the media and the public with a meaningful basis for assessing the effectiveness of their local governance teams.
- Help promote the value of local governance in our democracy.
- Provide a way for effective boards to receive recognition.
- Help educate future candidates and voters about the critical jobs of boards.

A board of education can adopt a board member code of conduct bylaw which contains the standards for board members. Once adopted, the code should be communicated to the school community and public at-large. Some boards may choose to pass a resolution containing such code which is then signed by each member of the board.

An ethics policy alone may not cover the proper conduct of board members.

Some samples of a code of conduct for board members follow. Such code is codified as #9274.



April 2021



*A sample bylaw to consider (Multiple versions)*

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 1)**

A Board member should:

1. Comply with the Connecticut Code of Ethics for public officials;
2. Understand that the Board sets the standards for the District through Board policy. Board members do not manage the District on a day-to-day basis;
3. Understand that the Board makes decisions by a vote of the Board. Individual Board members may not commit the Board to any action;
4. Respect the right of other Board members to have opinions and ideas which differ;
5. Recognize that decisions made by a vote are the final decisions of the Board. Such decisions should be supported by all Board members;
6. Make decisions only after the facts are presented and discussed;
7. Understand the chain of command and refer problems or complaints to the proper administrative office;
8. Recognize that the Board must comply with the Freedom of Information Act and only has authority to make decisions at properly noticed Board meetings;
9. Insist that all Board and District business is ethical and honest;
10. Be open, fair and honest – no hidden agendas;
11. Understand that Board members will receive information that is confidential and cannot be shared;
12. Recognize that the Superintendent is the Board's employee and designated as the chief executive officer of the District;
13. Take action only after hearing the Superintendent's recommendations;
14. Refuse to bring personal or family problems into Board considerations;
15. Give District staff the respect and consideration due to skilled, professional employees;
16. Present personal criticism of District operations to the Superintendent, when appropriate, not to District staff;
17. Respect the right of the public to attend and observe Board meetings;
18. Respect the right of the public to be informed about District decisions and school operations as allowed by law;
19. Remember that content discussed in executive session is confidential;
20. Use social media, websites, or other electronic communication judiciously, respectfully, and in a manner that does not violate Connecticut Freedom of Information Act;
21. When posting online or to social media, Board members will treat and refer to other Board members, staff, students and the public with respect, and will not post confidential information about students, staff or district business;

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 2) (continued)**

Individual Board members and the Board as a public entity must comply with ethics laws for public officials.

Board members will treat other Board members, the Superintendent, staff and the public with dignity and courtesy and will provide an opportunity for all parties to be heard with due respect for their opinions.

Board members will recognize the Superintendent as the chief executive officer to whom the Board has delegated administrative authority to establish regulations and oversee the implementation of Board policy.

When a Board member expresses personal opinions in public, the Board member should clearly identify the opinions as personal.

A Board member will respect the privacy rights of individuals when dealing with confidential information gained through association with the district.

A Board member will keep information and documents discussed in executive session confidential.

A Board member will not post confidential information or documents about students, staff or district business online, including but not limited to, on social media.

Board members will treat fellow Board members, staff, students and the public with respect while posting online or to social media and will adhere to Connecticut's Freedom of Information Act, including when communicating with other Board members via websites or other electronic means.

### **Board of Education Code of Conduct (Version #3)**

Board members' actions, verbal and nonverbal, reflects the attitude and the beliefs of the school district. Therefore, Board members must conduct themselves professionally and in a manner fitting to the responsibility of duty.

Each Board member shall follow the code of conduct:

#### **As a Board Member**

- I will listen.
- I will respect the opinion of others.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 3) (continued)**

- I will recognize the integrity of my predecessors and the merit of their work.
- I will be motivated only by an earnest desire to serve the school district and the students in the best possible way.
- I will not use the school district or any part of the school district program for my own personal advantage or for the advantage of my friends or supporters.
- I will recognize that to promise in advance of a meeting how I will vote on any proposition which is to be considered is to close my mind and agree not to think through other facts and points of view which may be presented in the meeting.
- I will expect, in Board meetings, to spend more time on education programs and procedures than on business details.
- I will recognize that authority rests with the Board in legal session and not with individual members of the Board, except as authorized by law.
- I will make no disparaging remarks, in or out of the Board meeting, about other members of the Board or their opinions.
- I will express my honest and most thoughtful opinions in Board meetings in an effort to have decisions made for the best interest of the students and the education program.
- I will abide by majority decisions of the Board.
- I will carefully consider petitions, resolutions, and complaints and will act in the best interest of the school district.
- I will not discuss the confidential business of the Board.
- I will endeavor to keep informed on local, state, and national educational developments of significance.

### **Board Governance**

- Attend all regularly scheduled Board meetings, insofar as possible, and review advance materials provided.
- Respect the confidentiality of privileged information and make no individual decisions or commitments that would compromise the Board or administration.
- Work with other Board members to establish effective Board policies and to delegate authority for the administration of the schools to the Superintendent.
- Maintain a priority Board focus on policymaking, goal setting, planning process, and evaluation. Most importantly increasing student learning and achievement and ensuring efficient use of education resources.
- Comply with Board policy, all applicable local, state and federal laws and regulations and guidance from the Superintendent, when making Board decisions.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 3)**

