

WALATOWA HIGH CHARTER SCHOOL  
PERSONNEL 200

**All policies have been adopted, revised or readopted effective September 28, 2011 unless another date is listed at the end of an individual policy.**

200 Personnel Policy Statement  
201 Employer-Employee Relations  
203 Nondiscrimination Policy  
205 Applicant Background Investigations  
206 Qualifications for Licensed Employees  
207 Job Descriptions  
208 Superintendent of Schools  
209 Delegation of Authority to Principal  
212 Principals of Schools, Employment and Functions  
213 Salary Schedule Transfer of Steps  
215 Evaluation of Employees  
217 Employment, Assignment, Reemployment,  
Termination of Employees  
218 Transfer of Licensed Personnel  
219 Reemployment/Termination/Discharge of Licensed School Instructors  
220 Reemployment/Termination of Other Employees  
221 Resignations of Employees  
222 Drug-Free Schools and Campuses and Drug-Free Work Place  
223 Bus Driver Drug Testing  
224 Employee Use of Tobacco Products  
227 Reduction-in-Force (R.I.F.)  
230 Sexual Harassment  
231 Sexual Misconduct  
233 Employee Assault  
236 Grievance Procedure  
237 Americans with Disabilities Act Grievance Procedure  
239 Substitute Teachers  
242 Tutoring of Students  
245 Travel, Per Diem and Mileage Payments  
248 Soliciting and Selling by Employees  
249 Gifts and Gratuities  
251 Political Activities by Employees and Others  
252 Academic Freedom  
254 Employee/Immediate Family Doing Business with the  
School District  
256 District-Wide Acceptable Use of Information Technology  
257 Personnel Records  
258 Release of Personnel Information  
259 Disclosure of Employee Names  
260 Leaves from Duty  
261 Professional Leave  
262 Sick Leave  
263 Family and Medical Leave  
264 Personal Leave

265 Annual Leave

266 Jury Duty/Court Subpoena Leave  
267 Bereavement Leave  
268 Funeral Leave  
269 Military Leave  
270 Extended Leave  
271 Voting Time Leave  
277 Safe Harbor Policy  
275 Employee Eligibility for Fringe Benefits  
285 Assignments and Contracts, Extracurricular Activities  
290 Reporting Illegal or Improper Conduct  
291 Reporting Student Abuse of Alcohol or Drugs  
292 Reporting Acts of Violence, Vandalism  
293 Reporting Child Abuse and Neglect

### **Personnel Policy Statement 200**

The personnel policies of a school district are an essential part of the program of public education in a community. The philosophy of a school district and the community is generally reflected in these policies. Through its personnel policies, the board of education wishes to establish conditions that will attract and hold the highest qualified personnel who will devote themselves to the education and welfare of our students.

The board of education encourages cooperative efforts by the administration and employees or their representatives in the development of personnel policies and regulations. Provisions for the implementation of adopted personnel policies should include channels of communication and procedures for the handling of professional and ethical problems, through which all persons or groups affected, may voice their opinion.

To keep its personnel policies and the corresponding regulations in the highest state of effectiveness to achieve the above purposes, the superintendent is directed to establish the procedures needed.

### **Employee-Employer Relations 201**

This policy is adopted to:

- A. Promote harmonious and cooperative relationships between the employer and employees.
- B. Promote and protect the public's interest at all times by assuring the continuance of a quality educational program without interruption, conflict, or confrontation between the employer and its employees.

D. To protect the rights of the employer.

In the event of conflict with other district policies, the provisions of this Employee-Employer Relations Policy shall supersede all other previously enacted policies.

## **DEFINITIONS**

A. Appropriate Bargaining Unit means a group of employees designated by the State Public Employee Labor Relations Board or, if created, by the Local Commission, for the purpose of collective bargaining. Appropriate bargaining units may be formed by occupational categories.

B. Certification means the designation by the State Public Employee Labor Relations Board or, if created, by the Local Commission, of a labor organization as the exclusive representative for all employees in an appropriate bargaining unit.

D. Confidential Employee means a person who assists and acts in a confidential capacity with respect to a person who formulates, determines, and effectuates management procedures, negotiation strategies, and/or school board policies. This includes but is not limited to, all central office personnel and secretaries to the principals.

E. Employee means an employee of the Walatowa High Charter School who is regularly employed for more than twenty (20) hours per week and is a recipient of employee benefits. The term "employee" shall not include casual employees, including but not limited to temporary or seasonal employees, time card, day-to-day substitutes, and independent contractors, nor does it include supervisory, managerial, confidential or student employees.

F. Employer means the WHCS Board of Education, the governing body of the Jemez Valley School District and its executive officer, the superintendent of schools.

G. Exclusive Representative means a labor organization that, as a result of certification by the State Public Employee Labor Relations Board or, if created, by the Local Commission represents all employees in an appropriate bargaining unit for the purpose of collective bargaining.

H. Fact-Finding means the procedure following mediation whereby the parties involved in an impasse submit their differences to a third party for an advisory recommendation.

I. Grievance means a written complaint by a bargaining unit employee regarding an action taken by management resulting in a disciplinary action that does not involve an application or interpretation of a collective bargaining agreement currently in effect.

J. Impasse means failure of the employer and the exclusive representative, after good-faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement.

M. Lockout means an act by the employer to prevent employees from reporting to work and performing services for the purpose of resisting demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative.

N. Management Employee means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, implementing, administering, or effectuating management procedures or employer policies. Any employee who supervises and evaluates one or more employees shall be considered a Management Employee. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision making on an occasional basis.

O. Mediation means assistance by an impartial third party to resolve an impasse between an employer and exclusive representative regarding employment relations through interpretation, suggestions, and advice.

P. Professional Employee means an employee whose work is predominantly intellectual and varied in character, whose work involves the consistent exercise of discretion and judgment in its performance, and requires knowledge of an advanced nature in a field of learning customarily requiring specialized study at an institution of higher education or its equivalent. The work of a professional employee is of such character that outcomes or results accomplished cannot be measured in relation to a given period of time as to future agreement by the exclusive representative and management.

Q. Strike means an employee's refusal, in concerted action with other employees, to report for duty or his/her willful absence in whole or in part from the full, faithful, and proper performance of the

duties of employment for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of employment. This definition of strike includes such actions as walk outs, slow downs, sick outs, mass resignations and sympathy strikes.

R. State Public Employee Labor Relations Board means the Public Employee Labor Relations Board created by NMSA 1978, Section 10-7D-8 and having the powers and duties specified by the Public Employee Bargaining Act, NMSA 1978, Sections 10-7D- 1 to 10-7D-26.

S. Supervisor means an employee who devotes a substantial amount of work time to supervisory duties, who customarily and regularly directs the work of one or more other employees, and who has the authority in the interest of the employer to hire, promote, evaluate or discipline other employees or to recommend such actions effectively, but does not include individuals who perform merely routine, incidental, or clerical administrative duties or who occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their subordinates and does not include lead employees or

employees who participate in peer review or occasional employee evaluation programs.

T. Support Employees include unskilled, semi-skilled, crafts, clerical, secretarial, custodians, teacher assistants, cooks, bus drivers and technical employees.

U. Valid Petition. Refer to Black's Law Dictionary (as defined therein).

V. Valid Signature. Refer to Black's Law Dictionary (as defined therein).

### **RIGHT OF EMPLOYEES**

Employees other than management employees, supervisors, and confidential employees, and those excluded in the Employee definition of this policy, may form, join or assist any labor organization for the purpose of collective bargaining through representatives chosen by employees through procedures set forth in this policy without interference, restraint, or coercion. Such employees also have the right to refuse to form, join, or assist any labor organization. No employee shall be required to pay "fairshare" contributions under any collective bargaining agreement entered into by the employer.

### **EMPLOYER RIGHTS**

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

- A. Direct, supervise, and evaluate all operations, functions, and the work of its employees;
- B. Hire, lay off, promote, demote, assign, transfer, discipline, suspend, discharge, or terminate employees;
- C. Determine the nature of programs and services offered to students and citizens of the school district;
- D. Determine staffing requirements, create, abolish positions or eliminate or reorganize work units;
- E. Determine the necessity for and qualifications of employees;
- F. Take actions as necessary to carry out the mission of the employer in emergencies; and
- G. Adopt and implement policies and regulations for the administration of school operations;
- H. Retain all rights not specifically limited by a collective bargaining agreement and/or the Public Employee Bargaining Act (10-7D-1 to 10-7D-26, NMSA 1978) and/or this policy.

### **EMPLOYER: PROHIBITED PRACTICES**

The employer shall not:

- A. Discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;
- B. Interfere with, restrain, or coerce any employee in the exercise of any right guaranteed under this policy;
- C. Dominate or interfere in the formation, existence, or administration of any labor organization;
- D. Discriminate in regard to hiring, tenure, or any term or condition of employment in order to encourage or discourage membership in a labor organization;
- E. Discharge or otherwise discriminate against an employee because he/she has signed or filed an affidavit, petition, grievance, or complaint or given any information or testimony under the provisions of this policy or because an employee is forming, joining, or choosing to be represented by a labor organization;
- F. Refuse to bargain collectively in good faith with the exclusive representative;
- G. Refuse or fail to comply with any provision of this policy or regulations of the State Public Employee Labor Relations Board or, if created, the Local Commission;
- H. Refuse or fail to comply with any collective bargaining agreement.

**EMPLOYEES/LABOR ORGANIZATIONS: PROHIBITED PRACTICES**

An employee, labor organization, or its representative, shall not:

- A. Discriminate against an employee with regard to labor organization membership because of race, color, religion, creed, age, sex, national origin, ethnicity and/or disabilities;
- B. Solicit membership for an employee or labor organization during regular school hours. Duty hours shall not include lunches and breaks, contingent upon advice of school attorney.
- C. Interfere with, restrain, or coerce any employee in the exercise of any right guaranteed by the provisions of this policy.
- D. Interfere with, restrain, or coerce any elected official, employee, or representative of the employer in the conduct of his/her duties;
- E. Refuse to bargain collectively in good faith with the employer;
- F. Refuse or fail to comply with any collective bargaining or other agreement with the employer;
- G. Refuse or fail to comply with any provision of this policy, rule, or regulation adopted by

the State Public Employee Labor Relations Board

H. Picket homes or private businesses of elected officials or employees;

I. Interfere with or coerce the employer in the selection of its agent for bargaining;

J. Engage in discussions with a member of the employer school board concerning the negotiations process with the intent to influence or otherwise undermine the employer's authority or ability to negotiate with the exclusive representative.

#### **STRIKES AND LOCKOUTS PROHIBITED**

A. No employee or labor organization shall engage in a strike. No employee or labor organization shall cause, organize, instigate, encourage, or support a strike. No employer shall cause, organize, instigate, support, or engage in any employee lockout.

B. Any labor organization that causes, instigates, organizes, encourages, or supports an employee strike, walkout, or slowdown may be decertified as the exclusive representative for that appropriate bargaining unit by the State Public Employee Labor Relations Board or, if created, the Local Commission, and shall be barred from serving as the exclusive representative of any bargaining unit of employees for a period of not more than one year.

Appropriate administrative remedies imposed by the State Public Employee Labor Relations Board or, if created, the commission, may include a determination that the collective bargaining agreement with such a bargaining unit is null and void and the exclusive representative shall not collect dues, or purport to represent employees in any fashion. The Jemez Valley Board of Education retains the right to petition judicial interventions at the district court to terminate illegal work stoppages, job actions, or strikes. An exclusive representative affected by a lockout may apply to a district court for relief to end a lockout.

C. The employer may apply to the District Court for injunctive relief to end a strike.

#### **AGREEMENTS VALID - ENFORCEMENT**

All collective bargaining agreements and other agreements between employers and exclusive representatives are valid and enforceable according to their terms when entered into in accordance with the provisions of this policy.

#### **JUDICIAL ENFORCEMENT STANDARD OF REVIEW**

A. The State Public Employee Labor Relations Board may request the District Court to enforce any order issued pursuant to this policy, including those for appropriate temporary relief and restraining orders pursuant to the procedures and standards set forth in Section 23A of the Public Employees Bargaining Act, which section is adopted and incorporated herein by reference.

B. The commission may request the board or District Court to enforce any order issued within



ten (10) working days pursuant to this policy, including those for appropriate temporary relief request for enforcement on the record made before the commission. If the commission is dissatisfied with the board's decision, the commission may request the District Court to enforce any order issued pursuant to this policy, including those for appropriate temporary relief and restraining orders. The Court shall consider the request for enforcement on the record made before the commission. It shall uphold the action of the commission and take appropriate action to enforce it unless it concludes that the order is:

1. arbitrary, capricious or an abuse of discretion;
2. not supported by substantial evidence on the record considered as a whole;
3. or otherwise not in accordance with law.

Any person or party, including any labor organization affected by a final regulation, order or decision of the commission, if created, may appeal to the State Public Employee Labor Relations Board or directly to District Court for further relief.

C. Any person or party affected by a final decision, order, or regulation of the State Public Employee Labor Relations Board or, may appeal to the District Court for further relief pursuant to procedures and standards set forth in Section 23B of the Public Employees Bargaining Act, which section is adopted and incorporated herein by reference.

D. All such appeals to the State Public Employee Labor Relations Board or the District Court shall be taken within thirty (30) days of the date of the final regulation, order or decision of the commission. If the person or party is dissatisfied with the State Public Employee Labor Relations Board's decision the person or party may appeal the State Public Employee Labor Relations Board's decision to the District Court for further relief. All such appeals shall be based upon the record made at the commission hearing. All such appeals to the District Court shall be taken within thirty (30) days of the date of the State Public Employee Labor Relations Board's decision.

Actions taken by the commission shall be affirmed unless the Court concludes that the action is:

1. arbitrary, capricious or an abuse of discretion;
2. not supported by substantial evidence on the record considered as a whole;
3. or otherwise not in accordance with law.

#### **SEVERABILITY**

If any part of this policy is held invalid, the remainder or its application to other situations or persons shall not be affected.

**Nondiscrimination Policy 203**

The WHCS School District is an Equal Opportunity employer. It is the policy of the school district to not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, ancestry, disability, marital status or political affiliation. The school district promotes the principle of equal employment opportunity.

Accordingly, all recruiting, hiring and promoting for all job classifications is made without regard to race, color, religion, age, sex, national origin, ancestry, disability, marital status or political affiliation, except where age, sex, or disability is a bona fide occupational qualification. The school district makes diligent efforts to assure that all personnel actions, such as recruitment, job advertising, employment, rates of pay or other forms of compensation, promotion, transfer, demotion, layoff, termination, discharge, or selection for training, will be administered without regard to race, color, religion, age, sex, national origin, ancestry, disability, marital status, or political affiliation, except where age, sex, or disability is a bona fide occupational qualification.

### **Applicant Background Investigations 205**

This policy is issued by the Board of Education to all administrators and employees involved in employment and personnel functions.

All applicants for employment with the district are subject to work history, education history, and reference investigations, including but not limited to substitutes and temporaries. Each finalist or applicant recommended for employment will be subject to a criminal background investigation, including mandatory fingerprinting, at his or her expense, as a condition of employment or of further consideration for employment.

Effective immediately, all applicants for employment will be required to read and sign an Authorization and Agreement form, a copy of which is attached. All background checks on applicants will be conducted through the central office.

All offers of employment shall be expressly contingent upon the satisfactory completion of background investigations. Criminal convictions shall not automatically bar an applicant from employment, but pursuant to the Criminal Offender Act, NMSA 1978 28-2-4 and 28-2-5, may be the basis for refusing employment. Information from background checks shall not be disclosed except to persons directly involved in the certification or employment decision involving the applicant or employee.

