

PERSONNEL

2.01 Equal Employment Opportunity

The Board of Education affirms that Springer Municipal School District is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, religion, age, marital status, disability, handicap, or veteran status in employment or the provision of services. This includes, but is not limited to, admissions, educational services, financial aid and employment. Inquiries concerning the application of Title VI and Title VII of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act, Title IX of the Education Amendments of 1975, and the New Mexico Human Rights Act, may be referred to the Superintendent of the Springer Municipal Schools. The Americans with Disabilities Act of 1990 as amended, prohibits discrimination on the basis of disability, and protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, and other aspects of employment. The law also requires that covered entities provide qualified applicants and employees with disabilities with necessary reasonable accommodations that do not impose undue hardship. It is the responsibility of the applicant or employee to inform the Superintendent that an accommodation is needed. Address inquiries to the Springer Municipal Schools, P.O. Box 308, Springer, New Mexico 87747, Telephone Number (505) 483-3432.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.02 Sexual Harassment

In recognition of the fact that sexual harassment is a form of discrimination prohibited by law, and in accordance with the provisions of Section 703 of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the New Mexico Human Rights Act, the Springer Municipal School Board is committed to maintaining a working and learning environment free of objectionable and disrespectful conduct and communication of a sexual nature. The Board is equally committed to maintaining an environment free of sexual discrimination for students attending Springer Municipal School programs in their dealings with other students, staff and faculty of the Springer Municipal School District.

A. Definitions

1. Conduct of a Sexual Nature

Conduct of a sexual nature may include, but is not limited to, verbal or physical sexual advances, sexually suggestive or sexually-oriented gestures, including subtle pressure for sexual activity; verbal descriptions of sexual activity or soliciting or encouraging such descriptions from students; repeated or persistent requests for dates, meetings, and other social interactions; initiating or repeating rumors, gossip or speculation or creating or circulating written material about a student's sexuality, sexual activity, sexual preference or orientation; dating, engaging in a romantic or sexual interaction or relationship or any sexual activity with a student; using physical proximity or closeness as a physical or sexual advance; comments or name-calling of a sexual nature to or about a student regarding alleged physical or personal characteristics, appearance, clothing or sexual preference or orientation; use of sexually-oriented or nonverbal signs, sounds, facial expressions or gestures to convey sexual messages; sexually-oriented touching, pinching, patting, staring, pulling at or attempting to look under clothing, or brushing against; displaying or distributing sexual pictures, photographs, illustrations, messages or notes; sexually-oriented "kidding," "teasing," double-entendres, and jokes, and any harassing conduct to which an employee or student would not be subjected, but for such employee's or student's sex, sexual-orientation or gender identity.

2. Unwelcome Conduct of a Sexual Nature

- a. Verbal or physical conduct of a sexual nature may constitute sexual harassment when the allegedly harassed employee or student has indicated, by his or her conduct, that it is unwelcome.
- b. An employee or student 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 purpose 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 condition of employment, or in the case of a student, award of grades, academic advancement, or other measures of student achievement; or
 - b. submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee, or a decision affecting a student's educational progress; or
 - c. the conduct substantially interferes with an individual's work or academic performance, or creates an intimidating, hostile, or offensive work or academic environment.
2. Specific Prohibitions
 - a. Administrators and Supervisors:
 - (i) It is sexual harassment for an administrator or supervisor to use his or her authority to solicit sexual favors or attention from subordinates when the subordinate's failure to submit will result in adverse treatment, or when the subordinate's acquiescence will result in preferential treatment.
 - (ii) 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. Faculty and Staff
 - (i) It is sexual harassment for a faculty or staff member of the Springer Municipal School District to use his or her status to solicit sexual favors or attention from students when the student's failure to submit will result in adverse treatment, or when the student's acquiescence will result in preferential treatment.
 - (ii) Faculty and staff who either engage in sexual harassment or tolerate conduct shall be subject to sanctions as described below.
 - c. Non-Administrative and Non-Supervisory Employees

It is sexual harassment for a non-administrative and non-supervisor

employee to subject another such employee to any conduct in a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.

d. Students

It is sexual harassment for a student to subject another student to unwelcome conduct of a sexual nature. Students who engage in such conduct shall be subject to discipline for misconduct in accordance with the Student Handbook.