#### **Board Governance (continued)**

- Encourage individual Board member expression of opinion and establish an open, two-way communication process between the Board and students, staff, and all elements of the community.
- Remain current with changing needs and requirements pertaining to educational issues through individual study and by participating in Board learning opportunities such as those sponsored by the Connecticut and National School Boards Associations, Department of Education, and other education organizations.
- Recognize that a Board member's responsibility, together with fellow Board members, is to ensure the school district provides a quality education for all students.
- In consultation with the Superintendent and district administrators, set education goals for the school(s).
- Maintain confidentiality of information and discussion conducted in executive session.
- Review essential facts, consider others' ideas, and then present personal opinions during Board deliberations but, once the Board vote has been taken, support Board decisions regardless of how individuals voted.
- Act only as a member of the Board and do not assume any individual authority when the Board is not in session, unless otherwise directed by the Board.
- Rely on school policies that are continually updated and aligned with Connecticut and federal education laws, and guidance from the Superintendent, when making Board decisions.
- Request recommendations from the Superintendent and seek legal counsel, when required for full and informed Board consideration of issues requiring legal expertise.
- Expect an equitable amount of Board meeting time be spent both learning about educational programs and conducting the business of the Board.
- Maintain a priority Board focus on increasing student learning and ensuring efficient use of education resources.
- Retain independent judgment and refuse to surrender that judgment to individuals or special interest groups.
- Voice opinions respectfully and maintain good relations with other Board members, administrators, school staff, and members of the public.
- Support new Board members by sharing your experience and knowledge.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 3)**

#### **Board Governance (continued)**

- Ensure that adequate Board orientation and team building opportunities are available for Board members and administrators.
- Associate with Board members from other school districts to discuss school problems and collaborate on school improvement initiatives.

#### **Board-Superintendent Relations**

- Respect that the Superintendent of Schools and his or her staff are responsible and accountable for the delivery of the educational programs and the conduct of school operations.
- Ensure strong management of the school system by hiring, setting goals with and evaluating the Superintendent.
- Provide policy support for school administrators in the performance of their duties and delegate authority commensurate with those responsibilities.
- Expect the Superintendent to keep the Board adequately informed through regular written and oral communications.
- Refer complaints, requests, and concerns to the Superintendent.
- Avoid making commitments that may compromise the decision-making ability of the Board or administrators.
- Maintain open and candid communication with the Superintendent.
- Hold the Superintendent accountable by jointly creating job performance standards and at least annually performing a comprehensive evaluation process based on the job description, contract, and identified performance standards.
- Recognize that a Board member's responsibility is to see that schools are well run, but not to run them.

#### **Personnel Relations**

- Seek to employ the most qualified school staff and insist on regular, impartial employee evaluations.
- Hire no Superintendent, Principal, or teacher already under contract with another school district unless the person has formally been released from his or her contract.
- Individual Board members shall not give directives to any school administrator or employee, publicly or privately.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 3) (continued)**

#### **Community Relations**

- Perform a liaison communications role by respecting the needs of both the community and the school.
- Consider the needs of the entire community and vote for what is best for students.
- Encourage collaboration between the school and community.
- Request that periodic surveys be conducted with the community to assess the quality of education services and use the data to establish and monitor goals.

#### **Conflict of Interest**

- Do not solicit or receive directly or indirectly any gift or compensation in return for making a recommendation or casting a vote.
- Do not receive anything of value by contract or otherwise, from the school district you serve.
- Follow the school Board conflict of interest policy regarding the appearance of conflict of interest.

*(Optional Signature)*

I agree to abide by the principles outlined in the Board of Education Code and will do everything in my power to work as a productive member of the leadership team.

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### **Board Member Code of Conduct (Version 4)**

#### **I. Purpose**

The purpose of this policy is to assist Board of Education (Board) members in communicating and understanding the reasonable expectations regarding acceptable conduct of individual Board of Education (Board) members. It is the responsibility of the Board to make reasonable rules and regulations for the governing of Board member behavior and conduct. This policy supplements Board Bylaw #9271, Code of Ethics, which is incorporated by reference. All rules and regulations regarding Board member conduct will be approved by the Board.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 4) (continued)**

#### **II. General Statement of Policy**

The policy of the Board is to regulate the proper functions of a Board member. The effectiveness of the Board depends upon community respect and confidence in individual Board members. Conduct which detracts from this respect and confidence is detrimental to the public interest and is prohibited. It is the policy of the Board to investigate claims that an individual Board member has engaged in unbecoming conduct, and to impose appropriate sanctions. Each Board member shall follow the code of conduct set forth in this policy.

#### **III. Scope and Guiding Principles**

This policy applies to the conduct of all Board members. The following principles shall serve as guidelines for the Board member code of conduct.

1. Board members shall conduct themselves in accordance with all applicable laws, ordinances, and rules, and shall not knowingly exceed their authority in their official actions on behalf of the school Board.
2. Board members shall not exhibit any conduct that discredits himself or herself or the Board or otherwise impairs his or her ability to perform Board duties or represent the Board in a manner consistent with the integrity and trustworthiness expected by the public. Such conduct includes, but is not limited to the following:
  - a. Board members shall not make disparaging remarks, in or out of Board meetings, about other members of the school Board.
  - b. Board members shall not make any promises regarding votes on any proposition in advance of meetings at which the proposition will be considered by the Board.
  - c. Board members shall refer all complaints to the proper school district administrators and shall not undertake independent investigation.
3. Board members shall treat all members of the public courteously and with respect and shall exercise reasonable courtesy in dealing with fellow Board members, District administrators and District staff.
4. Board members shall not compromise the integrity of the Board by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing official acts or judgments.
5. Board members shall observe the confidentiality of information available to them due to their status as school Board members, and shall not knowingly violate any legal restrictions for the release or dissemination of District information.

## **Bylaws of the Board**

### **Board Member Code of Conduct (Version 4) (continued)**

#### **IV. Procedures for Administering Policy**

- A. Allegations of violations of this policy may be received from internal or external sources. In an instance where an allegation is made that could serve as the basis for the imposition of sanctions against an individual Board member under this policy, the Board will:
  - a. Advise the Board member of the allegation in writing within a reasonable period of time.
  - b. If the allegation cannot be readily resolved, the Board will conduct an investigation of the allegation to determine whether the individual Board member has violated this policy.
  - c. Allow the individual Board member an opportunity to be heard by the Board in defense of the allegation and to present any relevant information regarding the allegation.
  - d. Specify the expected conduct or modification of conduct to be required from the individual school Board member.
- B. The determination whether a violation of this policy has occurred, and whether sanctions are to be imposed, shall be made by the Board.
- C. The Board retains the right to censure a Board member as appropriate, or to remove an officer of the Board from his/her position on the Board.