The administration may also conduct the referenced background investigations of incumbent employees if it becomes aware of facts, circumstances, or conduct that give rise to a reasonable suspicion that undisclosed aspects of the employee's background might disqualify him or her to continue in employment with the district.

Pursuant to state law, the Superintendent will report to the State Department of Education any known conviction of a felony or misdemeanor involving moral turpitude of a certified school employee that results in any type of action against the school employee. All certified

administrators shall report any such information to the Superintendent.

All administrators and employees involved in employment and personnel functions shall acknowledge this directive by returning a signed copy to the Superintendent.

**Qualifications for Licensed Employees 206**

All persons employed to administer, teach, supervise, counsel or provide special instructional services in the Walatowa High Charter School shall hold and present to the district within ninety (90) days after the beginning of the school year a valid New Mexico license authorizing that person to perform that function. Failure to present such license within the prescribed time leads forfeiture of all claims to compensation rendered thereafter.

Each licensed employee shall comply with and enforce all laws, regulations and policies applicable to the Walatowa High Charter School; if instructing, teach the courses prescribed; exercise supervision over students on Walatowa High Charter School property and while students are under the control of the Walatowa High Charter School; and furnish such reports and attend such meetings as may be required.

See policies 222-2, 230, 231.

See policy 338.

See policies 290, 291, 292, 293, 526.

**Job Descriptions 207**

The superintendent is charged with the responsibility for creating job descriptions for all classes of employees. It is the board's desire that the job descriptions will:

- 1) assist employees to meet their duties and responsibilities,
- 2) assist employees and supervisors in the employee evaluation process, and
- 3) encourage the cooperation and collaboration among and between employees needed for maximum efficiency and effectiveness in achieving the work of the district.
- 4) to assist the district to meet its responsibilities under the Americans with Disabilities Act.

### **Principal/Superintendent of Schools 208**

The superintendent/principal of WHCS is employed as the executive officer of the board and the administrative head of the schools.

The superintendent of schools shall be qualified to hold office under the current Rules and Regulations Governing Licensure of Teachers and Administrators, State Department of Education.

The superintendent shall assume the responsibility and be given the authority for the operation of the schools. This responsibility extends to business administration, educational leadership, personnel management, public relations, organization of resources, both material and personnel, delegation of duties and authority, and supervision of all delegated tasks and of all individuals to whom authority and responsibility are assigned.

The board will meet at least once each year with the superintendent to discuss the superintendent's job performance.

The board will take action on the superintendent's contract no later than the month of February in the year in which the superintendent's contract expires, but may also extend the contract in the intervening year of a two-year contract. The superintendent's salary shall be determined annually by the board. However, in the year in which a regular school board election is held no action may be taken on the superintendent's contract, including extension, until the meeting at which any newly-elected board member(s) takes office. See policy 209.

### **Delegation of Authority to Principal 209**

State law vests complete supervision and control of the Walatowa High Charter School in the board of education (NMSA 1978, Section 22-5-4) and specify the several powers and duties of the board. The board also has other powers and duties imposed on it by state law, judicial decisions or regulations of the state board of education.

Recognizing that board members cannot provide full-time management of the Walatowa High Charter School and that state law directs the board to delegate administrative and supervisory functions to a superintendent, the board hereby delegates to the superintendent the authority and responsibility to act as its chief administrative officer and to perform all acts and carry out all functions reasonably necessary to assure the efficient and effective operation of the school district.

The board expressly delegates to the superintendent the power:

1. To act as hearing officer or hearing authority for the purposes of hearing or reviewing facts, deciding appropriate disciplinary action, or reviewing disciplinary actions of other designated or authorized administrators, consistent with procedures established by state law or regulation or board policy. Instances in which the superintendent may exercise such delegation of authority include, but are not limited to, acting as hearing authority,

review authority, or disciplinarian in hearings involving long-term supervision or expulsion of public school students pursuant to the State Board of Education Regulation No. 81-3, or such successor regulation as the State Board may adopt. The superintendent may designate other administrators to perform any of such functions.

2. To effect the immediate and temporary suspension with pay of public school employees, whether licensed or non-licensed, or to accept employee resignations, where the superintendent in the exercise of his sole discretion determines such immediate action to be, in the best interests of the school district, necessary to preserve the health, safety, or welfare of the students, or other employees of the district, or to assure the continued efficient operation of the school district. No appeal to the board from such action may be had unless the superintendent also recommends board action to suspend such employee without pay or to terminate or discharge such employee.

3. To make needed decisions regarding the complete or partial operation or cancellation of the schools on bad-weather days or in emergency situations.

4. To offer employment to prospective school employees in the interim between school board meetings where such offer is necessary to obtain qualified staff for school programs, so long as all such offers are expressly conditional on the subsequent recommendation to and approval by the school board.

5. To act as the district spokesperson to the media or in specific situations to name a designee as spokesperson.

The delegation of authority provided herein may not be used in a manner contrary to state law or regulation or to deny any student or employee rights to which he or she may otherwise be entitled. The board may expand the delegation prescribed herein in appropriate circumstances. The enumeration of delegated authorities to the superintendent shall not be construed to limit the authority of the superintendent to take such further actions as may be necessary to administer school district programs or to execute school board policy, unless such authority is reserved to the school board by state law.

See policy 105.

See policy 336.

See policy 549.

### **Principals of Schools: Employment and Functions 212**

The principal is the chief administrative officer of the individual school.

The principal is responsible to and shall serve under the direction of the superintendent.

The principal is responsible, in accordance with state standards, regulations and statutes and local school policies, for the organization, administration, supervision and outcomes of the school.

All principals shall meet New Mexico State Licensure requirements for the position for which they are elected and salaries shall be determined subject to budgetary allowances and salary schedules, if in force. The board of education, upon the recommendation of the principal/superintendent, shall appoint principals.

See policy 217.

**Salary Schedule Transfer of Steps 213**

An employee of the district who is assigned to a new job classification and salary schedule shall be placed on the new schedule at the same step as on the salary schedule for the previous job, as indicated below. Any employee who is not on a salary schedule shall be placed on the appropriate step on the new schedule to reflect in-district years of experience in addition to recognizable out-of-district experience in the job to which the employee is being assigned.

The steps transfer referred to in this policy means all steps previously recognized, whether earned in-district or out-of-district.

In the list below of allowed transfers, the intent is to recognize "related" positions. It is the responsibility of the board and superintendent to permit or require only those changes in job assignment merited by the training and/or experience and/or licensure (if any) of the affected employee and required for the new position.

**ALLOWABLE TRANSFERS**

Superintendent to Director of Instruction, Principal,  
Business Manager

Director of Instruction to Principal, Business Manager,  
Licensed Instructor

Business Manager to Director of Instruction, Principal,  
Bookkeeper, Administrative Assistant,  
Level I and Level II Secretary

Principal to Director of Instruction, Business Manager,  
Licensed Instructor

Licensed Instructor to Instructional Assistant

Administrative Assistant, Level I and II Secretary and Bookkeeper are interchangeable eligible.

Custodian and Maintenance are interchangeable eligible.

Administrative Assistant to Business Manager

Level II Secretary to Business Manager  
Bookkeeper to Business Manager  
Instruction Assistant and Food Service--no transfer eligibility.

Nothing in this policy shall be construed to prevent awarding credit on the new salary schedule for any previous out-of-district experience properly related to the new position which had not been recognized for the position from which the employee is being reassigned, nor shall this policy be construed to change in any way existing district practice for awarding credit for out-of-district experience.

#### **Evaluation of Employees 215**

The principal/superintendent shall provide a system of periodic evaluation for all employees of the school district, with written reports prepared and reviewed with each employee and kept on file in the superintendent's office. The plan for evaluation for each class of employees shall meet any state regulatory or statutory requirements and shall be reviewed by the board. No evaluation report shall be placed in an employee's file without review and discussion between the employee and the employee's supervisor. An employee in disagreement with the contents of the evaluation report may submit a written rebuttal to be attached to the report and kept on file. Such a rebuttal must be submitted within ten (10) school days of the evaluation review.

#### **Employment, Assignment, Re-Employment, Termination of Employees 217**

The employment, re-employment and termination of employees is the responsibility of the board of education, acting after hearing the recommendation of the superintendent, as provided by law. The assignment of employees is delegated to the superintendent with specific policy guidance in the matter of transfers of employees from one location to another as set out in policy 218.

The following schedule shall prevail for re-employment of employees:

1. Licensed administrative and supervisory employees other than the superintendent (see policy 208) shall have their status reviewed by the board in March of the year in which each such employee's contract expires, with action taken no later than the last day of April. The board may also extend the contract of any such employee in the intervening year of a two-year contract.
2. All other personnel shall be given written notice of re-employment or termination on or before the 14th day before the end of the school year of the existing employment contract, but shall have their status reviewed for possible action by the board in April.

See policies 218, 219, 220.

#### **Reemployment/Termination/Discharge of Licensed School Instructors 219**

On or before the 14th day before the end of the school year of the existing employment contract, or earlier as may be provided by the State Board of Education Rules and Regulations, the board shall serve written notice of reemployment or termination on each licensed school instructor (teacher, counselor, librarian, therapist, and coordinator) employed by the school district. The notice of reemployment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to reemploy for the ensuing school year. Failure of the local school board to serve a written notice of reemployment or termination on a licensed school instructor shall be construed to mean that notice of reemployment has been served upon the person for the ensuing school year according to the terms of the existing employment contract but subject to any additional compensation allowed other licensed school instructors of like qualifications and experience employed by the school district.

Each licensed school instructor shall deliver to the board a written notice of acceptance or rejection of reemployment for the ensuing school year within fifteen days of the following:

- A. The date written notice of reemployment is served upon the person; or
- B. The last day of the school year when no written notice of reemployment or termination is served upon the person on or before the last day of the school year.

#### **Termination**



All procedures and required time-lines regarding the rights of terminated licensed school instructors referred to in the following paragraphs are detailed in NMSA 1978, 22-10-14, copies of which are on file and available in the parent/superintendent's office.

A licensed school instructor who has been employed by the district for three consecutive years may be terminated only for a reason that is rationally related to the employee's competence or turpitude or the proper performance of duty and that is not in violation of the employee's civil or constitutional rights. The employee may request an opportunity to make a statement to the board and may also request in writing the reasons for the termination action, as provided by law. Neither the administrator nor the local school board or governing authority shall publicly disclose its reasons for termination.

The employee shall be granted a hearing before the board of education, as provided by law, under the contention that the decision to terminate was made without just cause. If the employee is still aggrieved by the decision of the board following the hearing, the law provides that an appeal may be made to an independent arbitrator for a *de novo* hearing. The arbitrator shall decide whether there was just cause for the decision to terminate.

The board may decline to re-employ a licensed school instructor with less than three years of consecutive service in the same classification for any reason it deems sufficient. Upon the written request of the licensed school instructor, the superintendent or administrator shall provide written reasons for the decision to terminate. The reasons shall not be publicly disclosed by the superintendent, administrator, local school board or governing authority. The reasons shall not provide a basis for contesting the decision.

#### Discharge

A licensed school employee may be discharged only for a reason that is rationally related to the employee's competence or turpitude or the proper performance of duty and that is not in violation of the employee's civil or constitutional rights.

The superintendent shall serve a written notice of intent to recommend discharge on the licensed school employee in accordance with the law for service of process in civil actions. The notice shall state the intent to recommend discharge and the cause for the recommendation, and shall advise the employee of the right to a discharge hearing before the school board.

The employee may exercise the right to a hearing by giving the superintendent written notice of that election within five working days of the receipt of the notice to recommend discharge.

**All details pertaining to the employee's rights and the procedures to be followed are detailed in NMSA 1978, 22-10-17, 17.1, copies of which are on file and available in the superintendent's office.**

#### Reemployment/Termination of Other Employees 220

This policy and the statutes upon which it is based do not pertain to licensed school instructors employed to fill a position of a licensed school instructor entering military service or a person employed as a licensed school administrator, or a non-licensed school employee employed to perform primarily district-wide management functions.

The board of education may terminate an employee with fewer than three years of consecutive

service for any reason it deems sufficient. Upon the written request of the employee the superintendent or administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten working days of the request. The reasons shall not be publicly disclosed by the superintendent, administrator or the board. The reasons shall not provide a basis for contesting the decision.

**All procedures and timelines regarding the rights of terminated non-licensed school employees referred to in the following paragraphs are detailed in NMSA 1978, 22-10-14, 14.1, copies of which are on file and available in the superintendent's office.**

Before terminating a non-licensed school employee, the board shall serve the employee with a written notice of termination. Termination of a non-licensed school employee who has been employed for three consecutive years shall be only for a reason that is rationally related to the employee's competence or turpitude or proper performance of duty and that is not in violation of the employee's civil or constitutional rights. Any such employee who has been employed for three consecutive years may request an opportunity to make a statement to the board and may also request in writing the reasons for the termination action. Neither the superintendent or administration nor the board shall publicly disclose the reasons for termination.

If the employee is still aggrieved by the decision of the board following a hearing with the board, an appeal may be filed to request a *de novo* hearing with an independent arbitrator. The arbitrator shall decide whether there was just cause for the termination.

#### **Resignations of Employees 221**

Licensed employees shall provide the superintendent with at least thirty (30) days notice of the intent to resign. Non-licensed employees shall provide at least two (2) weeks notice of the intent to resign. Under extenuating circumstances, the superintendent may waive these notice requirements.

#### **Drug-Free Schools and Campuses and Drug-Free Work Place 222**

The board of education for the Walatowa High Charter School realizes that on-the-job substance abuse is a pervasive problem throughout the American society. The district recognizes that drug abuse in the work place can seriously injure the health of employees, adversely impair job performance, and endanger the safety and well-being of other employees, students and members of the community. In addition, increased health care problems arising from substance abuse can cause increased health care costs to the employee and district in the form of treatment costs and increased insurance costs. Therefore, in response to this significant problem, the board has adopted this policy and will make a good faith effort to maintain a drug-free work place.

**For policy relating to student substance abuse, see policies 366, 367, 369.**

#### **Prohibited Practices**

Substance abuse in the work place, on school premises, during school programs, or while on school

business is prohibited. The unauthorized manufacture, distribution, dispensation, sale, possession, or transfer, use or being under the influence of controlled substances (as proscribed by the Controlled Substances Act or identified in Schedules I through V of this Act as described below) or any other substance abuse in the work place, on school premises, during school programs, or while on school business constitutes a violation of this policy. Also prohibited is possessing, selling, giving away or using any equipment or apparatus used for measuring, packaging, distributing or facilitating the use of drugs.

#### Disciplinary Actions

Any violation of these prohibited practices by an employee may result in disciplinary action up to and including dismissal, reprimand, suspension with or without pay, termination or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies. A disciplinary action may also include the satisfactory completion of a rehabilitation program at the individual's expense.