3. Reporting, Investigation, and Sanctions

a. It is the express policy of the school board to encourage victims of sexual harassment to come forward with such claims. This may be done through the Grievance Procedure.

(i) Employees or students who feel that administrators, supervisors, faculty or staff are conditioning promotions, increases in wages, continuation of employment, or other terms or conditions of employment or academic advancement, or preferential treatment upon agreement to unwelcome conduct of a sexual nature, are encouraged to report these conditions to the appropriate administrator. 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. Students subjected to sexual harassment may report such conduct to a counselor, principal or administrator if the alleged harasser is a faculty member, or the Superintendent or School Board President if the alleged harasser is a principal or administrator.

(ii) Individuals are also urged to report any unwelcome conduct of a sexual nature by supervisors, fellow employees or students, if such conduct interferes with the individual's work/academic performance, or creates a hostile or offensive environment.

(iii) Confidentiality will be maintained consistent with the need to conduct an investigation and take remedial action, and no reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

b. In determining whether alleged conduct constitutes sexual harassment the totality of the circumstances, the nature of the conduct, and context in which the alleged conduct occurred will be investigated. The Superintendent has the responsibility of investigating and resolving complaints of sexual harassment. In case the Superintendent is the alleged

harasser, the Board or its designee will investigate and resolve the complaint.

- c. Administrators and supervisors who are aware that an individual subject to their supervision is engaging in sexual harassment are obliged to report it and to take effective action to stop it.
- d. Any employee found to have engaged in sexual harassment shall be subject to sanctions, including, but not limited to, warning, reprimand, suspension, termination, or discharge, subject to applicable procedural requirements. The Administration need not use “progressive discipline” or intermediate disciplinary measures for sexual harassment. The discretion to seek immediate termination or discharge of an employee for any individual incident of sexual harassment is hereby delegated to the Administration in appropriate circumstances.
- e. A student found to have engaged in sexual harassment shall be subject to sanctions, including, but not limited to, warning, reprimand, academic probation, suspension of privileges and preparation in activities, academic suspension or expulsion.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.03 Staff Involvement in Decision-Making

The Board of Education believes that staff must be involved in the decision-making process. The Board desires to provide opportunities for involvement by staff members in decisions which affect them. The Board directs the Superintendent to facilitate staff involvement in shared decision-making, and to foster collaborative efforts of school personnel, students, parents and community through:

1. Strategic planning; and
2. Site-based management.

This participation is essential in order to ensure the school system receives full benefit of ideas and suggestions, which may come from others concerning the various school programs. Although the Board and the Superintendent must fulfill their legally constituted responsibilities established by state statutes, this participatory approach provides for a two-way flow of information and effective action resulting from individual and group thinking.

Adopted: August 14, 2006

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Legal Reference:

2.04 Alcohol and Other Drug-Free Work Place

The Springer Municipal Schools shall endeavor to provide an environment for employees that is free of alcohol, illegal drugs, drug analogs, and/or controlled substances.

Alcohol and other drug abuse, including manufacturing, possessing, smelling of, being under the influence of, selling, distributing, dispensing in any way, and/or transporting alcohol/illegal drugs, and drug analogs is prohibited on School District property, at School District sponsored activities or in School District vehicles or contracted buses. Further, manufacturing, possessing, selling, distributing, dispensing in any way, and/or using drug paraphernalia are prohibited on school property, at school-sponsored activities or in school vehicles.

For this policy, alcohol and other drug abuse includes the use of controlled substances as identified in Schedules I through V of the Controlled Substances Act (United States Code, Title XXI, Chapter 13) where the use is neither authorized by law nor by a valid prescription. Alcohol and other drug abuse also includes, but is not limited to, misuse of alcohol or prescription drugs that affect an individual's ability to perform his/her job in a safe, acceptable manner. The definition of alcohol and other drug abuse also includes those substances that are held out to be, or are represented to be, illegal in any respect.

The Springer Municipal School District recognizes that alcohol and other drug abuse is primarily the individual's responsibility; however, the District is impacted because use/abuse problems often interfere with job performance and the maximum effectiveness of each employee. The District shall intervene with persons manifesting signs of use or abuse.

If an employee is properly using drugs pursuant to an authorized prescription or properly using an over-the-counter drug, and such use may affect or impair such employee's performance of his or her job duties, such employee shall report such use to his or her supervisor. In appropriate cases, the supervisor may limit, modify, or suspend the employee's duties during the time he or she is using the drug, but such use shall not be considered a violation of this policy.