#### **V. Sanctions**

- A. The form of sanctions imposed on an individual Board member for violation(s) of this policy may vary depending upon factors such as the nature of the violation, whether the violation was intentional, knowing and/or willful, and whether the individual Board member has been the subject of prior sanctions of the same or a different nature. The forms of sanctions that may be imposed by the Board include, but are not limited to:
  - 1. A warning of the individual Board member by the Board;
  - 2. Public censure of the individual Board member by the Board; or
  - 3. A resolution disavowing the inappropriate behavior by the individual Board member.
- B. Other sanctions, including any combination of the forms described above, may be imposed if, in the judgment of the school Board, another sanction would better accomplish the school Board's objective of stopping or correcting the offending conduct.



## **Bylaws of the Board**

### **Board Member Code of Conduct (continued)**

(cf. 9010 – Limits of Authority)  
(cf. 9012 – Legal Responsibilities of Boards of Education)  
(cf. 9270 – Conflict of Interest)  
(cf. 9271 – Code of Ethics)  
(cf. 9273 – Civility)  
(cf. 9325 – Meeting Conduct)  
(cf. 9327 – Electronic Mail Communications)  
(cf. 9327.1 – Board Member Use of Social Networks)

Bylaw adopted by the Board:  
cps 4/21

*Norwalk's Code of Conduct for School Board Members to consider.*

## **Bylaws of the Board**

### **Board Member Code of Conduct**

As a member of the Board of Education, I will promote the best interests of Norwalk Public Schools and adhere to the following ethical standards:

I will keep a student-centered focus. I will:

- Be guided by what is best for all students in the district.
- Strive to help our public schools meet the individual educational needs of children of all abilities, races, religions or creeds, languages, physical abilities, gender expressions and sexual orientations, ethnicities, countries of origin, and socio-economic classes.
- Be a staunch advocate of high quality free education for all children.

I will maintain an equitable approach. I will:

- Conduct myself in a fair and impartial manner.
- Grant others the respect I would want for myself.
- Encourage and respect the free expression of opinions by my fellow Board members and stakeholders.
- Share my views, while working for consensus.
- Participate in Board discussions and district-related meetings respectfully, honor differences, and encourage the participation of others.

I will be trustworthy. I will:

- Accurately represent district policies, programs, priorities and progress.
- Be accountable and responsive to the community by encouraging input and helping to communicate concerns to the administration.
- Work to ensure prudent and accountable use of district resources.
- Make no personal promise, and take no private action that might compromise my performance, my responsibilities, the Board, or the administration.
- Recognize that a Board member has no legal authority as an individual, and that decisions can only be made by a majority vote at a Board meeting.
- Abide by majority decisions of the Board, while retaining the right to seek changes in any decisions through ethical and constructive channels.
- Respect the confidentiality of information that is privileged by law, or that would needlessly harm the district if disclosed, including that which is shared and discussed in executive session.

I will act with integrity. I will:

- Prioritize facts over supposition, opinion, or public favor when making decisions.
- Avoid any conflict of interest or the appearance of impropriety resulting from my position and disclose any conflict of interest before Board action.
- Uphold all applicable laws, rules, policies, and governance procedures.
- Not surrender judgment to any individual or group at the expense of the District as a whole.

## Bylaws of the Board

### Board Member Code of Conduct (continued)

I will be committed to service. I will:

- Focus on fulfilling the Board's responsibilities of setting goals, making policy, and monitoring implementation and progress.
- Prepare for and attend Board meetings, either in person or virtually. If I'm not able to attend, I will review minutes, print or video, and will follow up with fellow Board members in order to stay informed of discussions and decisions.
- Refer all complaints to the appropriate level through the district's "chain of command," and act on such complaints at public meetings only when administrative solutions have failed.
- Communicate respectfully to all stakeholders, including constituents, District staff, city staff, and elected officials.
- Strive for a positive working relationship with the Superintendent, respecting the Superintendent's authority to advise the Board, implement Board policy, and administer the district.

I will represent the district honorably in person and in social media. I will:

- Retain my First Amendment rights, while respecting the Code of Conduct as a Board member.
- Conduct myself online as I would in any other public circumstances as a Board member.
- Treat those I encounter online with fairness, honesty and respect.
- Make sure to verify accuracy and use discretion before sharing any information shared in conversation, Board email communication, and/or private meetings.
- Make reasonable efforts to engage in public debates with fellow Board members only at Board meetings, and accordingly minimize exchanges with Board members on social media.
- Refrain from actions in public or on social media platforms that could infringe upon the rights of others, including, but not limited to, the freedom of speech, union rights, and defamatory statements.
- Forward any individual matters brought to my attention through the appropriate chain of command.

As a Board Member of the Norwalk Public Schools, I voluntarily agree to abide by this Code of Conduct.

*Names and signature of each Board member follow the Code of Conduct Statement.*

References: "Standards of Leadership for Members of Boards of Education" recommended by the CAFE Board of Directors in 1977; NPR Social Media Code of Ethics <http://ethics.npr.org/tag/social-media/>; CAFE Delineated Code of Conduct; Illinois Association of School Boards, Code of Conduct for members of School Boards; Norwalk Public Schools Board of Education Civility Code; and, School Boards in the Digital and Social Media Age, CAFE.

## **Standards for School Board Leadership**

### **The Role of the School Board**

As the entity legally charged with governing a school district, each school Board is responsible to its community for governing efficiently and leading effectively to provide for equitable education, resulting in high student achievement.

**The following five standards are essential to being an effective, high-performing school Board team.**

#### **Standard 1: Conduct and Ethics**

The school Board, as a whole, provides leadership to the community on behalf of the school district by conducting its business in a fair, respectful, legal, and responsible manner.