The following definitions are used in this policy:

- 1. "Substance abuse" means the unauthorized possession, distribution, dispensing, manufacture, sale, or use or being under the influence of controlled substances that are identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC, Statute 812 (United States code, Title XXI, Chapter 13) or its implementing regulations, 21 CFR Sections 1308.11 to 1308.15 where the use is neither authorized by law nor a valid prescription, or the misuse of a legal substance, including but not limited to prescription drugs, that may affect an individual's ability to perform his or her job in a safe, adequate and secure manner. Controlled substances include, but are not limited to marijuana, barbiturates, anabolic steroids, cocaine, (including crack), amphetamines, heroin, PCP, hallucinogens, and certain prescription drugs. Substance abuse shall also include the unauthorized use or possession of, or being under the influence of, alcohol or alcoholic beverages on school premises or during school programs and look-alike drugs. Also included are solvents or inhalants used for intoxication and any substances that are represented to be controlled or illegal substances.**
- 2. "School premises" means any school building and any school property, any school-owned vehicles and any other school-approved vehicle used to transport students to and from school activities or for school business.**
- 3. "School programs" means any school sponsored or approved activity, event or function, on or off school premises where students are under the jurisdiction of the district; or during any period of time school employees are supervising students on behalf of the district or are otherwise engaged in school business. Collectively, school premises and school programs constitute the work place.**

#### Use of Authorized Prescriptions and Drugs

Authorized prescription drugs and "over the counter" legal drugs may be used at the work place so long as prescribed dosage and recommended use is not exceeded and the use of these drugs do not adversely affect the employee's ability to perform required work in a safe and secure manner. When such legal drugs are to be used at the work place and will affect performance, employees should inform their supervisors.

### Federal Funding Requirements

Walatowa High Charter School is a recipient of federal funding and is subject to the Federal Drug Free Work Place Act of 1988. As a condition of employment each employee shall notify his or her employer of such employee's conviction of any criminal drug statute for a violation occurring in the work place no later than five (5) days after such conviction.

As a condition of employment, each employee shall abide by the terms of this policy. Any employee who violates the terms of this policy may be disciplined, up to and including dismissal, reprimand, suspension with or without pay, termination or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies for violation of the standards of conduct or may be required to participate in and satisfactorily complete a drug abuse assistance or rehabilitation program approved by the district at the employee's expense.

### Employee Assistance

The WHCS is committed to a safe working and learning environment for its employees, students, and the public. Substance abuse affects employee performance, conduct, and/or reliability, and students' ability to learn and complete assigned tasks.

The district strongly encourages employees who engage in any form of substance abuse, including alcohol or other drug-related problems, to voluntarily refer themselves for assistance. The district will provide information or referral for employee assistance, rehabilitation, and/or counseling.

The superintendent will appoint Screening Committees/Employee Support for employees (Employee CORE Team). The Employee CORE Team will report to the superintendent. The function of this team is to intervene and guide (within the limits of its members' professional competence as substance abuse counselors), make referrals to the other resources (internal and external) and monitor the progress of the subject towards a return to a healthful lifestyle. The team shall, as much as possible, consist of employees who possess a degree of expertise in substance counseling and treatment. The immediate supervisor and/or others in the line of supervision may be added to the team.

Employees are encouraged to participate in employee assistance. Referrals may be provided for employees who request medical help or rehabilitation. Therefore, employees who voluntarily seek such assistance, termed self-referrals, will be accorded different treatment than supervisor referrals described below. Information regarding the employee who is participating in the program will be treated as confidential and will be accorded the protection required by applicable state and federal law.

Employees who have entered into rehabilitation must comply with the terms of the program. Employees entered into inpatient rehabilitation as a part of a prescribed program will be placed on appropriate leave status for that period. Fees and expenses incurred are the responsibility of the employee.

### Employee Performance/Supervisor Referrals

Supervisors will observe employee performance and on-the-job conduct to detect behavior that could compromise the health or safety of the employee or others. When that observation indicates

cause to believe that substance abuse is a factor, supervisors are to take appropriate action as directed in this policy when:

- 1) behavior is observed that may pose an immediate threat to the health and safety of the employee or of others and the supervisor reasonably suspects that substance abuse may be a contributing factor.
- 2) the use of controlled substances, the misuse of legal substances, or unauthorized use of alcohol has been observed in the work place; or,
- 3) a work-related accident or incident occurs where the supervisor reasonably suspects that substance abuse, misuse of legal substances, or alcohol abuse may be a contributing factor.

In substance abuse cases the employee's supervisor will report the matter to the designated Employee CORE Team who will outline the course of action with the respective supervisor of the employee and take the necessary steps in compliance with this policy. The employee's supervisor may refer the employee for professional evaluation for substance abuse and report the referral to the superintendent.

Where there is a misconduct and/or substandard performance and there is uncertainty as to whether substance abuse is a factor, the supervisor will refer the employee for substance abuse assessment through the CORE Team.

#### Standards of Conduct

All employees are expected to cooperate fully with the district's object of maintaining a Drug-Free Work Place. Failure to do so is deemed to be a violation of this policy and the standards of conduct prescribed therein. Accordingly, in the event that an employee violates this policy, refuses to submit to a required evaluation for substance abuse, refuses rehabilitation, fails to complete a prescribed rehabilitation program, fails to submit required documentation relative to evaluation, or falsifies any record relative to abuse of any substance, such employee will be subject to disciplinary action up to and including discharge.

#### Random Drug Testing

The obligation of employees in certain positions to perform their duties unimpaired holds direct consequences for the safety of the students of the district and of the general public. Examples would include any positions that involve driving a motor vehicle as a prime and regular duty. As to such employees, in addition to the enforcement procedures set forth above, the board reserves the right at any time to require the submission of blood, breath, or urine samples by any such employees for testing by an authorized testing laboratory. (See policy 223.)

#### Education Program

A. The Principal shall arrange for periodic (at least annual) training and education in the dangers and risks to physical and mental health, economic welfare, and civil status from the use of illicit drugs and abuse of alcohol and tobacco.

B. The principal or designee will post notices regarding drug-free work place on major bulletin boards at each school site and administrative building and will likewise post notices in prominent areas frequented by students on all school sites.

C. This policy shall be included with the orientation package of materials for each new employee. The principal of each school will distribute the policy to each employee under his/her supervision and will maintain records signed by the employee substantiating this distribution and stating that compliance with the policy is mandatory. This policy shall be incorporated also in student handbooks.

#### Confidentiality and Due Process

Employees and students are assured that every effort will be taken to protect their confidentiality. Actions taken in enforcement of this policy shall comply with such hearing or due process procedures as may be required by district policy or state law.

#### Policy Review

A biennial review of this policy shall be conducted to determine its effectiveness, to implement changes as needed, and to ensure that disciplinary sanctions are consistently enforced.

This policy is adopted in accordance with Public Law 101-226, Drug-Free Schools and Communities Act Amendments of 1989, for receipt of federal program funds.

See policies 223, 224, 543.

#### **Bus Drivers Drug Testing 223**

The Walatowa High Charter School and its transportation contractors shall require that all applicants for employment as bus driver be tested for the use of substances which could lead to impaired performance as a driver. As noted in policy 222-4, drivers may be required to undergo such testing at any time during their employment by the district or a district contractor. Refusal by the employee to undergo such testing upon request will be considered insubordination and shall automatically disqualify the employee from further employment as a driver.

Unless required by law, the Walatowa High Charter School and its contractors shall not disclose individual drug testing results to anyone other than the applicant without a written release from the applicant or employee requesting the disclosure.

All procedures followed regarding the drug testing of drivers shall be consistent with the Regulations of the United States Department of Transportation.

#### **Employee Use of Tobacco Products 224**

The use of tobacco products by employees and any other persons is forbidden in school buildings, on school property, in any district-owned vehicle or in any vehicle used to transport students.

The superintendent will post notices regarding smoke-free work place at each school site and the administration building, including all prominent places frequented by students.

See policy 369.

**Issuing School Keys Agreement 226**

A Key Agreement Form, listing assigned keys, will be signed by all individuals who are issued Best Lock keys for the Walatowa High Charter School. Please ensure that such keys are kept in good condition and secure. Keys will not be loaned, transfer, give possession of, misuse, modify or altered. If such keys are lost, the charges will be enforced. No additional keys will be issued until lost key charge is collected.

**LOST KEY CHARGE:**

**GRAND MASTER AND MASTERS \$100.00**

**FRONT & OUTSIDE DOORS \$100.00**

**ROOM KEYS \$ 50.00**

**GATE KEYS \$ 50.00**

**KEYS NEED TO BE RETURNED ANNUALLY TO THE CENTRAL OFFICE TO BE RECORDED AS RETURNED.**

*Revised and Adopted by the WHCS Public School's Board of Education on September 22, 2011*

**Reduction-in-Force (R.I.F.) 227**

Pursuant to NMSA 1978 § 22-5-14 (2003), the principal/superintendent has the authority to discharge licensed school personnel during the term of their contracts or to terminate licensed school instructors and non-licensed school employees with rights created by NMSA 1978, Section 2210-14(C), (hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of decreased enrollment or a decrease in or revision of educational programs. Reduction-in-force (R.I.F.) is "just cause" for discharge of licensed school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in personnel who are covered by the policy may be accomplished, within the context of the district's general personnel policies.

The board is vested with the discretion to develop educational policies for the district, so long as the state board of education's educational standards and statutorily required standards are met. The superintendent in carrying out the educational policies of the board and administering and supervising the district shall exercise his or her discretion in accordance with this policy in determining when decreased enrollment, financial exigency or other causes justify a reduction in personnel.



## I. GROUNDS JUSTIFYING REDUCTION IN FORCE

Situations that justify a R.I.F. shall include, but are not limited to, the following:

- A. decrease in student enrollment;
- B. decrease in revenue:
  - 1. because of decrease of student enrollment;
  - 2. because of loss or reduction of tax revenues;
  - 3. because of reduction of state, local, or federal financial support; or
  - 4. because of inflation reducing the value of revenues received;
- C. change in the educational program of the district, as determined by the board in its good-faith exercise of discretion;
- D. consolidation or de-consolidation involving the district;
- E. court orders;
- F. orders of the state board of education;
- G. legislative mandates.
- H. unanticipated financial or programmatic exigencies identified by the superintendent which warrants initiation of a RIF process.

## II. GOOD FAITH DETERMINATION

The principal shall exercise discretion in good faith, and determinations that a R.I.F. is necessary shall be based on bona fide educational considerations and not be a subterfuge for discharging or terminating licensed personnel without good or just cause or for impermissible reasons.

## III. TIMING OF REDUCTION IN FORCE

A R.I.F. may occur at any time during the calendar year when the principal/superintendent, in his or her discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on such projections or require the reemployment of any employees who were released on the basis of such projections.

## IV. DETERMINATION OF NEED FOR REDUCTION IN FORCE

**Except as required by legislative mandate or orders of the state board of education** and to the extent that circumstances permit, the principal/superintendent, with the assistance of the administrative staff, shall report to the board any circumstances which may ultimately

require a R.I.F., in order that notice be given to licensed personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided.

#### A. Preparation of R.I.F. Plan

When the principal concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to the board. The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the district and how it may be modified to reduce costs, programs and personnel while still providing the educational program required of school districts and the particular educational needs of the district. Where circumstances warrant, a R.I.F. plan may address particular programs, departments, school sites, content areas or activities if the causes for the R.I.F. predominately impact that aspect of the educational program. Such impact shall be described in the R.I.F. plan. The R.I.F. plan shall include, but need not be limited to, the following:

1. a detailed description of the cause or causes requiring a R.I.F.;
  2. a description of all adjustments already made by the administration in an attempt to avoid a R.I.F., if any (e.g. reduction by attrition, cuts in non-licensed staff, abolition of non essential services or activities such as extra-curricular activities, etc.)
  3. a designation of the part or parts of the total educational program or particular program or activity in which the R.I.F. is proposed and the number of positions proposed to be reduced in each program or activity;
  4. a designation of non essential services or activities which are to be retained, with a justification for retaining such programs; and
1. a discussion of alternatives (if any) considered by the superintendent with an explanation as to why such alternatives were rejected.

The superintendent shall include in the R.I.F. plan a listing of all extra curricular, co-curricular and athletic programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and proposed weight to be given each category of such programs or activities for discussion at the public meeting at which the R.I.F. plan is considered.

#### B. Board Considerations.

The board shall consider the recommendations of the principal/superintendent for the adoption of the R.I.F. plan at a duly-called board meeting, the public notice of which announces that a R.I.F. will be considered. The discussion and action on the plan shall be in open session; however, nothing herein shall restrict the board from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The board may allow such review, consultation, and comment by employees and members of the public, as the board, in its discretion, deems appropriate. The board may propose modifications to the plan recommended by the principal/superintendent as it deems appropriate provided that

the principal/superintendent shall be the final decision maker on the content and scope of the plan after giving due consideration to the Board's proposals.

Any final plan for a R.I.F. shall be made available to all staff, by providing copies thereof in the office of each building principal and at the principal/superintendent's office, within two (2) work days after the final plan has been approved by the principal/superintendent.

#### C. Adopted Plan

If a R.I.F. plan is adopted, the Board shall not be required to deplete its operational cash balances maintained or carried over as permitted by NMSA 1978 § 22-8-41C and Section 71, Laws 2003, Ch. 153 in order to avoid the R.I.F., if the Board in its discretion determines that the cash balance must be maintained at a level to be determined by the Board, in order to cover other permitted expenditures or as a contingency for unforeseen expenditures.

Based upon the R.I.F. plan approved by the board, the administration shall perform a study of the school district's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan. The primary concern to be applied in making the R.I.F. selections shall be the Board's interest in maintaining a sound and balanced educational program which is accredited and meets statutory and State Board requirements or standards, as well as the educational and extra-curricular program of the District.

#### V. CRITERIA FOR SELECTION OF EMPLOYEES

##### A. Licensed Personnel

1. Substandard licensure is inferior to full licensure, and a person who is fully licensed for the available position(s) shall be retained in preference to a person holding a substandard license. A person holding a "waiver" of licensure or certification requirements approved by the Department of Education shall be treated as having substandard licensure for the purpose of this policy.
2. Licensed personnel possessing certification endorsements recognized by the Department of Education beyond those requested as qualifications for the individual's current assignment or content area shall receive an additional 1 (one) point per current valid endorsement, up to a maximum of 1 (one) point.
3. Training and experience in the extra-curricular or co-curricular activities which are to be retained as an integral part of the district's overall program for its students may be considered as a qualification requirement, in addition to licensure status, in making selection of personnel to be released under this policy. Such specialized knowledge, training or expertise may be awarded up to 1 (one) point.
4. Where licensure/qualification status is equal between two or more licensed school instructors being considered for termination or discharge, tenured licensed school instructors shall be retained in preference to licensed school

instructors who have been employed by the district for less than three consecutive school years.

5. If two or more licensed individuals are equal or equivalent in licensure and qualification and tenure status (if any) and it is necessary to decide which shall be discharged or terminated, the following selection criteria shall be applied:

individual considered for termination or discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the district, prior to the current year, excluding approved leaves, up to a maximum of fifteen (15) points.

credit for education shall be determined based on degree and additional hours:

- (1) B.A. 1 point
- (2) B.A. + 15 1 point
- (3) B.A. + 45 or M.A. 1 point
- (4) M.A. + 15 1 point
- (5) M.A. + 45 and higher 1 point
- (6) Ed.D. and Ph.D. 1 point

The current supervisor of each licensed school instructor considered for termination or each licensed person considered for discharge shall rate the relative performance of each such person on a rating form to be prepared by the superintendent, or under his/her direction. Such rating form may be based on the district's standard evaluation form(s) rating teacher competencies but may include additional competencies identified by the superintendent which reflect his or her judgment as to the attributes necessary for success in the particular program(s) affected by a R.I.F. The rating form shall include not more than a total of ten standard and specific competency areas, shall specify the score for each performance category or attribute, and shall allow for a maximum score of seventy-five (75) points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The supervisor(s) shall complete the rating forms and return them to the superintendent within the time specified for completion of the evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or with the superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals considered for a R.I.F. for a period of the three (3) years immediately prior to the R.I.F. if available. Where a supervisor lacks familiarity with an individual's performance (e.g., a new supervisor), the superintendent may assign the valuation to a present or past district administrator or supervisor who has greater familiarity with the individual's performance. The superintendent may devise such other measures as he or she sees fit to deal with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to award points to licensed personnel based on best performance.