An employee violating this policy is subject to discipline, including suspension, discharge, or non-renewal of employment, and report to law enforcement. An employee may be required to participate in a drug abuse assistance or rehabilitation program approved by the District as a condition of continued employment.

School authorities shall give consideration to the health, safety, and rights of employees when prescribing disciplinary action(s) for employees who violate terms of this policy.

The School District reserves the right to search an employee's person, personal effects and vehicle, when there is reasonable suspicion that such employee has violated this policy. An employee's refusal to cooperate in any such enforcement procedures may be grounds for discipline, including suspension, discharge or non-renewal of employment.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.05 Smoking/Use of Tobacco

The “Clean Indoor Air Act,” NMSA 1978, § 24-16-2, *et seq.*, declares that the smoking of tobacco, or any other weed or plant, is a positive danger to health and a health hazard to those who are present in enclosed places.

The Springer Board of Education prohibits students from possession, smoking, carrying, or holding a lighted pipe, cigar, or cigarette, or using tobacco in any form, on school campuses, in school buildings, in school vehicles, including buses, or at any school sponsored functions/activities.

The Springer Board also prohibits adults, including school staff, parents, and school visitors from smoking, carrying, or holding a lighted pipe, cigar, or cigarette, or using tobacco in any form in school buildings or on school property.

School personnel and/or volunteers serve as role models for students. While acting in an employment/volunteer capacity, they shall refrain from using tobacco while in the presence of students, on school property or at school sponsored functions/activities.

Tobacco use in school buses and in other school vehicles is prohibited.

Upon adoption, this policy shall be posted in prominent locations throughout the community and schools.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 24-16-2 *et seq.*
NMAC 6.12.4

2.06 Police and Other Governmental Agencies

School authorities shall cooperate with representatives of the law and other governmental agencies who are legally empowered to contact students/staff on school grounds or during school sponsored activities and during school hours.

Students shall not be removed from the school without notice to their parents or guardian, unless the action is in the course of enforcing a ruling from the principal.

A student may be removed from school by police without the parents' or guardians' knowledge under unusual circumstances at the request of the principal or pursuant to legal process such as an arrest warrant. In such cases, the principal shall inform the parents or guardians of the removal as soon as possible thereafter.

A qualified representative of the court or of another governmental agency may have a student called out of classes for conferences without parental permission. However, the principal shall notify the parents or guardians whenever possible.

Police officers are expected to notify the principal whenever they come onto school grounds even when they are taking into custody or arresting a student or school employee.

The principal or his/her designee shall sit in, if appropriate, on the student interview to ensure that rights of students, parents, and guardians are protected.

The Superintendent is authorized to adopt administrative rules to implement this policy in a manner consistent with legal mandates.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.07 Compensation

The School District recognizes that attractive compensation plans, which include an adequate base salary, salary incentives, and employee benefits, are necessary to attract and retain well-qualified and capable women and men to deliver quality educational and support services. It is the District's intent that priority be given to internal equity within and among the various job categories.

The Superintendent shall establish a system of compensation for administrators consistent with the approved budget. It will be based upon a system, which recognizes the responsibility of the position and pays each individual according to his/her performance in carrying out the responsibilities of the assigned position.

The Superintendent shall establish a system of compensation for licensed staff consistent with the approved budget. It will be based on a salary schedule, which allows both training and experience as placement variables. Teachers and other licensed personnel may bring in full experience from other school districts both in and out of state. Deviations from the schedule may be made based on the quality of the work performance.

The Superintendent shall establish a system of compensation for support service staff consistent with the approved budget. It will be based upon a salary schedule, which recognizes the value of the position and the experience brought to the position. Job classification/reclassification may occur from time-to-time based on new data from internal and external sources. Deviations from the schedule may be made based on quality of work performance.

The Superintendent will establish all compensation plans annually.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-5-11

2.08 Employee Insurance

All employees, exclusive of temporary, seasonal, student, casual employees and independent contractors may participate in the health, life, dental, and disability insurance plans provided by the School Board. The Board, as a service to employees, participates in the New Mexico Public Schools Insurance Authority (NMPSIA). The Board's participation in the group health insurance contribution will be in accordance with Section 10-7-4, NMSA 1978. The percentage of the employee's share of the premium contributed by the District will be determined by the Board, consistent with statutory mandates.