*An effective, high-performing school Board strives to meet the following benchmarks:*

- A. Recognize the school Board team consists of school Board members and the Superintendent and evaluates its performance at least annually.
- B. Take full responsibility for its activity and behavior at and away from the school Board table.
- C. Encourage its members to express their individual opinions, respect others' opinions, and vote according to their convictions.
- D. Speak with one voice after reaching a decision.
- E. Spend time on Board governance work rather than staff work – focuses on the ends not the means.
- F. Provide for orientation and ongoing training for all school Board members.
- G. Follow established policies, including the chain-of-command, by directing people with concerns to the appropriate staff.
- H. Set an example of respectful and civil leadership.

#### **Standard 2: Vision**

The school Board, with community input, envisions the educational future of the community and then formulates the goals, defines the outcomes, and sets the course for the school district.

*An effective, high-performing school Board strives to meet the following benchmarks:*

- A. Use clear, focused, attainable, and measurable goals and outcomes to support gains in student achievement.
- B. Develop a strategic plan which includes well-crafted school district belief statements, mission statement, vision statement, goals, and objectives that enable the school Board to evaluate school district performance.

- C. Regularly monitor the strategic plan to evaluate progress toward goal achievement and school district success.
- D. Ensure that the school district belief statements, mission statement, vision statement, goals, and objectives are reflected in school Board policies, mirrored in the budget planning and implementation efforts, and is supported district-wide.
- E. Communicate the strategic plan and the progress to the community.

**Standard 3: Structure**

The school Board, to achieve its vision, establishes organizational and physical structures for student and staff success.

*An effective, high-performing school Board strives to meet the following benchmarks:*

- A. Create organizational and physical structures based on equity in which all students and staff have the resources and supports to maximize achievement.
- B. Advocate and provide for learning through rigorous curriculum, effective technology, and a safe and secure environment.
- C. Select and employ one person, the Superintendent, as the school district's chief executive officer to lead and manage the school district.
- D. Hold the Superintendent accountable for school district performance and compliance with written school Board policy.
- E. Delegate the authority to the Superintendent to recommend and evaluate all school district staff within the standards established through written school Board policies.
- F. Accept ultimate responsibility for the care, management, fiscal oversight, and control of the school district while understanding that the day-to-day operations will be conducted by the staff.

**Standard 4: Accountability**

The school Board is accountable to the community for constantly monitoring the conditions affecting the school district as a whole.

*An effective, high-performing school Board strives to meet the following benchmarks:*

- A. Recognize the duty to itself and the community to determine whether the authority delegated to the Superintendent is being used as intended.
- B. Evaluate the Superintendent's performance at least annually.
- C. Use student achievement data and other indicators when available as the basis for assessing progress toward school district goals and compliance with school Board policies and state and federal laws.
- D. Recognize the distinction between "monitoring data" (data used by the school Board to address accountability) and "management data" (data used by the staff for operations).

**Standard 5: Advocacy and Communication**

The school Board advances its vision at the local, regional, state, and national levels.

*An effective, high-performing school Board strives to meet the following benchmarks:*

- A. Focus on community-wide concerns and values that best support equity and student achievement rather than being influenced by special interests.
- B. Develop communication strategies to build trust between the school Board and the Superintendent, staff, students, and community.
- C. Utilize a public relations strategy that supports the flow of information into and out of the school district.
- D. Engage and build relationships with both public and private stakeholders.
- E. Advocate on local, state, and national levels.

Source: Standards for School Board Leadership (developed by the Minnesota School Boards Association)

## **Professional Standards-Version #2**

The Board of Education (Board) is committed to providing all students the opportunity to grow and achieve. The actions taken by the Board ultimately have both short and long-term impact in the classroom. Therefore, school Board members, collectively and individually will . . .

### **1. Advocate Earnestly**

- Promote public education as a keystone of democracy
- Engage the community by seeking input, building support networks, and generating action
- Champion public education by engaging members of local, state and federal legislative bodies

### **2. Lead Responsibly**

- Prepare for, attend and actively participate in Board meetings
- Work together in a spirit of harmony, respect and cooperation
- Participate in professional development, training and Board retreats
- Collaborate with the Superintendent as the district's leadership team

### **3. Govern Effectively**

- Adhere to an established set of rules and procedures for Board operations
- Develop, adopt, revise and review policy
- Align decisions to policy
- Differentiate between governance and management, delegating management tasks to administration
- Allocate finances and resources
- Ensure compliance with local, state and federal laws

### **4. Plan Thoughtfully**

- Adopt and implement a collaborative comprehensive planning process, including regular reviews
- Set annual goals that are aligned with the comprehensive plan
- Develop a financial plan that anticipates both short and long-term needs
- Formulate a master facilities plan conducive to teaching and learning

### **5. Evaluate Continuously**

- Utilize appropriate data to make informed decisions
- Use effective practices for the evaluation of the Superintendent
- Assess student growth and achievement
- Review effectiveness of the comprehensive plan

**6. Communicate Clearly**

- Promote open, honest and respectful dialogue among the Board, staff and community
- Encourage input and support for the District from the school community
- Protect confidentiality
- Honor the sanctity of executive session

**7. Act Ethically**

- Never use the position for improper benefit to self or others
- Act to avoid actual or perceived conflicts of interest
- Recognize the absence of authority outside of the collective Board meeting
- Respect the role, authority and input of the Superintendent
- Balance the responsibility to provide educational programs with being stewards of community resources
- Abide by the majority decision

**8. Adhere To The Board Operating Guidelines**

The Board recognizes the research showing that Board behavior is directly linked to student performance. The Board is the highest decision-making body in the school district, and must set an example for employees, students and the community. The Board recognizes that “Operating Guidelines” can help the Board remain focused on priorities and maximize efforts as a Board.