## B. Selection Based on Scores

The Principal shall total the points for service, education, and performance. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious detrimental effect on the total educational program. In such event, the superintendent may select a higher scoring person for termination or discharge but shall prepare a written justification for such action in the best interests of the district, along with the rating sheets for such positions. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

## C. Transfers/Reassignment

If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person ("the affected person") is also licensed and qualified for another program(s) within the district, the person shall be considered for transfer or reassignment to such program(s). The fact that there are one or more other licensed employees within the program affected by the R.I.F. who scored higher than the affected person, and that such person(s) may be licensed and qualified to teach or administer in other programs in the district, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/reassignment obligation shall not arise until after the selection of the person or persons to be released from program affected by the R.I.F. and shall only apply to the person or persons selected for release. Consideration of transfer or reassignment of the affected person shall be governed by the following criteria:

1. Existing Vacancy. If, upon the effective date of the termination or discharge due to a R.I.F., there is an existing vacancy in another program for which the affected person is licensed and qualified, he or she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.
2. No Existing Vacancy. Where the affected person is licensed and qualified for another program or programs in the district, but all such positions are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.
  - a. If the person is fully licensed for a position in another program or an administrative position but has not actually taught in such program or held such an administrative position during any part of the preceding five (5) school years, such person shall not be considered qualified for transfer or reassignment to the other positions and superintendent or designated supervisor of the program has observed the person being considered for transfer or reassignment performing the duties of the other program, it is

impossible for the relative performance of the person being considered for transfer or reassignment and the person or persons currently teaching or administering in the program to be rated based on direct observation. Under such circumstances, the superintendent or his/her designee shall make judgment as to the likely performance of the person being considered for transfer or reassignment and assign the performance score which will be used in the selection process in comparison to the person or persons currently employed in the other program. The superintendent or designee shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

Each licensed instructor or administrator discharged and each tenured teacher terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Board of Education governing discharge of licensed school personnel or the termination of tenured teachers. The written decision of the superintendent, to the extent required by statute and regulation, shall clearly specify that the termination or discharge resulted from a R.I.F. and not from any cause personal to the person released.

#### D. Non-Licensed Personnel

Where two or more non-licensed employees are being considered for termination, the employee(s) with three or more consecutive years of service shall be given preference to employees who have been employed by the district for less than three consecutive years.

If two or more non-licensed employees have been employed by the district for at least three consecutive years and it is necessary to decide which shall be terminated, the following selection criteria shall be applied:

employee shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the district, prior to the current year, up to a maximum of fifteen (15) points.

alized training or licensing directly related to the current job duties of the non-certified employee, such as an electrician's license, may be awarded up to 1 (one) point. The current supervisor of each non-licensed employee considered for termination shall rate the relative performance of each such person on a rating form to be prepared by the superintendent or under his/her direction. Such rating form may be based on the district's standard evaluation form(s) but may include additional performance categories which reflect the superintendent's judgment as to the attributes necessary for success in the particular program(s) affected by the R.I.F., shall specify the score for each performance category or attribute, and shall allow for a maximum score of fifty (50) points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The

rating forms shall be completed and returned to the superintendent within the time specified for completion of the evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or the superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals for a period of three years immediately prior to the R.I.F., if available. Where a supervisor lacks familiarity with an individual's performance (e.g. a new supervisor), the superintendent may assign the evaluation to a present or past supervisor who has greater familiarity with the individual's performance. The superintendent may devise such other measures as he or she sees fit to deal with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to select the best non-licensed employee for retention. The principal/superintendent shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

non-licensed employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-licensed personnel. The written decision of the board, to the extent required by statute and regulation, shall clearly specify that the termination resulted from a R.I.F. and not from any cause personal to the person released.

#### E. Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10-14.1 or NMSA 1978 22-10-17.1, respectively and any applicable regulations of the State Board of Education.

#### F. Recall of Released Staff

For a period of one year after the effective date of the discharge or termination of any employee pursuant to this policy, the superintendent shall offer to such person any position(s) which becomes available for which such person is licensed and qualified, provided that such person has complied with the requirements specified below.

person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the superintendent, within thirty (30) days after the effective date of the discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be

contacted. Such person must notify the superintendent of any change in address within ten (10) days after changing residences in order to insure proper notification in the event of a recall.

In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or licensure to which a person will be recalled, the selection criteria of this policy will be applied to determine which person is to be recalled. The points accrued for "Service in District" and "Performance" shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination which is directly related to the District's educational program shall be credited and considered.

The person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the superintendent's office within fifteen (15) calendar days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be made to the next person qualified to be recalled, or if there is none, the position will be filled by another applicant.

A person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of actual service in the district for salary purposes.

After the one-year recall period has expired, any person discharged or terminated under this policy shall no longer have any right to be recalled. Such persons who wish to be reemployed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

**In the event legislation is passed which requires the superintendent to reduce licensed school personnel, for any reason, the superintendent shall follow the legislative procedures, if any, in lieu of this policy.**

**In the event State Board Orders are entered which have the effect of revising the district's boundaries to exclude school facilities previously operated by the district, reducing the district's enrollment, or reassigning licensed school personnel to another district, or other state board orders resulting from exercise of its legislative powers, then the procedures described in the State Board's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Notwithstanding the foregoing, the termination or discharge of school employees in compliance with a state board order shall be governed by NMSA 1978, Statutes 22-10-14, 22-10-14.1, 22-10-17, and 22-10-17.1.**

**Revised and Adopted by the WHCS Board of Education on September 26, 2011.**



## **Sexual Harassment 230**

The policy of the board of education of the Walatowa High Charter School forbids discrimination against any employee or applicant for employment on the basis of sex. The board of education will not tolerate sexual harassment activity by any of its employees. This policy similarly applies to non-employee volunteers, and to any other persons who work subject to the control of school authorities.

### **A. Definitions**

#### **1. Conduct of a Sexual Nature**

Conduct of a sexual nature may include, but is not limited to, any unwanted physical, verbal or visual sexual advances, including subtle pressure for sexual activity; touching, pinching, patting or brushing against; requests for sexual favors and any other sexually-oriented conduct which is offensive or objectionable to the recipient; comments regarding physical or personality characteristics of a sexual nature; other sexually-oriented conduct such as epithets, derogatory or suggestive comments, slurs or gestures, "kidding", "teasing", double entendres and jokes; use of offensive cartoons, posters, pictures or drawings, and objects; and any harassing conduct to which an employee would not be subjected but for the employee's gender.

#### **2. Unwelcome Conduct of a Sexual Nature**

- a. Verbal or physical conduct of a sexual nature may constitute sexual harassment even if the allegedly harassed employee has not indicated that it is unwelcome.
- b. An employee who has initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

### **B. Sexual Harassment Prohibited**

1. For the purposes of this policy, unwelcome sexual advances or requests for sexual favors, and other unwelcome conduct of a sexual nature, constitute prohibited sexual harassment if:
  - a. submission to the conduct is made either an explicit or implicit condition of employment; or
  - b. submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or
  - c. the conduct substantially interferes with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

#### **2. Specific Prohibitions**

a. Administrators and Supervisors

1. It is sexual harassment for an administrator or supervisor to use his or her authority to solicit sexual favors when the subordinate's failure to submit will result in adverse treatment, or when the subordinate's acquiescence will result in preferential treatment.
2. Administrators and supervisors who either engage in sexual harassment or tolerate such conduct by other employees shall be subject to sanctions, as described below.

b. Non-administrative and Non-supervisory Employees

1. It is sexual harassment for a non-administrative and non-supervisory employee to subject another such employee to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.

C. 1. It is the express policy of the board of education to encourage victims of sexual harassment to come forward with such claims.

a. Employees who feel that administrators or supervisors are conditioning promotions, increases in wages, or continuation of employment upon agreement to unwelcome conduct of a sexual nature, are encouraged to report these conditions to the appropriate administrator, including members of the school board. If the employee's direct administrator or supervisor is the offending person, the report shall be made to the next higher level of administration or supervision.

b. Employees are also urged to report any unwelcome conduct of a sexual nature by supervisors or fellow employees if such conduct interferes with the individual's work performance, or creates a hostile or offensive working environment.

c. Confidentiality will be maintained and no reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

2. In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. The superintendent or other appropriate official has the responsibility of investigating and resolving complaints of sexual harassment.

3. Any employee found to have engaged in sexual harassment shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension or termination, subject to applicable procedural requirements.

See policies 231, 290, 337.

**Sexual Misconduct 231**

Sexual misconduct by school employees involving students strikes at the heart of the educational process. In addition to the potential damage to the immediate victims, sexual misconduct damages or destroys relationships in the school community between teachers and students, parents and schools, and others.

Sexual misconduct can result in criminal prosecution by law enforcement authorities. In addition, however, the district has an independent basis as employer for receiving and investigating charges of such misconduct by employees and for taking appropriate action against those culpable of such misconduct. Accordingly, the reporting and investigation procedures prescribed herein are to be conducted by the district in addition to any criminal investigation that may be conducted by law enforcement authorities. In conducting investigations of charges of sexual misconduct by school employees, district personnel should take care to avoid prejudicing any criminal investigation.

In a normal school environment, it is impossible to prevent all such instances of misconduct by employees. Prompt and thorough investigation of information suggesting misconduct by employees provides an additional measure of deterrence, however, thereby helping to protect the welfare of students. In addition, not all charges of misconduct against employees are true or verifiable. Prompt and thorough investigation of such information additionally protects innocent employees, who may otherwise be the victims of wrongful accusations or rumors.

All employees, as part of their regular duties, shall therefore be watchful of the welfare of students, particularly with respect to circumstances that suggest sexual victimization of students by school employees, as described in greater detail below. All reports of possible sexual misconduct against students by school employees shall be promptly and fully investigated by the administration according to the procedure set forth herein.

The superintendent prescribes the following procedures for investigating information suggesting sexual misconduct by employees against students.

1. **Definition of "Sexual Misconduct":** As used herein, "sexual misconduct" means any sexual or romantic contact between any employee of the district and any student of the district.

2. **Duty to Report Information:** All employees of the district, including counselors, shall report to their building principal any information from any source concerning a threat or potential threat to the welfare of a student, including any information concerning sexual misconduct. In the event the employee implicated by the information is the building principal, then such report shall be made to the superintendent. If the superintendent is implicated, the report shall be made to a member of the school board.

**N.B.: School personnel may have a direct personal obligation, imposed by state statute, to provide a report to social services or law enforcement agencies immediately upon knowledge or a reasonable suspicion that a child is abused or neglected. The duty to report imposed by this policy, however, is independent of, and in addition to, any such statutory obligation.**

3. **Duty to Investigate Reports:** Administrative employees shall promptly and fully investigate all reported information concerning sexual misconduct. The superintendent,

in consultation with district legal counsel, shall oversee investigations conducted by building administrators.

4. **Cooperation with Investigations:** Non-administrative staff are neither authorized nor responsible for conducting investigations with respect to such information, but will be expected to cooperate in the district's investigation by providing information they have received.

5. **Failure to Report:** A failure of an employee in possession of such information promptly to provide the report described in paragraph 1 may result in discipline of that employee.

6. **The Role of School Counselors:** School counselors are frequently in the delicate position of being the recipients of information from students that students wish to remain confidential. Regardless of any other commitments the school counselor makes in his or her work with students, no school counselor is authorized or permitted to agree not to disclose information indicating sexual misconduct by a district employee.

7. **Notification of Central Administration:** A principal who has received information regarding any district employee shall immediately notify the superintendent of such information and shall discuss with the superintendent how the principal intends to conduct his or her initial investigation of the matter.

8. **Investigation of Reports--Initial Investigation:** Upon receiving information regarding sexual misconduct by a school employee, the principal or designee, or the superintendent or designee, who shall be referred to herein as "the investigator," shall promptly seek preliminarily to determine whether a reasonable suspicion of sexual abuse by a school employee exists, and whether a full investigation of the information should be conducted.

a. **Interview of Affected Students:** The initial interview of the student or students involved shall be conducted by a psychotherapist experienced in work with sexually abused children and minors. The psychotherapist shall be engaged at the district's expense and shall be chosen with the consent of the parents of the student or students involved. The initial interview shall be conducted as promptly as reasonably possible after receipt of information by the superintendent indicating sexual misconduct by a district employee, and in any event, shall be conducted within forty-eight (48) hours of receipt of such information. If, for any reason, an interview of the student or students involved cannot be conducted according to this paragraph within the forty-eight (48) hour period, the matter shall be immediately reported to the office of the local district attorney and social services agency.

b. **Bases for Initial Determination:** The investigator's initial determination should be made on the basis of the findings of the psychotherapist, upon contacts with any other original sources of the information, and by otherwise seeking information from other sources. Such determination shall be made by the investigator within seventy-two (72) hours of the receipt of the reported information by the superintendent.

c. **Termination of Initial Investigation:** If the investigator determines that a full investigation is not warranted because the reported information was false or unreliable, or that the reported information could not be verified, the investigator shall immediately provide an oral report to the superintendent, and shall also, within twenty-four (24) hours of the oral report, submit a written report to the superintendent, stating the information or

accusation initially reported and the source of the report, describing how the initial investigation was conducted, discussing additional information discovered during the initial investigation, stating the investigator's conclusions and identifying the bases for the conclusions in the reported and discovered information, and providing the investigator's recommendations.

d. **Suspension of the Accused Employee:** If, on the basis of the initial investigation, the investigator determines that a full investigation of the information is warranted, the investigator shall notify the accused employee of the accusation against him or her, that he or she is suspended with pay during the pendency of the investigation,, and that he or she is to leave school premises immediately.

e. **Notification of Law Enforcement Authorities:** In all cases in which the investigator has made a preliminary determination that a full investigation is warranted, the superintendent shall notify law enforcement authorities of the report and the initial findings, regardless of whether any employee may have previously reported the matter.

9. **Investigation of Reports--Further Investigation:** If, on the basis of the initial investigation, the investigator determines that a full investigation of the information is warranted, the investigator shall notify the superintendent of that determination and shall discuss with the superintendent how the investigator intends to conduct his or her further investigation of the matter. The investigator shall conduct and conclude his or her further investigation of the matter as promptly as reasonably possible. Once the investigator determines, on the basis of further investigation, that reasonable grounds do or do not exist to believe that the accused employee is culpable of sexual misconduct, the investigator shall provide an immediate oral report to the superintendent, and shall also, within twenty- four (24) hours of the oral report, submit a written report to the superintendent, stating the information or accusation initially reported, describing how the further investigation was conducted, summarizing and discussing all information compiled during the investigation, stating the investigator's conclusions and the basis for the conclusions in the information, and providing the investigator's recommendations.

10. **Initiation of Disciplinary Proceedings:** Upon consideration of the investigator's report and upon any additional consultation with the investigator, with the psychotherapist, or with district legal counselor, the superintendent shall determine whether to initiate disciplinary or discharge proceedings against the accused employee.

11. **Confidentiality:** Consistent with the legal obligation to report criminal activity, and consistent with the requirements of a comprehensive investigation the activities prescribed by this procedure shall be carried out in such a way as to protect the identities of those involved from unnecessary public disclosure. See policy 290.

### **Employee Assault 233**

A. The purpose of this policy is to express to the employees of this district the commitment of the board of education to provide its employees with a safe working environment and to assisting employees who, when acting within the scope of their duties, are subjected to assault, battery, physical confrontation or resulting physical or mental injury or property damage and to prescribe procedures for provisions of such assistance.