Eligible new employees shall have thirty (30) days from their first day of employment to enroll in the District benefit program.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 10-7-4

2.09 Retirement Programs

All employees are required to be regular members of the New Mexico State Educational Retirement Program. Any employee, exclusive of temporary seasonal, student and casual personnel, or independent contractors may participate in the Tax Deferred Annuity Program offered through the District.

The above-mentioned programs will be paid for through payroll deduction.

Adopted: August 14, 2006

Revised:

Legal Reference: The Educational Retirement Act, NMSA 1978, § 22-11-1, *et seq.*

2.10 Travel Pay

Employees may be reimbursed by the School District for expenses incurred for travel in connection with school business. Such travel must be approved by the Superintendent in advance, and reimbursement will not exceed the established per diem and mileage rates as identified by applicable local, state and federal regulations, and by the Per Diem and Mileage Act, NMSA 1978, § 10-8-1, *et seq.*

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 10-8-1 *et seq.*

2.11 Judicial Obligations

All employees summoned for jury duty or to testify as a witness pursuant to lawfully issued subpoena (not as a party plaintiff or defendant) in a court case will be granted leave with pay. However, the employee is required to present to the District's Business Manager the court order or subpoena requiring the employee's presence. Fees received by employees for jury duty or witness attendance may be kept by the employee.

In the case of court action outside of an employee's normal workday, witnesses will be reimbursed at a rate established by the Superintendent. Reimbursement will be limited to testimony in court actions pertaining to:

1. School related business; and
2. Safety or protection of school personnel, students, or property.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.12 Leave Without Pay (Long Term)

A leave without pay may be requested by an employee of the Springer Municipal Schools who is employed at least half-time or more. The Superintendent shall review each request for possible approval. Leaves without pay must be approved by the Superintendent, and generally will be for one (1) contract year. This leave may be extended with approval by the Superintendent to include a second year under the same provisions, which applied to the first year. Leaves of absence will not extend beyond two (2) school years.

Maintaining the high quality of educational programs and possible impact upon students shall receive first priority when considering the approval or disapproval of leaves without pay or an extension of a leave without pay.

A leave without pay may be requested for the following reasons:

- Advanced study
- Personal or family illness or disability/emergency
- Military service (beyond that covered in Policy) or volunteer services (e.g., Peace Corps, Vista)
- Accompany a spouse on a temporary job assignment
- Parenting
- Political Office (Elected Office)
- Jury duty

A leave without pay may not be requested for the primary purpose of seeking or assuming other employment.

After returning from a leave without pay, an employee must have completed three (3) years of continued employment before he/she may request an additional leave of absence without pay.

The Superintendent has the authority to review each leave without pay currently in progress. If the Superintendent determines that the circumstances justifying the leave without pay have been misrepresented or substantially changed, the Superintendent may take such disciplinary action as deemed appropriate under the circumstance, including, but not limited to, revocation of the leave or termination of employment.

In the case of employees who have used all accrued paid sick leave and/or advanced sick leave granted by the Board, a leave without pay may be granted upon submission of written request for the leave. The Superintendent shall review and act upon each request. Those on medical leave without pay receiving Workers' Compensation benefits or leave under the Family and Medical Leave Act ("FMLA") shall be subject to rights set out in Workers' Compensation Act and FMLA in effect at that time.

Assignment to the same position held when the leave without pay was granted shall not be guaranteed, as reassignment shall be made by the Superintendent based upon the needs of the District.

Should a reduction in force become necessary during the contract year, a teacher or administrator on a leave without pay shall be subject to the same selection criteria as established by School Board Policy - Reduction in Force.

Should a reduction in force become necessary at the end of the contract year, a teacher or administrator shall be subject to termination as provided in School Board Policy.

Service credit and fringe benefits do not accrue during leaves without pay. Insurance benefits shall continue during a medical leave without pay for a period of one (1) year with the District paying its share of the premium. The employee must submit a personal check monthly for his/her share of the premium.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.13 Sick Leave

Sick leave with pay shall be granted to all school employees except temporary, seasonal casual or student employees and independent contractors. This leave is earned at the rate of one (1) day per month of service and may be accumulated and carried over into a subsequent contract year up to a maximum of 151 days.

Employees who are terminated or subject to reduction in force, but are rehired or reassigned within the District within one (1) calendar/school year will have their accumulated sick leave and other leave benefits restored.