Board members will:

- Keep open the day and time of the regularly scheduled meeting day even if there is no Board meeting scheduled;
- Be available at other times as needed to the extent possible;
- Come prepared to the meetings, study the information prior to the Board meeting;
- Follow up with the chairperson, if a meeting is missed, to ensure the receipt of materials and information;
- Bring concerns and questions on Board topics to the attention of the Superintendent and Board chairperson in advance of the meeting;
- Refrain from engaging in berating, belittling, insulting or otherwise disrespecting fellow Board members, school district employees or stakeholders. Debate the issues, not people;
- Respect each other by listening attentively, not engaging in side conversations, silencing cell phones;
- Respect the Superintendent's time by utilizing best practice to call the office to schedule a time to talk. Reserve the use of cell phone contact to urgent issues;
- Focus on the What, not the How and respect the expertise of administration;



- Be solution and future focused;
- Keep comments concise and relevant and be prepared to defend the relevance of one's questions by tying them to the agenda topic or to the district vision, mission, and goals;
- Remember that time spent on Board discussions and requests for information should be guided by relevance to the District vision, mission, and goals;
- Abide by Board decisions in and out of the Board room, even if the member does not agree with them;
- Understand the limits of their authority. Be watchful of what is said and how it is perceived; and
- Utilize the committees to work through concerns and questions on a topic.



## FREE SPEECH RIGHTS OF EMPLOYEES

~PAGE 1~

UPDATE MAILING NO. 3

APRIL 23, 2021

In today's climate, political and social debates can find their way into school communities. School officials, as a result, face the difficult challenge of balancing the constitutional rights of employees with the responsibility to maintain workplace integrity. In American jurisprudence, public school teachers and school employees do not forfeit all of their First Amendment rights to free expressions because of their employment by the school district. The U.S. Supreme Court has observed that employees, in addition to students, do not shed their First Amendment rights at the schoolhouse gate. *Tinker v. Des Moines Independent School District*, 1969.

The familiar *Tinker* standard of materially and substantially disruptive speech that collides with the rights of others has been applied to teacher speech and expression. Teacher expression cannot be squelched merely because it addresses a controversial topic. Teacher speech, in the school setting, however, can be constrained when it constitutes a disruption of the school environment, frustrates the school's legitimate and compelling educational interests, or violates an existing school policy or other law. The courts have held that the rights of public school employees are not coextensive with the rights of adults in other settings (*Daugherty v. Vanguard Charter School Academy*, 2000). In short, the right of free speech for public school employees is not unlimited.

School employers may exercise a high degree of control when employees' communications are work related. Whether the First Amendment protects employees' work and personal expression depends primarily on the capacity in which the employee is speaking.

Frequently the courts have been called upon to balance the rights of the individual public school employee against the rights of the employer, the students, the parents or the general public. It is necessary to promote a productive learning environment and a harassment-free work environment in which educators face a captive, young and impressionable student audience. Moreover, certain actions by public employees can convey the imprimatur of state action.

Various federal court decisions have addressed the rights and limitations of public school employees to engage in traditional First Amendment-protected activities while in the scope of their employment. This has become more difficult due to employee social media issues.

The U. S. Supreme Court has interpreted the First Amendment to confer protections on teachers and other public employees who speak out on matters of public concern. *Pickering v. Bd. Of Educ. Of Twp. High Sch. Dist. 205*, 391, U.S. 563 (1968). However, the importance of the speech must outweigh any disruptive effect of such speech in order to enjoy free speech protection. The Court held that statements on matters of public concern made by public employees could not be the basis of discharge unless those statements were knowingly or recklessly false or substantially interfered with the employee's ability to do his or her job.

This case demonstrates that the initial analysis in all such free speech cases is whether the speech itself can be characterized as touching on a matter of public concern. It is possible that speech on a matter of public concern is nevertheless so disruptive to the work environment or so impedes the employee's effectiveness to carry out his or her duties that the public employer is legally justified in disciplining such speech.



## FREE SPEECH RIGHTS OF EMPLOYEES

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By contrast, in *Connick v. Myers*, 461 U.S. 138 (1983), the U.S. Supreme Court held that the employee was not speaking on a matter of public concern but rather on a matter of personal grievance, and her actions were not protected by the First Amendment.

In addition, based upon the *Pickering* ruling, it is not permissible to discipline an employee simply because a statement made is false. However inaccurate statements by public employees can be cause for discipline when they are made with the knowledge that they are false or are made with reckless disregard for the truth or when they are otherwise unprotected speech.

A legal framework exists applicable to school employees pertaining to the First Amendment. Numerous court rulings over the years have provided guiding principles on when speech by public employees will be protected. Courts employ a three-part test to determine whether a school employee's speech has protection under the First Amendment.

First, school employees are protected by the First Amendment only when they are speaking as private citizens. The U.S. Supreme Court stated that when public employees make statements pursuant to their official duties, they are not speaking as private citizens for First Amendment purposes and their comments are subject to regulation by their public employer.

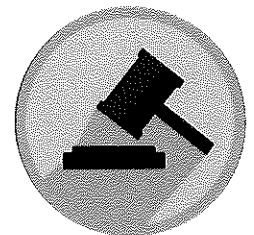
Second, the courts will review whether the employee's speech was regarding a matter of public concern. Speech is considered to regard a matter of public concern if it relates to a social, political or community issue. The determination of whether the employee's speech addresses a matter of public concern is to be determined by looking at the content, form and context of a given statement, as revealed by the whole record.

Third, courts will review whether the employee's interests in commenting upon the matters of public concern outweigh the interest of the employer in promoting the efficiency of the public services it performs through its employees. If the speech is a serious disruption, the employer can prohibit it and/or take disciplinary action against the employee. The courts have identified the following factors in determining whether the speech of a public employee is protected:

- The need for harmony in the workplace;
- Whether there is a need for a close working relationship between the speaker and the persons who would be affected by the speech;
- The context in which the dispute arose;
- The time, manner and place of the speech;
- The degree of public interest in the speech; and
- Whether the speech impeded the ability of other employees to perform their duties.

Numerous court rulings over the years have provided guiding principles on when speech by public employees will be protected. First, the speech, as stated previously, must relate to a matter of

public concern. Statements on purely private concerns are not protected by the First Amendment. However, it is difficult to know what speech will be considered.