B. It is the policy of the board to provide the safest possible working environment for its employees, within the resources available to the district and the restrictions of applicable law and regulations. Although the board is not an insurer of the safety of its employees, the board is committed to take such actions as are reasonably necessary to create and maintain an environment where its employees can function without undue fear of injury or loss.

C. The board recognizes that it is impossible to guarantee the absolute safety of its employees from assaults, battery or physical or mental injury resulting from confrontations with parents, students or other persons or loss or injury to property in connection with their work. The board is committed, however, to do the things listed hereafter to assist its employees who may suffer loss or injury in connections with their work.

#### Definitions

As used in this policy:

A. "Employee" means any person authorized to act and acting on behalf of the district, with or without compensation, including but not limited to, licensed school instructors and administrators, coaches, sponsors, volunteers, board members and non-licensed staff members, but shall not include independent contractors providing services to the district;

B. "Scope of duties" means the range of actions that are undertaken by an employee in the performance of any duties which such employee (as defined above) is requested, required or authorized to perform by the board or its administration regardless of the time and place of performance;

C. "Assault" means

1. an attempt to commit a battery upon the person of an employee while he is lawfully acting within the scope of his duties;

2. any unlawful act, threat or menacing conduct which causes an employee lawfully acting within the scope of his duties to reasonably believe that he is in danger of receiving an immediate battery.

D. "Battery" means the unlawful, intentional touching or application of force to the person of an employee while he is lawfully acting within the scope of his duties.

E. "Injury" means any physical or mental harm to the employee or to the employee's property resulting from an assault, a battery or other physical confrontation occurring while the employee was lawfully acting within the scope of his duties.

F. "Incident" means an occurrence governed by this policy.

### Summary of Programs for Protection of Employees

The board provides or makes available the following programs or insurance coverage to assist employees suffering physical or psychological injury or loss as a result of their lawful actions within the scope of their duties:

#### A. Workers' Compensation Insurance

Pursuant to New Mexico statutes, all employees of the district are covered by workers' compensation insurance, which will compensate them for job-related injuries, including medical expense. Compensation payments are based upon the length and the degree of the disability suffered by the employee and upon a percentage of the employee's salary.

#### B. Paid Leave

As per policy

#### C. Medical Insurance

As per policy

#### D. Security Guards

When necessary

#### E. Liability Insurance Coverage (civil rights, personal injury, property damage, etc.)

Pursuant to the Tort Claims Act, the district purchases insurance through which all liability risks are covered. The insurance provides every employee with a defense in any legal action arising out of his or her employment and pays the cost of any settlement or judgement against the employee, including punitive damages.

#### F. Attorney Consultation

See Employee Assistance, p. 5, below.

#### G. Make-Whole Program to Cover Losses Resulting from Insurance Deductibles or Losses Not Covered by Insurance

See Make-Whole Program, p. 8, below.

#### H. Reimbursement for Criminal Defense Attorneys' Fees After Dismissal or Acquittal

See Defense in Criminal Cases, p. 8, below.

#### Self-Defense or the Defense of Others

All employees have the right to use such force as is necessary to protect themselves, students or other employees from physical injury which they reasonably believe might result from an actual or threatened physical attack upon themselves, students or other persons or employees.

Mere verbal statements do not justify the use of force by an employee, unless such statements provide reasonable belief that the employee, a student or another person is in danger of receiving an immediate batter. In the face of mere verbal statements, an employee shall, if possible, withdraw rather than engage in further verbal confrontation.

In the event of an assault, an employee shall, if possible, withdraw. If withdrawal is not

possible, an employee may defend himself or others with reasonable force.

No disciplinary action shall be taken against an employee who acts in self-defense or for the defense of others, if the superintendent or the board is satisfied, after investigation, that the defensive action, including the amount of force used, was appropriate under all the circumstances.

#### Reporting Procedures

In the event that an employee is subjected to an assault, a battery, or a physical confrontation while acting within the scope of their duties, the following procedures shall be followed:

A. As soon as possible under the circumstances, the employee shall verbally report the incident to his supervisor.

B. The supervisor shall be responsible for investigating the incident as soon as is reasonably possible and submit a written report to the superintendent.

C. The employee shall also submit to the superintendent a written report on the incident as soon as it can be done.

D. In the event that an assault or a battery has occurred, the incident is to be reported to the police authority having jurisdiction where the assault or battery occurred. The report should be made by the employee, but if the employee is unable or unwilling to do so, the immediate supervisor or the superintendent shall make the report.

E. The employee shall not be charged with leave time nor with the cost of substitutes, if necessary, while the employee is preparing any required reports or participating in the investigation of the incident.

#### Investigation and Determination of Employee Freedom From Fault

##### A. Investigation

After an incident has been reported, the superintendent or his designee shall conduct an investigation of the circumstances surrounding an incident of assault, battery or physical confrontation involving an employee acting within the scope of his duties. Such investigation shall be conducted in a timely manner after the incident is reported.

##### B. Determination

Upon completion of his investigation, the superintendent shall render to the employee, in writing, this determination as to whether the employee acted properly or improperly with regard to the incident. A determination of proper action shall entitle the employee to the benefits described in this policy; a determination of improper action shall deny the employee the benefits described in this policy.

##### C. Appeal

Any employee determined to have acted improperly shall have the right to appeal the superintendent's determination to the board, which shall conduct an informal hearing to



review the matter. Notice of such appeal shall be in writing and must be delivered to the superintendent within ten (10) calendar days after his determination was provided to the employee. The informal hearing shall be scheduled at the convenience of the board. The decision of the board shall be final and binding on the issue of entitlement to the benefits hereunder.

D. Disciplinary Action

In the event that the superintendent determines that the employee acted improperly in the incident, the superintendent shall take such disciplinary action as he deems appropriate; provided, however, that any deprivation of a property right shall be preceded by the requisite due process, including, if necessary, a hearing before the board.

Employee Assistance

A. An employee who has been the victim of an assault, a battery or a physical confrontation while acting within the scope of his duties may receive the following assistance at the expense of the school district.

1. Attorney

Consultation with the school district's attorney concerning any issues arising out of the incident, including but not limited to:

- a. rights under this policy;
- b. workers' compensation benefits to which he may be entitled as a result of the incident;
- c. medical insurance benefits and procedures;
- d. victims' rights under statute or regulation;
  - e. procedures and obligations in connection with filing and prosecution of criminal complaint against the person or persons assaulting, battering or injuring the employee;
  - f. civil remedies available to the employee as a result of the incident; provided, however, that the board shall not provide the attorney for the employee wishing to bring any civil action for damages arising out of the incident; and
- g. assistance in connection with the employee's appearance as a witness in criminal or civil legal actions.

2. Protection

The school district shall cooperate with local enforcement authorities in providing protection to the employee and his immediate family, to the degree that such protection is necessary and the need arises out of the incident. Such protection

may include, but not be limited to, the following:

- a. meeting with law enforcement authorities to explain the need for protection and to solicit police protection for the employee;
- b. utilizing school district security personnel to protect the employee; and
- c. seeking such judicial orders as may assist in protecting the employee.

### 3. Counseling

The board shall provide psychological counseling to any employee who is the victim of an assault, a battery or other physical confrontation while acting within the scope of his duties, subject to the following conditions:

- a. a licensed mental health professional (psychologist or psychiatrist) determines that such counseling is necessary or desirable and the need results from the incident.
- b. the expense of such counseling will be paid first by worker's compensation insurance (if applicable), then by the employee's medical insurance carrier (if any) and the school district will only be responsible for any remaining expenses.
- c. the employee will be provided with paid leave from work to receive such counseling and such time will not be charged against the employee's sick leave or other leave provided by the school district.
- d. the employee receives counseling from a psychologist or psychiatrist acceptable to the school district, which acceptance shall not be unreasonably withheld.
- e. the employee agrees to allow the psychologist or psychiatrist to reveal to the superintendent the nature and extent of the psychological injury to the employee, the treatment being provided, the progress of the treatment and notification of the termination of the counseling.

### 4. Paid Leave

The board shall provide any employee who is the victim of an assault, a battery or other physical confrontation while acting on duty with paid leave, in the following circumstances, subject to limitations as noted:

- a. court appearances to testify concerning the incident;
- b. interview with police or other law enforcement officials concerning the incident;

c. consultation with the school district's attorney pursuant top. 233-5, A.1., above;

d. any period of medically required hospitalization, doctor-prescribed convalescence or follow-up visits resulting from the incident; provided however that:

1. if the employee receives workers' compensation benefits as a result of the incident, the employee shall only be paid the difference between the workers' compensation benefit paid and the employee's full salary and such obligation shall not exceed the remainder of the school year in which the injury occurs;

2. the attending physician is directed by the employee to provide such reports to the superintendent as the superintendent requests, describing the employee's condition, treatment being provided, prognosis and estimates as to when the employee will be released to return to work.

e. any other absences from work approved in advance by the superintendent which are related to the incident and the activity to be done during such absences cannot reasonably be conducted during non-work hours.

#### **B. Defense in Civil Cases**

The school district, to the extent that such risks are covered by its insurance, shall provide any employee who is involved in an assault, a battery or other physical confrontation, while acting within the scope of his duties, with a defense in connection with any lawsuit arising out of such incident, as required by and to the extent allowed by the New Mexico Tort Claims Act. In the event that a final judgement is rendered determining that the employee's actions were improper in connection with the incident, the employee shall not thereafter receive any further benefits provided under this policy and the school district may, at its discretion, recover the value of any benefits provided to the employee prior to such determination.

#### **C. Defense in Criminal Cases**

1. In the event that criminal charges are filed against the employee arising out of an incident covered by this policy, the employee shall be responsible for defending himself in such action.

If the criminal action is dismissed or if the employee is acquitted, the employee may request reimbursement for attorney's fees and expenses incurred in successfully defending against the charges. Subject to any required budgetary approval by the State Department of Education, the board shall reimburse the employee, provided that it has sufficient funds within its budget, the supporting documentation as to such fees and expenses is provided to the board and the fees and expenses are found by the board to be reasonable.

2. In the event that the employee pleads guilty or is convicted of wrongdoing in connection with the incident, the employee shall receive no further benefits under the policy and the school district shall have the right to recover the value of any benefits provided to the employee prior to such determination.

**D. Make-Whole Program**

When an employee suffers an injury or loss as a result of an incident covered by this policy for which injury or loss the employee is not reimbursed or compensated under other elements of this policy, the employee may petition the board for compensation to make the employee free from financial loss as a result of the incident. In petitioning the board, the employee shall demonstrate that all other means of compensation (such as insurance) have been exhausted. Employees may be reimbursed for deductible and co-payment amounts under insurance policies. The board shall determine what portion, if any, of the amount petitioned for shall be paid and its determination shall be final.

See policy 345-2.

**Grievance Procedure 236**

The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to problems which may arise. All grievances shall be processed as provided herein.

**A. Definitions:**

A “grievance” is an allegation by an employee, group of employees, or the Union, that there has been inequitable or unfair treatment due to a violation, misinterpretation, or misapplication of any provision of this Agreement or Walatowa High Charter School policy, regulation or practice, or applicable law or regulation of the State of New Mexico. Time lines may be extended by mutual consent. Employees who are party to any grievance may always be accompanied by a Union representative(s) to the meeting. Supervisors may be accompanied by a representative(s) of their choice.

The term “day” when used in this Article shall mean working days of the grievant and supervisor involved in the grievance.

A “grievant” or aggrieved” shall mean the employee, group of employees, or the Union.

The “immediate supervisor” is the lowest level management personnel having jurisdiction over the grievant and/or has been designated by the Superintendent to adjust grievances.

“Group grievance” is a grievance which involves the same or similar allegations of employees filing a group grievance and the same supervisor, provided such claim is signed by those individuals in the group grievance.

**B.** The grievant shall be required to exhaust the grievance procedure set forth in this Article before seeking alternative remedies, where there is a specific method of review by law (i.e., EEOC, HEW, and OSHA).

C. Matters not grievable are identified within this Agreement and include the refusal to reemploy an employee, or the termination of an employee; or to discharge an employee; and actions to challenge or change the Agreement. Employees terminated or discharged shall have the right, as guaranteed by law, to request a hearing with the Board with an appeal right of arbitration.

D. At all levels of the grievance procedure, an employee may discuss the matter with the appropriate management personnel and may be accompanied by a Union representative(s). If the employee desires to be accompanied by a Union representative(s), notification must be provided in advance of scheduling the meeting. The immediate supervisor may also have a representative(s) present. When the aggrieved is not represented by the Union, the Union shall be afforded the opportunity to be present and make its views on the grievance known at all levels of the procedure except the Discussion Level.

E. No grievance shall be initiated unless it has been discussed by the aggrieved with the immediate supervisor. Prior to initiating a grievance at the Superintendent's Level, if the immediate supervisor does not have the authority to remedy the situation, then an informal conference will take place between the aggrieved and/or representative(s) and the Principal/Superintendent or designee. In the event the aggrieved is unable to meet and discuss the matter with the immediate supervisor or Superintendent or his designee, due to illness, injury, or because the issue deals with a personal relationship problem with the supervisor or Superintendent, the aggrieved may authorize in writing such reasons and designate a Union representative to discuss the matter at the Discussion Level and have the authority to resolve the issue.

F. Nothing contained herein shall limit the right of an employee to process a grievance as an individual without representation by the Union. The Union has the right to submit information and enter an opinion for the resolution of any grievance.

G. If a grievance, affects a group or class of employees, the Union may file the grievance within twelve (12) days of the act that caused the grievance at the appropriate Supervisor's Level or if the appropriate Supervisor does not have the authority to remedy the matter, at the Superintendent's Level.

H. All grievances, responses, and appeals must be filed on appropriate forms as provided by the District or the Union. The parties shall collaboratively develop all forms.

I. The processing of a grievance will be accomplished at times agreed to by the parties to the grievance. The employees requested to participate in a grievance meeting shall not bear any loss of pay as a result of this participation.

J. All written materials related to the processing of a grievance will be filed separately from the District's personnel files.

K. The District agrees to make available to the aggrieved, all information in its possession or control which is relevant to the issues raised by the grievance as allowable by law or Walatowa High Charter School Policy.

L. The Board and the Union agree that any grievance meetings will be kept informal and that the specific information excluding outcome will remain confidential.

M. No party shall take reprisals on any member of the unit, supervisor, administrator, or Board members, Union representative(s), or other participant in the procedure by reason of such participation.

N. Procedure

- Since it is important that grievances be processed as quickly as possible, the number of work days indicated at each level shall be the maximum.
- The time lines specified may be extended if mutually agreed to in writing by the parties to the grievance.
- The aggrieved must meet with the immediate supervisor at the Discussion Level within twelve (12) days of the act or discovery of the act that caused the grievance. An ongoing act can be discussed within twelve (12) days of the latest occurrence.
- Failure to file a grievance or appeal a decision within the time limits specified herein shall result in the dismissal of that grievance.
- Failure to submit a decision in writing within the time limits specified herein will cause the grievance to proceed to the next level.