An employee may use in advance, during any fiscal year, the sick leave, which will accumulate in the remainder of the fiscal year. If the employee terminates employment before leave taken is earned as specified above, the unearned days will be deducted from the employee's final payroll check.

Sick leave is provided and is to be used for the employee's personal illness. However, employees may use up to five (5) days of sick leave per year for illness or injury to immediate family members. Five (5) additional days of sick leave per year for catastrophic family illness may be granted by the Superintendent upon submission of a written request by the employee outlining the specific circumstances of the situation. "Catastrophic family illness" is defined as a severe and acute condition or combination of conditions affecting the mental or physical health of the employee's immediate family that requires the services of a licensed practitioner or hospitalization for a prolonged period of time and that causes the employee to exhaust accrued paid leave.

A severe and acute condition or combination of conditions is defined as: (i) one that will result in death or is a severely debilitating condition that disables the employee from performing the usual and essential functions of his or her employment position; or (ii) one that is life-threatening or has been designated as terminal.

"Immediate family" is defined as those individuals who reside in the same household as the employee and are related to the employee by kinship, adoption or marriage, as well as foster children.

For prolonged illness, if after three (3) years of service, and after the employee has used all accumulated sick leave and all sick leave which would accumulate in the remainder of that fiscal year, these options are available: The employee may apply for a leave without pay as described in Policy 2.12, or may submit a request to the Superintendent for additional paid leave days. The Superintendent may recommend to the School Board that the employee be advanced up to twelve (12) additional days of sick leave. This additional sick leave must be paid back by the employee at the rate of two-thirds (2/3) day per month beginning in the immediately succeeding fiscal year.

For periods of sick leave longer than three (3) consecutive working days, the Superintendent may require a physician's statement attesting to the fact that the employee is unable to return to work because of health reasons. The District reserves the right to seek more detailed medical reports or information or to require an independent medical evaluation of the employee by a physician, selected by the District at District expense, should the Superintendent deem such an evaluation to be warranted.

Payment will not be made for accumulated sick leave upon termination, resignation or retirement.

Sick leave may be used for emergency situations according to Board policy for emergency leave.

Employees eligible for personal business leave may, each year, exchange one (1) day of sick leave for one (1) day of personal business leave. An employee must use the exchanged day during the year in which the sick leave is converted to personal business leave.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.14 Sick Leave/Workers' Compensation Benefits

The Springer Municipal School District shall comply with New Mexico state and federal laws by providing Workers' Compensation Insurance for employees.

Employees may combine sick leave with Worker's Compensation benefits as follows:

1. Employees injured in an on-the-job accident may receive payment for sick leave from the date of the accident until the date eligibility to receive Workers' Compensation benefits has been established.
2. Employees may elect to use sick leave to supplement the Workers' Compensation benefits. The supplementation shall be limited to the amount necessary for the Workers' Compensation and the sick leave supplementation to equal the employee's regular salary.
3. Employee's sick/annual leave benefits shall continue to accrue until the accrued sick leave is used completely.
4. The School District shall pay the District's share of the insurance premium for the term of the employee receives sick leave and/or Workers' Compensation benefits, if the employee is a member of the District's approved insurance program at the time the employee is declared eligible for Workers' Compensation benefits.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.15 Emergency Leave

School personnel may use accrued sick leave as emergency leave for death or imminent death in the family.

In the event of imminent death in the family, an employee may use sick leave up to five (5) consecutive working days as emergency leave. Under unusual circumstances, the Superintendent may approve additional emergency leave days for imminent death.

In the event of death in the family, an employee may use up to five (5) consecutive working days as emergency leave without having those days deducted from the employee's accrued sick leave. If the employee is required to assist with closing the estate and needs additional time, the Superintendent may grant five (5) additional days, which will be subtracted from the employee's sick leave. If, under unusual circumstances, the employee should need more time, the Superintendent may approve up to five (5) additional days. If these days are approved, they will be subtracted from the employee's accrued sick leave.

Family will be defined as: mother, father, husband, wife, sister, brother, son, daughter, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent, grandchild, or any other person who may have functioned in either a mother or father status with respect to the employee.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.16 Annual Leave

All full-time employees working forty-hours a week on a twelve (12) month basis will be granted annual leave at the rate of one and one-thirds (1-1 / 3) days per month for a total of sixteen (16) days per year.