The lesson for public school employees is to carefully weigh the very nature of the speech at issue. Is the speech a matter of public concern or private speech/private grievance? Does the speech relate to the specific details of one's job or professional responsibilities or does it address more general matters of public importance?



## FREE SPEECH RIGHTS OF EMPLOYEES

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Even if the speech touches upon matters of public concern, does it nevertheless disrupt the workplace, impede one's ability to do his or her job effectively, or obstruct the educational mission of the school.

Different factors apply to administrators. Administrators have policy-making responsibilities and work closely with the superintendent and the board of education. Therefore, when they speak out against the superintendent or the board, even on a matter of public concern, their speech may not be protected.

Some specific instances of employee speech are reviewed in the remainder of this narrative.

### Work-Related Speech

A school employee speaking as a private citizen has First Amendment protection. However, the U.S. Supreme Court has ruled that when public employees make statements pursuant to their official duties, they are not speaking as private citizens for First Amendment purposes, and their comments are not isolated from regulation by their public employer. The Court stated in *Garcetti v. Ceballos*, 547 U.S. 410, 422 (2006), "Official communications have official consequences." It also stated "[W]hen public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline." This decision ruled that public employees do not retain First Amendment protection for speech as part of their official job duties.

The following factors should be considered when determining whether speech is work-related:

- The scope of the employee's job responsibilities as indicated in policies or job descriptions created by the employer;
- Any statutory authority which assigns particular job responsibilities to the employee;
- Whether speech was directed within the employee's chain of command; and
- Evidence that the employee did or did not engage in certain activity as a result of his or her job, regardless of formal responsibility or authority.

### Classroom Instruction

What is said by a teacher in the course of instruction is work-related speech, subject to the school system's direction. Instruction is not the teacher's personal expression, regardless of the degree of public concern surrounding the topic and regardless of whether the instruction is required curriculum or spontaneous conversation. Schools have broad discretion in curriculum and teaching methodologies and may regulate classroom instruction for legitimate pedagogical purposes. *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S.260 (1988).

### Non-Work Related Speech on a Matter of Public Concern

The U.S. Supreme Court in *Pickering v. Bd. Of Educ. Of Twp. High Sch. Dist.* 205, 391, U.S.563 (1968) ruled that if an employee's expression is not part of the employee's job duties, but relates to a matter of public concern, a public employer must balance the employee's right to free speech with the employer's interest in maintaining the efficiency of its operations. Whether speech is a matter of public concern should be determined by the content, form, and context of a given statement. *Connick v. Myers*, 461 U.S.138 (1983).



The speech of public employees on a matter of public concern is not protected if the disruptive impact of the speech outweighs its importance. Generally speaking, if a teacher speaks on a matter of public concern in a private setting, he/she has protection under the First Amendment.

### Workplace Grievances

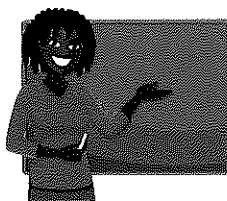
Speech expressed as part of one's job duties is not protected by the First Amendment. The U.S. Supreme Court in *Garcetti v. Ceballos*, 547 U.S. 126 S.Ct. 1951 (2006) clarified what can and cannot be regarded as protected speech in the context of a public employee. The Court held that "when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline." This ruling removes a whole category of speech from potential First Amendment claims.

Internal workplace conflict is not considered a matter of public concern even if the workplace is a public entity. When an employee expresses dissatisfaction with the manner in which his/her public employer operates, such speech is generally considered a personal matter and not of public concern, even if the information is shared publically. Therefore, most workplace complaints and grievances are not protected by the First Amendment.

However, the Connecticut Supreme Court has ruled that employee speech related to job responsibilities is protected by the Connecticut Constitution and C.G.S. 31-51q, but only if it relates to official dishonesty, other serious wrongdoings or threats to health and safety. Otherwise, the employer's right to maintain order in the workplace prevails.

### Personal Matters

School districts have little reason to regulate an employee's personal expression if the communication is strictly private, does not violate state or federal law, and does not interfere with the employee's ability to effectively perform his or her job. Districts recognize that employees are entitled to privacy regarding their personal lives. However, there are occasions in which private communications or conduct becomes known in the community and threatens the employee's effectiveness in the workplace.



It has been long recognized that educators are role models for students. Courts have held that the position of teachers, by its very nature, requires a degree of public trust not found in many other positions of public employment. Therefore, the key question for consideration is whether the school district would be reasonable in punishing an employee for non-work related private expression, which often depends on whether and how significantly the employee's work has been impaired by the personal expression.

### Social Media Posts

Efforts to regulate employee comments on social media, even when made off the school district site, has become difficult. Efforts to regulate social media could be considered interference with protected statutory right.

The general rule is that the employee's use of electronic media is subject to the same professional standards as communications by employees through other means. As with other communications an employee's use of social media may be subject to discipline based on the capacity of the employee and the content of the posts.



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Social media posts made during the course of an employee's employment can be controlled by the district. If the posts are unrelated to an employee's job, the district needs to determine if the posts were spoken by the employee as a citizen on a matter of public concern. If so, the district must apply the Pickering balancing test to determine if the district's governmental interests outweigh the employee's interest in the speech.



Teacher complaints posted online may not be protected speech because they may not relate to matters of public concern or because

they may be disruptive, which includes speech that harms the necessary trust between teachers, students and families served by the teacher.

Protected concerted activity may include communications about wages, hours and work conditions. Employers, per the National Labor Relations Act, the Teacher Negotiation Act and MERA are prohibited from taking any adverse actions against employees who are engaged in protected concerted activity. This impacts employees use of social media and the employers' reactions to such use and social media policies and language in employee social media policies must not be overbroad.

### Political Speech

An employee expressing personal political views away from the workplace has free speech protection, as most expression in the area of politics involves matters of public concern. The free speech protection means that employees can participate fully in the political process as citizens, using their free time and their own resources.