— O. Steps of Grievance

- 1. Discussion Level.
  - i. Prior to filing a grievance, the employee shall meet with the immediate supervisor in an attempt to resolve the issue. The potential grievance will be identified by the employee and the solution sought discussed.
  - ii. If the matter is not resolved, the employee may proceed to Supervisor Level of the Grievance Procedure.
- 2. Supervisor Level.
  - i. If the grievance is not settled at the Discussion Level, the aggrieved may, within twelve (12) days, submit a formal written grievance to the immediate supervisor.
  - ii. The grievance statement shall identify the section of the Agreement alleged to have been violated, the circumstances involved, the specific remedy sought, and the date of the alleged act.
  - iii. The immediate supervisor shall communicate a decision in writing within twelve (12) days after receiving the grievance.
- 3. Superintendent Level.
  - i. If not satisfied with the decision at the Supervisor Level, the grievant may, within twelve (12) days, appeal the grievance in writing to the Superintendent.
  - ii. The Superintendent shall meet with the grievant and the supervisor involved in the grievance to review the record of the prior steps and other information that may be presented. The Principal/Superintendent shall render a decision on the grievance within twelve (12) days following receipt of the appeal.
- 4. Arbitration Level.
  - i. If the aggrieved is not satisfied with the disposition of the grievance at the Superintendent Level, the grievant may within twelve (12) days submit the grievance to advisory arbitration.
  - ii. Within five (5) days following the appeal to advisory arbitration, the parties to the grievance shall meet to prepare a joint letter to the Federal Mediation and Conciliation Service requesting a list of five (5) arbitrators.

- iii. The parties will strive to mutually agree upon the Arbitrator. If the parties fail to mutually agree upon the Arbitrator each party will strike one name followed by the other party striking one name until a single name remains and that person shall become the Arbitrator. The party required to strike the first name will be determined by a flip of the coin. The process of striking names shall occur within ten (10) days of receipt of the list by both parties.
- iv. The Arbitrator shall conduct the hearing in accordance with the voluntary arbitration rules of the American Arbitrators Union and the provisions of this Article.
- v. The Arbitrator shall conduct a hearing as soon as possible.
- vi. If any question arises as to the arbitrability of the grievance, such questions shall be ruled upon by the Arbitrator.
- vii. The Arbitrator shall have no authority to add to, subtract from or modify the terms of this Agreement, and the Arbitrator shall interpret this Agreement in accordance with accepted arbitral standards of contractual interpretation.
- viii. The Arbitrator's decision will be in writing and will set forth the Arbitrator's findings of fact, reasoning and conclusion of the issue submitted. The Arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is in violation of the terms of this Agreement. A copy of the award will be submitted to the Superintendent, the aggrieved, and the Union. All costs of the services of the Arbitration, including, but not limited to, per diem expenses, travel and subsistence and the cost of any hearing room will be borne equally by the Board and the aggrieved. All other costs will be borne by the party incurring them. Unless the aggrieved is represented by the Union, the Board may require that the aggrieved party post the party's share of the expenses in advance of the hearing.
- ix. If any party requests a transcript of the proceedings, the party shall bear the full costs for the transcript.

***Revised and Adopted by the Walatowa High Charter School Board of Education September 26, 2011***  
See policies 201-9B.

**Americans with Disabilities Act Grievance Procedure 237**

This grievance procedure shall provide for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in programs or activities sponsored by a public entity.

Complaints should be addressed to the Principal of Walatowa High Charter School and Superintendent of Schools, Jemez Valley Public Schools, 8501 Highway 4, Jemez Pueblo, New Mexico 87024, who shall coordinate ADA compliance efforts.

1. The complaint should be filed in writing and contain the name and address of the person filing it, and a brief description of the alleged violation of the regulation.

2. A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged violation, (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
3. An investigation, as may be appropriate, shall follow a filing of the complaint. The investigation shall be conducted by the superintendent of schools or designee. These rules contemplate informal but thorough investigation, affording all interested persons and their representatives, if any an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the superintendent of schools or designee and a copy forwarded to the complainant no later than thirty (30) days after its filing.
5. The superintendent or designee shall maintain the files and records of the Walatowa High Charter School District relating to the complaints filed.
6. The complainant can request a reconsideration of the case in instances where there is dissatisfaction with the resolution. The request for reconsideration should be made within thirty (30) days to the superintendent with a copy forwarded to the President of the WHCS Board of Education.
7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
8. These rules shall be construed to protect the substantive rights of interested individuals to assure that the Walatowa High Charter School complies with the ADA and implementing regulations.

#### **Substitute Teachers 239**

The superintendent shall maintain an active list of persons approved by the State Department of Education to act as substitute teachers. Only persons on this approved list or persons holding a New Mexico teaching license or persons assigned to the classroom in question as student teacher, intern, co-op student, or instructional assistant may be employed as substitutes. The employment of substitutes is to be made by administrators only, not teachers.

The superintendent is directed to establish administrative procedures which will enhance the district's ability to maintain the best possible roster of substitutes.

Substitutes will be paid according to their education status at the standard daily rate.

Employment for less than half the work day will be compensated fully at half the daily rate, and employment for more than half the work day but less than the full day will be compensated at the full daily rate.



### **Tutoring of Students 242**

The board of education believes that by maintaining an instructional staff of high quality and providing for a rich and varied curriculum the need for individual tutoring is minimized.

When paid tutoring of a student by an employee is deemed necessary, such tutoring will be conducted outside the employee's regular work hours. Such paid tutoring is to be arranged between families or other agencies and the employee, and the school district assumes no responsibility for the arrangements or the performance thereof.

Employees are not to enter into a tutoring arrangement with their own students during the school year, unless prior approval has been given by the superintendent or designee.

### **Travel, Per Diem and Mileage Payments 245**

The superintendent/principal or designee shall be responsible for determining the necessity for reimbursable travel by employees.

Approved travel shall be reimbursed by mileage and per diem amounts allowed under New Mexico statute or regulation, except when lesser payments are agreed to by the employee(s) and the approving administrator. Reimbursement for travel on public conveyance shall be at the most economical rate.

See policy 261.

### **Soliciting and Selling by Employees 248**

Employees are prohibited from soliciting from children on school premises during school hours.

School employees are prohibited from conducting any business transactions for political campaigns or candidates or for personal profit during school hours and on school premises.

School employees engaged in the sale of raffle tickets or other items for support of student-related organizations shall do so in a manner and time that will not interfere with the proper conduct of any school function or interfere with a school employee's effective performance of duties.

For board of education permission to conduct a district-wide all schools charitable fund-raising drive, application should be made to the superintendent's office.

See policies 251, 547.

### **Gifts and Gratuities 249**

Employees shall neither solicit nor accept personal gratuities, favors or anything of monetary value from contractors as merchants with whom the Walatowa High Charter School is doing business or who are attempting to sell goods or services to the schools. This policy does not preclude acceptance of food or drinks of a social nature or participation in a social event. It also does not preclude vendor assistance with an activity or trip whose purpose is to enable district employees and officials to examine programs, products, equipment or services being considered for purchase by the district, so long as the same opportunity to assist is given potentially competing vendors.

See policy 151.

### **Political Activities by Employees and Others 251**

Employees seeking political office, as well as other candidates, are prohibited from conducting campaign activities during regular working hours on school premises. Under no circumstances will a candidate be permitted to use students during school hours in any campaign activity. Similarly, candidates are prohibited from using school machines or materials to produce campaign literature.

Those seeking to promote themselves or another candidate for election are to observe the following rules.

1. Candidates or their supporters may not place campaign materials in the schools.
2. Candidates, if invited by the faculty, will be permitted to address the group after school hours. Attendance for faculty members will not be mandatory. Otherwise, no campaigning will be allowed in the buildings. No visits to classrooms or lounges for campaigning purposes will be permitted.
3. Students are not to be asked to take home campaign literature for individual candidates.
4. School phones will be left free for school business.
5. Sale of tickets for campaign fund raisers will not be permitted on the premises.

No school-sponsored group may provide entertainment as a school-connected entity for or appear at any political campaign function for any office.

See policy 548.

### **Academic Freedom 252**

The board desires that discussion and study of political and social issues be undertaken in a dispassionate atmosphere free from bias.

In this spirit, teachers shall serve as impartial moderators and shall not attempt directly or indirectly to limit or control the opinion of pupils on such issues. Teachers are encouraged to foster the study of issues rather than teach particular viewpoints with regard to them.

The board recognizes that teachers have the right and responsibility to exercise professional judgment, within the limits of the previous statements, when such issues are under study.

Teachers must obtain prior approval by the principal of guest speakers and the nature of the presentation prior to the speaker's appearance in their classrooms.

See policies 426, 427, 430.

#### **Employee/Immediate Family Members Doing Business With the School District 254**

Pursuant to the provisions of the Procurement Code and the Public School Code, no school employee or member of an employee's immediate family (as defined in NMSA 1978, Section 13-1-62) shall directly or indirectly sell or be a party to any transaction to sell any instructional material, furniture, equipment, insurance, school supplies, or work under contract to the school district with which they are associated or employed when the employee or member of the employee's immediate family has a financial interest in the transaction.

No employee of the district shall receive any commission or profit from the solicitation or sale of investment securities or insurance to any other employee under their supervision.

The provisions of this policy shall not apply to any employee making a sale in the regular course of the employee's business when the sale is in compliance with all applicable provisions of the Procurement Code.

The Board of Education reserves the right to grant a waiver of unlawful employee participation in a procurement process, pursuant to Section 163 of the Procurement code (NMSA 1978, Section 13-1-190), upon making the following findings:

- A. The contemporaneous employment or financial interest of the employee has been publicly disclosed;
- B. The employee will be able to perform the procurement functions without actual or apparent bias or favoritism; and
- C. The employee participation is in the best interest of the school district.

In the event that the board of education determines that it is in the best interest of the school district to waive unlawful employee participation, an affidavit stating the terms of the waiver have been complied with shall be completed by the participating employee(s) and appropriate school district official(s) and remain on file in the school district's business/finance department and in the procurement file for the applicable transaction.

As noted in policy 150, the term "employee" includes all persons receiving a salary, wages or per

diem and mileage from a state agency or local public body whether elected or not and any **non-compensated individual performing personal services as an elected or appointed official or otherwise for a state agency or a local public body.**

See policy 150.

## **DISTRICT-WIDE ACCEPTABLE USE OF INFORMATION TECHNOLOGY 256**

### **Introduction**

Walatowa High Charter School strives to offer technological opportunities for the purposes of enhancing the educational environment of its students, staff, and administrators. The district's goal is to promote educational excellence by facilitating safe and effective use of technology including the Internet and local resources. **The effective operation of WHCS' systems relies upon the proper conduct of all its users.**

### **User Responsibilities**

Access to technological resources is a privilege (not a right) provided to all staff and students. Technological resources must be used in a proper legal and ethical manner that supports the goals set forth by the Walatowa High Charter School Board of Education and site administrators. Users are required to respect the rights of others, abide by the regulations/procedures set forth by the Board, site administrators, and Children's Internet Protection Act (CIPA). 47 U.S.C. Sections 25

By using technological resources, the user agrees to share the responsibility for safeguarding the technological environment at Walatowa High Charter School. Following are usage expectations that apply when using any and all district technological resources.

### **General Usage of District Technological Resources**

1. The WHCS District has the right to place reasonable restrictions on the use of equipment, resources and materials users' access or post through the system. In their use of technology resources, users must observe and comply with all other policies and guidelines of WHCS.
2. Teachers will be directly responsible for monitoring their students' behavior and acceptable use of the Internet resources and school network. A student is not allowed to use the Internet without a teacher present and accepting responsibility to monitor use. This does not in any way make the teacher or staff member liable for the student's inappropriate actions.
3. Users may not install software, alter machine configurations or system files, or disconnect any cables on computers or any other equipment, or attempt to perform diagnostics or repairs on district machines. Diagnostics and repairs must be performed by authorized personnel only. If you encounter a problem with a piece of equipment, report it to the systems' manager as soon as possible.
4. Users may not deliberately perform acts that waste computer resources or unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, downloading or listening to online music, downloading and saving large files that are not for educational purposes, sending or forwarding jokes, engaging in online chat groups, printing multiple copies of documents, or otherwise creating unnecessary network traffic.
5. Users will only print what is necessary and related to an academic purpose.
6. Food and beverages are not allowed in any computer lab.
7. Users must respect all notices posted in the labs. For example: lab rules, lab seating charts, and lab sign-up charts.

8. Only school-related technology use will take place as directed by the classroom teacher/technology teacher.
9. Viewing and printing sexually explicit, violent, or drug related material is unacceptable.
10. In their use of computer resources, users must comply with all software licenses, copyrights, all other state, federal, and international laws governing intellectual property and online activities.
11. Users may not do any of the following: (1) copy software for use on their home computers; (2) provide copies of software to any third person; (3) install software on any school workstation or server; (4) download any software or run executable files from the Internet, email, or other online service to any school workstation or server. Users who become aware of any misuse of software or violation of copyright law must immediately report the incident to the system's manager.
12. Users may not indirectly or directly make connections that create "backdoors" to the district, other organizations, community groups, etc. that allow unauthorized access to the district's network.
13. Users may not attempt to gain unauthorized access to any computer system. This includes attempting to log in through another person's account or access another person's files. These actions are illegal, even if only for the purposes of "browsing", "snooping", or "electronic discovery".
14. Users will avoid the inadvertent spread of computer viruses. All material received on floppy disk or other magnetic or optical medium and all material downloaded from the Internet or from computers or networks that do not belong to WHCS **MUST** be scanned for viruses and other destructive programs before being placed onto the computer system or network. Users should understand that their home computers and laptops may contain viruses. All disks transferred from these computers to the WHCS network **MUST** be scanned for viruses.
15. Users may not connect unauthorized wireless devices to the district network. Wireless devices include, but are not limited to: wireless access points, wireless routers or any type of wireless gateway device.
16. Users do not have an expectation of privacy in anything they create, store, send, or receive on the computer system. The computer system belongs to WHCS and any use by staff or students must be in compliance with this policy.
17. Access to the district's electronic communications system, including the Internet, shall be made available to users primarily for instructional and administrative purposes and in accordance with administrative regulations. Limited staff personal use of the system, shall be allowed if the use:
  - Imposes no tangible cost on the district;
  - Does not unduly burden the district's computer or network resources; and
  - Has no adverse effect on an employee's job performance.
18. Users expressly waive any right of privacy in anything they create, store, send, or receive on the computer or through the Internet or any other computer network. Users consent to allowing JVPS personnel access to review all materials users create, store, send, or receive on the computer or through the Internet or any other computer network. Users understand that WHCS may use human or automated means to monitor use of its computer resources. Users will not use technological resources to promote unsanctioned, commercial activity.

### **Ethical Usage**

1. Users may not intentionally seek information on, obtain copies of, or modify files, other data, or passwords belonging to other users. A user's ability to read, alter, or copy a file belonging to another user does not imply permission to read, alter, or copy that file. Users may not use the computer system to "snoop" or pry into the affairs of other users or WHCS operational systems by unnecessarily reviewing their files and e-mail without authority.
2. A user's ability to connect to other computers systems through the network or by a modem does not imply a right to connect to those systems or to make use of those systems unless specifically authorized by the operators of those systems
3. Users may not plagiarize works that they find on the Internet or other resources.



1. Attempts to log on to the district's private network or any other network as a system administrator are prohibited.
2. Users will abide by security measures set forth by the systems manager and site administration.