These employees shall be permitted to accumulate and carry forward from one (1) calendar year to the next not more than sixteen (16) days of annual leave.

Upon the termination, resignation or retirement of a full-time employee, accumulated annual leave will be paid up to a maximum of sixteen (16) days at the employee's daily rate at the time of separation.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.17 Personal Business Leave

All school employees are eligible for one (1) paid day of personal business leave per school year.

Personal business is defined as any non-school related business requiring the personal attendance of a school employee which cannot be conducted at a time not in conflict with the regular school day or a situation over which the employee has no control and which requires immediate attention. All such leave must be approved in advance by the Principal and Superintendent. Personal business leave taken on the day before or after a school break or vacation is discouraged and the Principal and Superintendent are authorized to deny requests for such leave in their discretion.

If personal business leave is not used during a school year, it may accrue to five (5) days. All personal business leave days accumulated beyond the five (5) days will be transferred to sick leave days, subject to the accumulation limits in the Sick Leave Policy.

Employees eligible for personal business leave may, each year, exchange one (1) day of sick leave for one (1) day of personal business leave. An employee must use the exchanged day during the year in which the sick leave is converted to personal business leave.

Not more than twenty-five percent (25%) of the staff at any school will be allowed to take personal business leave at the same time. If the number of requests exceeds this limit, the principal of the school will make a decision on who may take leave.

Payment will not be made for accumulated personal business leave upon termination, resignation or retirement.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.18 Religious Observance

It is the policy of Springer Municipal Schools to reasonably accommodate the religious beliefs of its employees.

Up to two (2) days absence without pay annually may be granted for recognized religious holidays in cases where observance prevents the employee from working. The employee shall request permission for the absence ten (10) working days in advance of the date it is to begin. Approval will be granted unless it has a direct impact on the program(s) of the District. Upon approval for such absence, the employee may use accrued personal or annual leave for such absence.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.19 Non-Work Holidays

Full-time, twelve-month employees shall be given sixteen (16) holidays during the fiscal year to be designated annually by the Superintendent. The holidays for other employees are established by contract and the School District's approved calendar.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.20 Employee Grievance Resolution Procedure

A. Purpose

The purpose of this policy is to provide a procedure for the reporting and resolution of legitimate employment-related concerns of the employees of this School District at the earliest possible time and with the least possible expense, disruption and friction. The Board recognizes that most personnel difficulties encountered by employees arise from a lack of communication. This procedure is designed to provide a formal mechanism for promoting or restoring such communication so that problems may be resolved before far more serious difficulties result.

B. Definitions and Limitations

1. "Grievant" shall mean an employee who is personally and directly affected by a condition for which he or she seeks a resolution.
2. A "grievance" shall be an allegation by an employee that the treatment he or she has received from a supervisor is unfair or improper, or that there has been a violation, a misinterpretation or an inequitable application of Board policy, administrative rules, or procedures, that directly and adversely affects the grievant. A single grievance may be submitted jointly by more than one grievant.
3. "Resolution(s)" shall be the proposed written decision by the appropriate administrator(s), grievance review committee or Board, in response to the grievance.
4. "Parties in interest" shall be the grievant and the supervisor or other employee(s) of the district whose conduct or actions are the subject of the grievance.
5. The following situations are not covered by this grievance procedure and are therefore not grievable under this policy:
 - a. the discretionary act(s) of professional judgment relating to the evaluation of the work performance of any employee by his or her immediate supervisor;
 - b. any personnel decision made by the Board, including, but not limited to, a refusal to re-employ, a discharge, a demotion, or any other action directly and adversely affecting the employment of an employee;
 - c. situations in which the Superintendent and Board are without authority to act;
 - d. situations in which the remedy for the alleged violation exclusively resides in some person, agency, or authority other than the Board;

- e. situations as to which a different procedure or remedy has been provided by the Board;
 - f. situations as to which the procedure within the district is prescribed by state or federal authority; and
 - g. situations involving a grievance by a contractor with the District.
6. A grievance cannot be filed by a former employee after the effective date of termination or discharge of employment.