Staff members should not use school time, school property or school resources or equipment for the purpose of furthering the interests of any political party, the campaign of any political candidate or the advocacy of any political issue. Boards of education recognize the right of its employees, as citizens, to engage in political activity. However, school property and school time are paid for by all the people of the district, and should not be used for partisan political purposes, except as provided for in policies pertaining to the use of school facilities by civic and political organizations.

### Religious Speech in the Workplace

Employees' statements in their official capacity are attributed to the school district. Therefore, employees are not at liberty to express their personal religious beliefs in a way that violates the Constitutional prohibition on an establishment of religion.

### Personal Expression in the Workplace

A delicate balance is required when school employees share personal views at work, but not as school representatives, during such times such as a lunch break or decorations within a cubicle or office space, circumstances make it clear the employee is expressing personal, not district, views. Nevertheless, while a district employee is at work, the employee's speech is subject to district regulation.

The key factors to consider include whether the employee's speech involves a matter of public concern, the school has a legitimate interest in regulating the speech, and the school has applied its regulation in a reasonable, viewpoint-neutral manner. Reasonable policies pertaining to common issues of personal dress, decorations and online communications in the workplace should provide guidance.



### Conclusion

In conclusion, public school employees do have individual rights protected by the First Amendment. Such rights can be superseded by the government's interest in promoting a public school environment that is free of influences that would substantially disrupt the educational process. Balancing the rights of the individual against the rights of a group or another individual has always been a delicate endeavor. Balancing the rights of a public school employee against the rights of the employer, the students, the parents and the general public often requires walking the Constitutional tightrope.

Source: The above represents excerpts from material found in A Practical Guide to Connecticut School Law by Thomas B. Mooney; "Employee Free Speech Rights" published by the Texas Association of School Boards, 2019, "School Employees and the First Amendment," by Sara Clark, School Management News, Ohio School Boards Association, Dec. 2020, A Legal Memorandum: Principals and Teachers as Public Figures: Where Duty End and Rights Begin," by B. Kallio and R. Geisel, NASSP, Winter 2007; and "Licensed to Speak or Just Teach," by K. Taylor in Principal Leadership, January 2007, and "Update on Employee Social Media Issues," by Anne H. Littlefield, Thomas B. Mooney.

### Policy Implications

Given that the right of free speech is enshrined in the First Amendment, it may appear redundant to adopt a policy to that effect. However, boards of education find themselves in disputes over what a teacher can and cannot say as a district employee, especially using social media, about district policies, personnel issues and school operations. Cases highlight the risks of overreacting to a school employee's public remarks.

Courts have ruled that teachers are citizens, as well as employees, and thus have the right to speak out, as mentioned previously, on issues of "public concern." However, teachers do not have carte blanche to say

anything they wish. Courts have ruled that employees are not necessarily protected when speaking about matters of personal interest, such as job evaluation, sharing confidential work information or making provocative or disruptive statements.

The dilemma for school boards and administrators is identifying the line between protected and unprotected speech, including when such speech is on social media outlets. Even internal administrative matters, such as a dispute between teachers and a principal over classroom assignments, could arguably fall under the umbrella of public concern under the right conditions.

There are things that are obvious examples of public concern that teachers have a right to speak about and there are things so petty or confidential that they're obviously not of public concern. Most speech falls somewhere in the middle, where it isn't terribly clear.

School boards stand on firmer ground when the issue involves restricting teacher speech in the classroom. The courts have consistently backed the right of school boards to set the curriculum. A teacher may speak out about his or her objections to the curriculum. However, teachers do not have the authority to vary from that curriculum.

Boards can consider the adoption of a generic policy that articulates the district's commitment to respect and protect teachers' rights when they speak out on matters of public concern. That's in compliance with the law. However, the question is: "What is a public concern to have a policy?" Such determination has to be done on a case-by-case basis.

Existing optional policy, #4118.12/4218.12, "Freedom of Speech" pertains to this topic. It has been revised and follows for your consideration.

*An optional policy to consider.*

## **Personnel – Certified/Non-Certified**

### **Freedom of Speech**

The Board of Education (Board) recognizes and respects the First Amendment Rights of all of its employees to make public statements and to otherwise participate in the public discourse through any and all media, including social media. The Board also recognizes that inappropriate content authored by educators that is made available for public consumption can interfere with educational effectiveness. Therefore, District employees will be expected to strike an appropriate balance between exercising their right to freedom of expression and maintaining their effectiveness and credibility as educators. In addition, the Board acknowledges the right of its employees as citizens in a democratic society to speak out on issues of public concern.

Personnel employed by this school system are expected to exercise their constitutionally guaranteed right to freedom of expression. Teacher expression cannot be squelched merely because it addresses a controversial topic. Teacher speech in the school setting, however, can be constrained when it constitutes a disruption of the school environment, frustrates the schools' legitimate and compelling educational interests or violates an existing school policy or other law. The Board of Education recognizes that no freedom is absolute, and that in this case restrictions come from at least three sources, as listed below.

#### **1. Legal**

Governing bodies can, within frequently defined limits, restrict freedom of speech, as for example within the "clear and present danger" doctrine of the United States Supreme Court. Moreover, the initial analysis in all free speech cases must be whether the speech itself can be characterized as touching on a matter of public concern. However, it is recognized that it is possible that speech on a matter of public concern can be so disruptive to the work environment or so impedes the employee's effectiveness to carry out his/her duties that the District is legally justified in disciplining such speech. Statements on purely private concerns or expressed as part of one's job duties are not protected by the First Amendment.

The following factors shall be used in determining whether speech by a District employee is protected:

- The need for harmony in the workplace;
- Whether there is a need for a close working relationship between the speaker and the persons who would be affected by the speech;
- The context in which the dispute arose;
- The time, manner and place of the speech;
- The degree of public interest in the speech; and
- Whether the speech impeded the ability of other employees to perform their duties.