### **Legal Usage**

Information technology resources must not be used for illegal or harmful purposes including (but not limited to):

1. harassment of others
2. destruction or damage to equipment, software, or data
3. disruption or unauthorized monitoring of electronic communications
4. breach of personal information

### **Account Login (usage)**

1. Each student and staff member at Walatowa High Charter School will be issued a network login. Account holders will use only their own personal accounts (log-in) to access any district computer.
2. Users are responsible for taking reasonable precautions to safeguard their passwords for access to the computer system. Individual passwords should not be printed, stored online, or given to others. Users who have not taken reasonable precautions to safeguard their passwords shall be responsible for all transactions made using their passwords. No user may access the computer system with another user's password or account.
3. Use of passwords to gain access to the computer system or to encode particular files or messages does not imply that users have an expectation of privacy in the material they create or receive on the computer system. WHCS has global passwords that permit it access to all material stored on its computer system, regardless of whether or not material has been encoded with a particular user's password.
4. Users may not re-post a message that was sent to them privately without permission of the person who sent them the message.
5. Users may not forward or post chain letters or engage in "spamming". Spamming is sending an annoying or unnecessary message to a large number of people. Users also must refrain from abusing email distribution lists. Acts of abuse include, but are not limited to: forwarding non-school/work related emails, advertising and solicitation.
6. Notwithstanding anything in this policy to the contrary, staff email messages or staff accounts may be accessed and read only under the following circumstances:
  - a. Pursuant to a court order, subpoena or the bona fide emergency request of a licensed police officer.
  - b. Upon the joint agreement of the school superintendent and the president of the school board. If either the superintendent or president shall not be accessible, the individuals designated to act in their absence shall make the determination.
  - c. Any individual whose email has been accessed under paragraph shall immediately be advised of the access.
  - d. At the request of the account holder.

### **Internet Usage**

As required by law and in recognition of the need to establish a safe and appropriate computing environment, the district will use filtering technology to prohibit access, to the degree possible, to objectionable or unsuitable content that might otherwise be accessible via the Internet.

1. All users of the Internet must comply with the Children's Internet Protection Act (CIPA), 47 U.S. C 254.

*Access by minors to inappropriate matter on the Internet and World Wide Web is prohibited on the WHCS network.*

*Using electronic mail, chat rooms, and other forms of direct electronic communications is prohibited on the WHCS network. (Select students may be supplied with a JVPS CIPA certified email account. These students will only use the email account for specified educational purposes as directed by the student's teacher or administrator.)*

*Unauthorized access including "hacking" and other unlawful activities by minors online is prohibited on the WHCS network.*

*Unauthorized disclosure, use, and dissemination of personal information regarding minors are prohibited by WHCS.*

*Measures designed to restrict minors' access to materials harmful to minors are in place at WHCS.*

2. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, threatening or potentially violent, defamatory, racially offensively proselytizing inappropriate or otherwise unlawful, or in violation of school board policy may not be created, accessed or sent by e-mail or other form of electronic communication (such as bulletin board systems, newsgroups, chat groups) or displayed on or stored in computers. Users encountering or receiving this kind of material should immediately report the incident to appropriate personnel.
3. Users may not utilize peer-to-peer file-sharing applications or execute programs to facilitate the downloading or exchange of copyrighted or unauthorized music, movies, and other materials.
4. Users may not use any type of Internet proxy service or proxy server to bypass district filters.
5. Users will promptly disclose to their teacher or other appropriate school employee any message received that is inappropriate.

### **Consequences of Violating the Acceptable Use Policy**

1. Violations of the district *Acceptable Use Policy* will be handled in accordance with law, school board policy, or collective bargaining agreement(s), as applicable. Violation of this policy may result in loss of access to network resources, and possible legal and disciplinary action.
2. Network auditing that shows a teacher or other staff member habitually committing or allowing violations to the *Acceptable Use Policy* by their students will be documented. Campus and district administrators will impose appropriate consequences for related instances.
3. The school district will cooperate fully with local, state, or federal officials in any investigation concerning or relating to any illegal activities conducted through the district's private network.

### **Disclaimer**

Walatowa High Charter School makes no guarantees of any kind, neither expressed nor implied, for the network activity and Internet access it is providing. The district will not be responsible for any damages users suffer, including (but not limited to) loss of data resulting from delays or interruptions in service. The district will not be responsible for the accuracy, type, or quality of information stored on district hard drives or servers; nor that gathered through district-provided Internet access.

### **Additional Information for Parents**

The district's intent is to make Internet access available in order to support educational goals and objectives. The technology department has set up systems that safeguard student use. Unfortunately, no system is infallible which can result in students gaining access to inappropriate information. Ultimately, parents/guardians are responsible for setting and conveying the standards that their children should follow when using media/information resources. Those standards must support the regulations of Walatowa



High Charter School. Therefore, parents are given the option of requesting (in writing) their child use alternative activities not requiring Internet use.

Walatowa High Charter School is pleased to offer its student's access to the Internet. The Internet is an electronic highway connecting hundreds of thousands of computers and millions of individual users all over the world. Parents should be aware that some material accessible via the Internet may contain information that is illegal, defamatory, inaccurate, or potentially offensive to some people. In addition, it

is possible to purchase certain goods and services via the Internet which could result in unwanted financial obligations for which a student's parent or guardian would be liable.

**Agreement of Policy**

The use of Walatowa High Charter School Technological Resources is considered an agreement to abide by this policy.

*Revised and Adopted by the Walatowa High Charter School Board of Education on September 26,2011*

JEMEZ VALLEY PUBIC SCHOOLS  
ACCEPTABLE USE POLICY FOR TECHNOLOGICAL RESOURCES  
**STAFF FORM**

Last Name: First Name:

Please Print Please Print

School Site: Please Print

I have read, understand, and will abide by the conditions stated in the Jemez Valley Public Schools Acceptable Use Policy for Technological Resources. I further understand that any violation of this policy may result in disciplinary action.

Signature: Date:

**Personnel Records 257**

The superintendent shall maintain personnel records for all school employees, the records to include but not limited to: official transcripts, birth certificates, health certificates, licensure documents, experience records and evaluation reports.

These records shall be stored in such a manner as to provide reasonable protection against fire and theft.

Personnel records shall be open to inspection only to:

1. the employee concerned, but only in the presence of an administrator or the person in charge of the records. References will not be open to the employee unless the record indicates that the person providing the reference has signed an agreement permitting the employee to see the reference, and
2. the superintendent, the superintendent's staff or other administrators on a need-to-know basis, and
3. the board of education during executive personnel sessions, and
4. representatives of regulatory or accrediting agencies as required for the conduct of their official business.

Personnel records will not be made available to other persons without the consent of the employee. No material shall be removed from the record except for review. No record shall be removed from the superintendent's office.

See policies 258, 259.

**Release of Personnel Information 258**

It shall be the policy of the board and administration of the Walatowa High Charter School to protect the privacy of current, former and prospective employees to the extent permitted by law. Accordingly, all personnel information retained by the district shall be considered confidential unless the Inspection of Public Records Act requires otherwise.

Confidential personnel information will not be released without the affected person's written consent unless an administrator who is responsible for maintaining the relevant records determines that exceptional circumstances justify such action. Other personnel information will be made available pursuant to the Inspection of Public Records Act, as interpreted by the New Mexico courts.

The Act and decisions interpreting it provide that the following types of personnel information may be treated as confidential:

- 1) Letters of reference concerning employment, licensing or permits;
- 2) Letters or memoranda which are matters of opinion in personnel files, including documents concerning infractions and disciplinary actions, performance evaluations, and related materials, opinions as to whether a person should be rehired or reasons why an applicant was not hired, and any other material expressing an opinion as to a current or former employee or an applicant for employment;
- 3) Medical and related information pertaining to illness, injury, disability to perform a job task, or sick leave;
- 4) Names or other identifying information on applicants for positions with the Walatowa High Charter School until and unless one or more persons outside the district are contacted for further information regarding a particular applicant; and
- 5) Other types of personal information, such as military discharge or arrest records,  
(a) which is solicited by the district;

- (b) which is considered vital to the employment procedure;
- (c) which was furnished after a promise to keep the information confidential; and
- (d) for which disclosure would not appear to serve any identifiable public interest.

These types of information will be treated as confidential to protect the privacy of current, former and prospective employees and to encourage qualified persons to apply for positions with assurance that the mere fact of their application for another job need not become public information.

The district shall be entitled to ask persons seeking disclosure of personnel records to provide reasonable justification for such disclosure.

See policies 257, 259.

**Disclosure of Employee Names 259**

Back to top

Pursuant to State Regulation 93-17, no district employee, board member or school volunteer shall sell or use employee lists or disclose the name of any employee for the purpose of marketing goods or services directly to employees or their families by means of telephone or mail.

The exceptions to this policy are when an employee authorizes the name release for any of the following legitimate educational purposes:

- 1) Regionally accredited colleges and universities
- 2) Accredited post-secondary and vocational educational entities
- 3) Accredited public educational entities providing adult basic educational opportunities
- 4) Educational entities offering continuing education opportunities for licensed and/or non-licensed faculty and staff
- 5) Educational entities offering tour/travel opportunities which result in educational credits through a regionally accredited college or university, or an accredited post-secondary or vocational school.
- 6) The Armed Forces of the United States offering educational programs and/or opportunities within the military.

See policies 257, 258.

**Leaves from Duty 260**

The board of education provides authorized leaves from duty as follows:

Annual Leave Military Leave

Extended Leave Personal Leave

Family and Medical Leave Professional Leave

Funeral Leave Sick Leave

Jury Duty/Subpoena Leave Voting Time Leave

All leaves, with or without pay, require advance approval except in emergency situations. Full pay will be deducted from an employee's salary for each unauthorized absence or for any absence not meeting the criteria specified in the policy covering the leave for which the absence was authorized.

**The following paragraphs apply in all cases unless specifically modified in the individual leave policies.**

An employee granted leave of absence will be returned to a position comparable to that held at the time the leave was granted unless otherwise noted in the applicable leave policy. Employees who are granted extended leave for a portion of the school year must notify the principal/superintendent of their desire to return to duty at least fifteen (15) school days prior to the date of return. Those granted leave for an entire year must notify the superintendent of their desire to return to duty no later than March 15 of the school year in which the leave was taken.

Renewal of leaves extended beyond one year will be made only with the understanding that there is no guarantee for return to employment.

Employees on unpaid leave of more than one month of consecutive work days may continue group insurance by timely payment of the full premium, with no board contribution, unless the leave is under the provisions of the Family and Medical Leave Act (see policy 263-5).

Leave without pay does not count toward attainment of accrued benefits.

*Revised and Adopted by the Walatowa High Charter School Board of Education September 26, 2011*

**Professional Leave 261**

Leaves from duty without deduction may be granted for professional visitation and attendance at job-related meetings, conferences and training sessions or other activities which in the principals/superintendent's judgment would be beneficial to the work of the employee or to the district as a whole. Such leaves may or may not involve the reimbursement of expenses, including substitutes, depending upon the mutually agreeable arrangements made prior to approval of the leave. Any expenditure proposed beyond the amount budgeted for such purposes must receive prior approval of the board of education.

One-half day of professional leave may be granted by the superintendent or designee for use by an employee for the oral examination for an advanced degree.

**Sick Leave 262**

Sick leave shall be granted to employees for illness of self, spouse or dependent children. Sick leave may be used also, with prior approval of the immediate supervisor, for illness of an employee's relative who is dependent upon the employee for care.

Twelve-month employees shall earn sick leave of fourteen (14) days per year, at the rate of two days in July and August each and one day in each of the other ten months. All other employee's shall earn sick leave of twelve (12) days at the rate of one-and-one third (1.33) days per month for nine months beginning with August. Three of these allocated sick leave days shall be set aside as potential personal leave days, usable for either personal or sick leave during the employee's work year. At year's end, any unused personal leave set-aside days will be credited to the employee's accumulated sick leave.

Sick leave may be accumulated without limit. Accumulative sick leave shall not be reduced or lost by the employee during officially-approved leaves of absence. All accumulative sick leave is forfeited upon termination from employment by the school district for any reason, with no payment in lieu thereof. Sick leave is not transferable from one individual to another.

At the beginning of each annual work period, each employee shall be credited with the total number of sick leave days stipulated for the length of the contract. In all cases, when an employee

terminates during the annual work period, the appropriate salary deduction will be made from the final paycheck for any used but unearned sick leave.

At the close of each fiscal year each employee's accumulation of unused sick leave shall be calculated. Any employee whose accumulated days equal at least sixty (60) but fewer than one hundred twenty (120) shall have \$200 added to the next year's employment contract amount, and any employee whose accumulated days equal at least one hundred twenty (120) shall have \$400 added to the next year's contract amount. (Depending upon funding)

For periods of sick leave longer than three consecutive days, the superintendent may require a physician's statement attesting to the reason for absence.

Sick leave benefits shall not be paid during any period for which an employee is eligible for worker's compensation payments unless the employee has elected in writing to assign or pay his worker's compensation payment to the district for the period during which the sick leave benefits are paid. In no event shall an employee be entitled to both sick leave benefits and worker's compensation payments during the same period. As used in this policy, "worker's compensation payments" refers only to wage replacement benefits under any worker's compensation act. In the event an employee receives both sick leave benefits and worker's compensation payments for the same period, the district will deduct the amount of sick leave benefits paid (in the event no election has been made) or the amount of worker's compensation payments received by an employee (in the event an election has been made) from the next amount due the employee from the district.

Sick leave may be used for maternity or adoption leave, along with Family and Medical Leave.

See policies 263, 264.

### **Family and Medical Leave 263**

This policy is adopted to implement the federal Family and Medical Leave Act of 1993 (FMLA) pursuant to the terms, conditions, and limitations of the Act. In the event of any conflict between the provisions of this or any other leave policy of the district and the provisions of the FMLA, the latter shall prevail.

A. To be eligible for leave under the Act an employee must have worked for the district for a total of twelve (12) months, (**months on duty**) during which the employee must have worked a total of 1,250 hours.

B. Pursuant to the Family and Medical Leave Act, employees are permitted up to twelve (12) work weeks of unpaid leave per year during any 12-month period. Family and medical leave can be requested for the following reasons:

1. childbirth and infant care;
2. placement of a child with the employee for adoption or placement of a child with the employee by a state agency for foster care (entitlement to leave for birth or placement of a

- child expires 12 months after the birth or placement of the child);
- 3. care of the employee's spouse, son or daughter or parent with a serious health condition; and
- 4. the inability of the employee to perform his or her job duties due to his or her own serious health condition, or the necessary absence from work of an employee to receive medically necessary treatment.

The 12-month period within which each employee may take twelve (12) weeks of leave under the FMLA shall be a "rolling" 12-month period, measured backward for each employee from the first time each such employee uses leave under the FMLA.

C. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that (a) requires in-patient care in a hospital, hospice, or residential medical care facility, or (b) requires continuing treatment by a health care provider and which, if left untreated, would likely result in an absence from work of more than three days, or (c) involves pre-natal care. A "serious health condition" does not include voluntary cosmetic treatments, unless inpatient care is required, or routine physical examinations.

D. An employee requesting leave shall submit a "Request for Leave" form to the immediate supervisor.

E. If an employee requests leave for treatment of an employee's serious medical condition or for that of a child, parent, or spouse, the employee must make a reasonable effort to schedule the treatment at a time that is not unduly disruptive to the district.

F. An employee seeking leave for a foreseeable reason such as the birth or placement of a child or for planned medical treatment, shall provide the district with at least thirty (30) days advance notice of the leave. If thirty (30) days advance notice is not possible under the circumstances, e.g. in the case of a premature birth, the employee shall give such notice as is practicable, e.g., within one or two business days of the day the employee learns of the need for leave. If an employee's reason for seeking leave was unforeseeable, such employee shall give such notice as is practicable. An employee who fails to give notice of leave as required herein may be denied such leave until the notice requirements are met. If less than thirty (30) days notice of leave is provided, the employee must schedule an appointment with the Director of the Human Resources Department for approval.

- G. An employee seeking leave on the basis of the serious medical condition of the employee or the employee's spouse, son or daughter, or parent, must provide certification issued by the health care provider of the employee or of the employee's spouse, son or daughter, or parent, stating
1. the date the condition began,
  2. its probable duration,
  3. appropriate medical facts, and
  4. that, for a specified time, either
    - (a) the employee is unable to perform his or her job functions or will be unavailable to do so while receiving necessary medical treatment, or
    - (b) the employee will be needed to care for the sick family member.



If the adequacy of medical certification is questioned by the district, the district may require the employee to seek the opinion of a second health care provider, who is not regularly employed by the district, at the district's expense. If the opinions of the first and second health care providers differ, the district may require the employee to obtain a third opinion at the district's expense, from a health care provider agreed upon by the employee and the district. The third opinion shall be final and binding.

H. Spouses employed by the district are limited to a combined total of twelve (12) work weeks per year for the birth or placement of a child, or to care for a parent. However, for other covered leaves, such as to care for a spouse or child, or for the treatment of the employee's own serious health condition, each spouse may take up to twelve (12) weeks a year.

I. Intermittent leave and reduced work schedules are allowed when such are medically necessary; however, employees may not take intermittent leaves or go on reduced work schedules that reduce the number of hours worked per week or per day for childbirth/infant care or adoption leave.

J. If an eligible "instructional employee" seeks intermittent leave or reduced-schedule leave for the care of a spouse, son or daughter, or parent, or for the employee's own serious health condition, and the leave is foreseeable on the basis of planned medical treatment, and the employee would be on leave for more than twenty (20) percent of the work days during the period, the employee must choose either to:

1. Take leave for a period or periods of a particular length, not greater than the length of the planned medical treatment; or

2. Transfer temporarily to an equivalent position which better accommodates recurring periods of leave.

"Instructional employees" include teachers, instructional assistants, coaches and other employees whose duties principally involve the direct provision of instructional services to students. In the event an employee involuntarily takes additional leave time under subparagraph 1, above, the entire leave time shall be counted against the employee's available leave under the FMLA and any district leave policy.

K. If any employee requests intermittent leave or leave on a reduced work schedule to care for a seriously ill family member or for the employee's own serious health condition, and the need for leave is foreseeable based upon planned medical treatment, the employee may temporarily be transferred to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and the position better accommodates recurring periods of leave than the employee's regular job.

L. The responsibilities of instructional employees near the end of academic terms--examinations, grading, etc.--requires that the school district be able to limit leave taking by instructional employees at such times as follows:

1. Leaves beginning more than five weeks before the end of a semester:

If an instructional employee starts a leave more than five weeks before the end of a semester, the school district may require the employee to continue the leave until the end of the semester if:

- (a) the leave is of at least three weeks' duration; and
- (b) the employee would return from leave during the three-week period preceding the semester's end.

2. Leaves beginning five weeks or less before the end of a semester:

If an instructional employee begins a leave five weeks or less before the end of a semester, the school district may require the employee to continue the leave until the end of the semester if:

- (a) the leave will last more than two weeks; and
- (b) the employee would return from leave during the two-week period before the term's end.

3. Leaves beginning three weeks or less before the end of a semester:

If an instructional employee starts a leave three weeks or less before the end of a semester, the school district may require the employee to continue the leave until the end of the term if the leave will last more than five working days.

M. All requests for family/medical leave must be approved by the employee's supervisor and the superintendent or designee.

N. Employees who take family/medical leave must utilize any available paid leave they have accrued under another of the district's leave policies when the reason for leave corresponds with the basis for leave under the other policy. Accrued vacation or personal leave shall be substituted for any FMLA-qualifying purpose. If the requested leave period extends beyond the employee's accrued number of paid leave days, the remaining leave days will be unpaid.

(Example A: An employee who sought leave due to his or her own serious medical condition and inability to perform his or her job duties, has accrued six weeks sick leave. The employee must use the six weeks of paid sick leave and may thereafter use the remaining six weeks of unpaid leave available under this policy;

Example B: An employee wishes to use four weeks of leave under this policy for birth or adoption of a child. The employee may substitute paid maternity or paternity leave, but is not required to, and may not, substitute paid sick leave, except to the extent allowed by the maternity/paternity leave policy.)

Any employee seeking leave shall explain the reasons for the needed leave on forms provided by the district. It shall be the district's responsibility to identify the requested leave as covered by the FMLA and as paid or unpaid on the basis of leave time accrued under or during such leave, on the basis of information provided by the employee.

O. During the period of leave, the school district will maintain the employee under the district coverage group health plan if enrolled; however, the employee is responsible for continuing to pay the employee's monthly portion of the premium. If an employee fails to make payment of the employee's share of health insurance premiums for thirty (30) days after such payment is due, coverage of such employee for benefits shall be discontinued. If the employee fails to return to work following leave under the FMLA for any reason (1) other than the continuation of the FMLA-qualifying circumstances upon which the need for leave was originally based, or (2) circumstances

beyond the control of the employee, the employee shall be required to reimburse the district for the cost of health insurance premiums the district paid to maintain coverage for the employee during the leave period.

P. Employees will not accrue leave or other benefits during the family/medical leave period.

Q. An employee other than a "key employee", who has taken family/medical leave will be restored to his or her previous position or to a position of equivalent pay, benefit, and other terms and conditions of employment. Equivalency of positions shall be determined on the basis of district policy. A "key employee" may be denied reinstatement if it would create a substantial and grievous economic injury for the school district. A "key employee" is one whose compensation is within the highest ten percent of the work force of the school district.

R. In each district building there shall be posted a notice to employees, describing the provisions of the FMLA, provided and approved by the Wage and Hour Division of the United States Department of Labor.

#### **Personal Leave 264**

Three (3) days of personal leave deducted from sick leave may be granted to all employees for personal business which cannot be handled except during work hours. Personal leave will not be granted on the last work day prior to or the first work day following a holiday, or on an in-service day, or during the first or last five days of the school year except in an emergency situation and prior approval has been granted. Use of personal leave requires advance approval by the superintendent or designee, with exceptions only in case of emergencies.

Any unused days of personal leave shall revert to the employee's accumulated sick leave days.

See policy 262.

#### **Annual Leave 265**

Full time twelve month employees shall be entitled to fifteen paid annual leave earned at the rate of 1.25 days per month served as a twelve-month employee.

Annual leave cannot be earned while the employee is on another leave without pay. Annual leave may be accumulated to a maximum of thirty (30) days. If a twelve-month employee transfers within the district to a non-twelve-month position or upon death, retirement, resignation, termination or discharge, the employee shall be paid for a maximum of twenty (20) earned and unused annual leave days.

If a twelve-month employee leaves the position for any reason and then again becomes a twelve-month employee, "years completed with the district" as a twelve month employee shall be calculated only from the initial date of employment as a twelve-month employee from the beginning of the most recent employment.

Annual leave will not be granted in advance of the number of days earned by the employee at the time of leave. Authorization will be granted only for such times as will least interfere with the efficient operation of the schools. Annual leave with pay shall not be granted to part time employees.

The board reserves the right to negotiate a separate annual leave agreement with the superintendent.

**Jury Duty/Court Subpoena Leave 266**

Absence with pay will be granted when an employee is subpoenaed to appear in an official proceeding, if such proceeding does not involve self employment or employer and does not concern the employee's own personal affairs.

Leave with pay will be granted to an employee for appearance in court as a witness, to serve on a jury, or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee.

Employees must notify their immediate supervisor of their desire to apply for such leave as soon as possible prior to the date serve must be rendered.

**Bereavement Leave 267**

In the case of death in the immediate family at any time during an employee's annual work period, the employee shall be allowed leave with pay for up to three (3) working days immediately following the date of such death. The immediate family is defined to include: husband, wife, child, grandchild, parents, grandparents, sister, brother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law.

In extenuating circumstances, additional days may be granted by the principal/superintendent; such days will be charged to earned sick leave/personal leave.

Bereavement leave is not cumulative.

**Funeral Leave 268**

Employees may be excused by the immediate supervisor without loss of pay, for a period up to four hours, to attend funeral services of relatives or friends provided no substitute is required.

If a paid substitute is required, the employee may take personal leave to attend the funeral.

**Military Leave 269**

Any employee who is a member of an organized unit of the National Guard, or a reserve unit of any of the military branches, shall be given military leave not to exceed fifteen (15) days annually when ordered to active duty training with such organized units.

Such leave is to be in addition to other leave or vacation time to which the employee is otherwise entitled, with no deduction of pay.

Any employee who is drafted or called into duty by the armed forces of the United States shall be considered as on leave without pay, eligible for return to duty for the first available position for which the employee is licensed, or for non-licensed employees, the first available position of the kind held by the employee at the time of induction into the armed forces.

**Extended Leave 270**

Extended Leave of Absence without pay is a discretionary leave and may be granted for a period up to one (1) calendar year, at the discretion of the Superintendent. Personal reasons include, but are not limited to, family emergency, educational, Public Service, etc. The approval of such leave shall largely depend upon the circumstances, specialization, or critical nature of the employee's position, as well as the practicality of replacing the employee for a temporary period. Assurance of the employees return is required if such a leave is to be granted. Approval of requests for Extended Leave of Absence constitutes an agreement by the district to return the employee to his or her job classification or to a comparable position at a pay rate not less than the former rate, contingent upon the availability of funds.

5. Eligibility: An employee who meets each of the following conditions shall be eligible to request a Extended Leave of Absence:

- x. Satisfactory completion of twenty-four (24) months of continuous employment by the district.
  - xi. Assurance of the employee's intent to return to district employment at the expiration of the Extended Leave of Absence.
  - xii. Approval of the employee's request for Extended Leave of Absence by the Superintendent.
6. Continuous Service: Continuous District service shall not accrue during a period of Extended Leave of Absence.
7. Benefits: An employee who is on an approved Extended Leave of Absence and who wishes to retain existing insurance benefits coverage shall make arrangements with the district business office prior to commencement of the leave to pay both the employee and the district premiums for such coverage.
8. Vacation and paid sick time hours shall not accrue during the period of unpaid Extended Leave of Absence.
9. Unused accrued leave shall remain in place for the employee upon their return from an approved leave.

***Revised and Adopted by the Walatowa High Charter School Board of Education September 26, 2011***  
See policy 260.

### **Voting Time Leave 271**

On election days, school district employees shall be given two hours leave to vote. The two hours leave shall be on a schedule determined by the immediate supervisor.

Employees whose workday begins after 10:00 a.m. or employees whose workday ends no later than 4:00 p.m. shall not be eligible for such leave.

### **Employee Eligibility for Fringe Benefits 275**

All full-time employees of the board of education are eligible for all benefits provided by statute or regulation and by the board of education. "Full-time" is defined as not less than twenty (20) hours weekly. Employees in any capacity working less than twenty (20) hours weekly are ineligible for any insurance coverage paid for in part or in whole by the board of education. Part-time employees will be provided any fringe benefit required by state or federal law or regulation.

See policies 239, 260, 263-5.

### **Safe Harbor Policy 277**

#### **Improper deductions prohibited**

It is Walatowa High Charter School policy to comply with all federal regulations with respect to the Fair Labor Standards Act. Every effort is made to ensure that compensation and paychecks are properly computed and calculated. We prohibit all District Supervisors from making any improper deductions from the salaries of exempt employees. Exempt employees are those employed in a bona fide executive, administrative, or professional capacity and who are exempt from the FLSA's overtime pay requirements.

#### **What To Do If An Improper Deduction Occurs**

If you are an exempt employee and believe that an improper deduction has been made to your salary, you should immediately report this information to the payroll department.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

*Approve and adopted by the Walatowa High Charter School Board of Education on September 26, 2011*

### **Assignments and Contracts, Extracurricular Activities 285**

This policy is adopted to ensure that the WHCS is able to provide an extracurricular activities program as an integral part of the educational program.

For any employee contract signed after the adoption of this policy, where the board minutes and an offer of employment indicate that an individual has been initially employed for a position which includes both teaching and extracurricular activity responsibilities, offers of reemployment to that person shall include both the teaching and extracurricular activity assignments unless the board, upon the superintendent's recommendation, deletes the extracurricular assignment.

### **Reporting Illegal or Improper Conduct 290**

The board of education affirms its commitment to adherence to proper and legal conduct by all employees of the Walatowa High Charter School. As part of this commitment, the board requires that an employee who has reliable information that another employee is engaging in illegal or improper conduct shall report such information to an appropriate supervisor or administrator. The employee making the report shall be held safe from any retaliation by the district, unless the employee acted in

bad faith or with malicious purpose. Any employee who retaliates against an employee who makes a proper report of illegal or improper conduct shall be subject to discipline.

It is the duty of appropriate administrative officials to investigate any report of illegal or improper conduct by an employee. The employee making the report has no duty to investigate, but shall cooperate with the investigating administrator(s). During the investigation the originating report shall be held confidential, consistent with the requirements of an effective investigation. Upon the conclusion of the investigation, a determination shall be issued.

If the charge(s) of illegal or improper conduct is supported by the investigation, appropriate disciplinary action shall be taken including, but not limited to, warning or reprimand, suspension, termination or discharge, subject to any applicable procedural requirements.

If the charge(s) is found to be without merit, the only record retained by the district shall be on file in the superintendent's office and not be part of the employee's personnel file.

See policies 231, 526.

### **Reporting Student Abuse of Alcohol or Drugs 291**

New Mexico law (NMSA 22-5-4.4) requires that school employees who know or in good faith suspect any student of using or abusing alcohol or drugs shall report such use pursuant to procedures established by their local school boards. So long as such report is made in good faith, the reporting school employee shall be immune from civil damages for his or her action. This policy is enacted to provide a procedure to be followed by all school district employees in reporting known or suspected use or abuse of alcohol or drugs by students.

All employees have a mandatory, nondiscretionary duty to report known or suspected alcohol or drug use or abuse by any student of the district.

All reports made shall be on a uniform reporting form, available from the principals, and shall be given to the principal of the school in which the student is enrolled.

Reports shall be made within a reasonable time after the employee learns or suspects the use or abuse of drugs or alcohol by a student.

It is not the duty of the school employee making the report to conduct an investigation to determine whether the student identified has in fact used or abused drugs or alcohol. The duty to investigate shall be upon the principal to whom the report is made; provided, however, that the reporting employee shall cooperate with responsible school officials during the course of any investigation.

The failure of any school employee to report knowledge or suspicion of student alcohol or drug use in a timely manner may be cause for discipline of the employee.

See policy 222.

### **Reporting Acts of Violence, Vandalism 292**

New Mexico law (NMSA 22-1-7) requires that any district employee who observes or has direct knowledge from a participant or victim of an act of violence upon any employee of the board engaged in the lawful discharge of duty or of vandalism to public school property shall file a report describing the incident pursuant to procedures established by the State Department of Education. Any person who files such a report shall not be discriminated against in any manner or discharged because he/she has filed that report.

See policy 545.

### **Reporting Child Abuse and Neglect 293**

New Mexico law (22-5-4.2) requires that school employees who know or suspect that a child is an abused or a neglected child shall immediately report the matter to

1. the Human Services Department, or
2. the probation services office of the judicial district in which county the child resides, or
3. the criminal prosecution division of the office of the district attorney.

So long as such report is made in good faith, the reporting school employee shall be immune from civil liability or criminal sanctions for their action. Any school employee who permits a member of a law enforcement agency or an employee of the human services department to interview the child with respect to that report without the permission of his parent, guardian or custodian is presumed to be acting in good faith and shall be immune from civil and criminal liability that might otherwise be incurred, unless the employee acted in bad faith or with malicious purpose.

All employees have a mandatory, nondiscretionary duty to report known or suspected abuse or neglect of a child.

It is not the duty of the school employee making the report to conduct an investigation to determine whether the child identified has in fact been abused or neglected. The duty for the state to investigate the report is set forth in Section 32-1-15 of New Mexico Statutes.

The failure of any school employee to report knowledge or suspicion of child abuse or neglect will be cause for criminal prosecution and may be cause for discipline of the employee.

See policy 363-8.