## Personnel – Certified/Non-Certified

### Freedom of Speech (continued)

~~In compliance with the ruling expressed by the U. S. Supreme Court in *Garcetti v. Ceballos*,~~ The Board recognizes, in compliance with the U.S. Supreme Court Ruling in *Garcetti v. Ceballos*, that when District employees make statements pursuant to their official duties they are not speaking as citizens for First Amendment purposes and the employee communications may be subject to District discipline. Moreover, ~~However,~~ the Connecticut Supreme Court ~~in 2015~~ ruled that “Employee speech pursuant to official job duties on certain matters of significant public interest is protected from employer discipline in the public workplace.” Yet, even if a statement would otherwise be protected the Board recognizes that speech damaging to the operation of the public enterprise is not protected from regulation. The District’s legal counsel will be consulted prior to any District action related to employee speech.

The Board recognizes that differences of opinion on what constitutes acceptable restrictions of freedom of speech may find solution only by legal action.

#### 2. Societal

Communities vary in what they will tolerate in classroom discussion. Limits of such tolerance change with time and place. Differences of opinion between District staff and community feelings may not be so much a matter of court adjudication as for tolerance on the part of each contender for the other’s position.

The Board believes that what is said in the course of instruction by a teacher is work-related speech, subject to the school system’s direction. Instruction is not considered the teacher’s personal expression, regardless of the degree of public concern surrounding the topic and whether the instruction is required curriculum or spontaneous conversation. The District will regulate classroom instruction for legitimate pedagogical purposes.

#### 3. Professional

District staff and their organizations must themselves decide what effect insisting on exercising freedom of speech, or accepting some degree of regulation thereof, will have on their role in the District and on their ultimate effectiveness in the education process.

Staff members are encouraged to use the District’s internal complaint procedure to safely and effectively bring issues of concern to the Board of Education and central administration. School administrators shall be required to contact the Superintendent of Schools or his/her designee (or the Board’s attorney) when the comments of a staff member come into question.

## **Personnel – Certified/Non-Certified**

### **Freedom of Speech (continued)**

The Board requests that any differences of opinion about exercise or abridgements of freedom of speech within or among members of the Board, staff, and especially certified personnel be reviewed by all parties concerned in light of the above factors.

### **Guidelines (optional)**

Employees are protected by the First Amendment when speaking out on a matter of public concern that is not part of their job duties. The following guidelines are intended to clarify and therefore avoid situations in which the employee's expression could conflict with the district's interests. In situations in which the employee is not engaged in the performance of professional duties, he or she should:

1. State clearly that his/her expression represents personal views and not necessarily those of the district;
2. Not direct his/her expression toward any individual(s) with whom he/she would normally be in contact with in the performance of duties in order to avoid the disruption of cooperative staff relationships;
3. Refrain from expressions that would interfere with the maintenance of discipline by school officials;
4. Refrain from making public expressions which he/she knows to be false or made without regard for truth or accuracy; and
5. Not make threats against co-workers, supervisors or District officials.

(cf. 1311.1 – Political Activities/Functions of School Employees)

(cf. 1311.2 – Political Activities in the Schools/On School Board Property)

(cf. 4118.21 – Academic Freedom)

(cf. 4118.22 – Code of Ethics)

(cf. 4118.51/4218.51 – Social Media)

(cf. 4135.2 – Communications with the Board of Education)

(cf. 4135.4 – Grievances/Complaints)

(cf. 6144 – Controversial Issues)

(cf. 6144.3 – Controversial Speakers)

(cf. 9030 – Board/Staff Communications)

Legal Reference: Connecticut General Statutes

53a-193 through 53a-200

*Keyishian v. Board of Regents*, 395 U.S. 589, 603 (1967)

## Personnel – Certified/Non-Certified

### Freedom of Speech

Legal Reference: Connecticut General Statutes (continued)

*Perry v. Sindermann*, 408 U.S. 593 (1972)

*Pickering v. Board of Education*, 391 U.S. 563 (1968)

*Connick v. Myers*, 461 U.S. 138 (1983)

*Garcetti v. Ceballos*, 547 U.S. 126 S.Ct. 1951 (2006)

*Sterzing v. Fort Bend Independent School District*, 376F. Supp. 657 (S.D. Tex 1972)

*Grayned v. City of Rockford*, 408 U.S. 104 (1972)

*Miller v. California*, 413 U.S. 15 (1973)

Amendment to U.S. Constitution, Article I

Connecticut Constitution, ARTICLE FIRST, Declaration of Rights, Sections 4, 5

Policy adopted:

cps 1/08

rev 4/16

rev 4/21

# Policy Update Service

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UPDATE #3

APRIL 23, 2021

The following chart has been developed and summarized for your convenience. Please note that this does not represent all of what is required in your policy manual, and although some sections in this update may not require policy language, they may be procedural and/or recommended.

Update Section	Subject	Policy Number(s) Impacted	Policy Topic	Is Policy Language Required?
A.	Continuous Improvement	0500.1	Strategic Planning for Continuous Improvement	No A new optional policy and administrative regulation provided.
B.	Paid Family and Medical Leave (P.A. 19-25)	4152.62/ 4252.62	Paid Connecticut Family & Medical Leave Program – Eligible Employees	No A new optional policy provided applicable in a limited circumstance.
C.	Resolution to the Rogue School Board Member	9222	Resignation/Removal from Office/Censure	No A revised bylaw provided with public censure statements.
		9271.1	Ethics Violations	No A new optional bylaw provided.
		9273	Civility Code	No A previously developed bylaw provided.
		9005	Statement of Integrity	No A previously developed optional bylaw provided.
		9223	Board Succession Planning	No A previously developed optional bylaw provided.
		9030.1	Conflicts in Public Education	No A previously developed optional bylaw provided.
D.	Board Member's Standard/ Code of Conduct	9274	Board Member Code of Conduct	No Several versions of a new optional bylaw provided.
E.	Free Speech Rights of Employees	4118.12/ 4218.12	Freedom of Speech	No A revised optional policy provided.