C. General Procedural Requirements

- 1. A grievance must be initiated at Level 1, as provided in Section D, within ten (10) work days of the date upon which the grievant became aware of the circumstances which gave rise to the grievance.
- 2. No persons shall suffer retaliation, recrimination, discrimination, harassment, or be otherwise adversely affected because of his or her use of this grievance procedure.
- 3. Whenever possible, any grievance conference or hearing at any level shall be scheduled during a mutually convenient time that does not conflict with the regularly scheduled school program.
- 4. A grievant requiring the attendance and testimony of other employees shall have the right to bring such witnesses as are willing to testify in his or her behalf, and any necessary substitutes or released time shall be provided and the expense borne by the School District when hearings must be scheduled during the school day.
- 5. A separate file shall be maintained by the School District for grievances. All documents produced during the processing of a grievance shall be filed therein. All parties shall maintain confidentiality with regard to the proceedings and the resolution of the grievance shall not be made public unless agreed to by the grievant and the Superintendent, or unless the grievant pursues the matter beyond this policy.
- 6. Nothing contained herein shall be construed to limit in any way the ability of the district and the grievant to resolve any grievance by informal means, and nothing herein shall be construed as requiring resort to the formal procedures when grievable problems arise.
- 7. A grievant may terminate the process at any level if he or she indicates in writing a desire to do so, accepts the resolution at that level, or fails to pursue his or her grievance by filing at the next level within the specified time limit.

8. All grievances shall be filed and processed on grievance forms prepared by the district and available in the office of each principal or in the district's central office.
9. The time limits at any level may be extended by mutual agreement between the grievant, on one hand and the supervisor, Superintendent, review committee or Board on the other.
10. Except as otherwise provided herein, unless a party can demonstrate prejudice arising from a departure from the procedures established in this policy, such departure shall be presumed to be harmless error.

D. Procedural Steps

Level 1 (Informal Conference)

Prior to the filing of a formal written grievance, the grievant shall first discuss his or her grievance with his or her immediate supervisor in a good faith attempt to resolve the grievance prior to the filing of a formal grievance. In the case of a claim of sexual harassment in which the grievant's supervisor is the subject of the claim, the grievant may initiate the grievance at the next supervisory level above that of the subject supervisor.

Level 2 (Supervisor)

If the grievant is not satisfied with the discussion and disposition of his or her grievance at Level 1, he or she may file a written grievance with his or her immediate supervisor within ten (10) work days of the disposition. The immediate supervisor shall communicate his or her proposed resolution in writing to the grievant within five (5) work days from the filing of the written grievance. Although no hearing or conference is required at this level, the immediate supervisor shall have the discretion to require a hearing or conference and gather such evidence prior to the preparation of the decision as he or she, in his or her discretion, feels would assist in any appropriate resolution of the grievance. The hearing or conference, if any, shall be as informal as possible and shall be conducted as the immediate supervisor, in his or her discretion, feels is appropriate for a full understanding of the grievance, the position of the grievant and the evidence supporting that position.

Level 3 (Superintendent)

If the grievant is not satisfied with the resolution of the grievance at Level 2, or if the supervisor fails to issue a proposed resolution within the time limit set forth above, the grievant may file the grievance with the Superintendent, within five (5) work days after the resolution was rendered or was due, if none was received. The Superintendent shall conduct a closed informal hearing with the parties in interest to the grievance within five (5) working days after receipt of the grievance. The hearing by the Superintendent shall be as informal as possible and shall be conducted, as he or she feels is appropriate for a full understanding of the grievance. The Superintendent shall have the right to ask any questions of the interested parties, as he or she deems necessary. Within five (5) workdays following the hearing, the Superintendent shall render his or her written proposed resolution to the grievant.

Level 4 (Board of Education)

If the grievant is not satisfied with the resolution of the grievance at Level 3, or if the Superintendent fails to issue a proposed resolution within the specified time limit, the grievant may make a written request to the Superintendent for a hearing with the Board of Education within five (5) work days after the Superintendent's resolution was rendered or was due, if none was received. At its sole option, the Board may appoint a Grievance Review Committee to hear the grievance. The Grievance Review Committee shall be composed of three (3) persons, one from each of the following staff categories:

1. Certified School Instructor;
2. Administrator (other than the Superintendent or Building Administrator involved); and
3. One (1) non-certified employee of the District.

The members shall be appointed by the Board. The Committee shall select its Chairperson prior to the processing of any grievance. The Chairperson of the Committee shall schedule an informal hearing within five (5) workdays of receipt of the grievance. If a Committee member is unable to participate in the informal hearing, the Chairperson shall designate a substitute from within the employee category of the non-attending member.

The procedure for the hearing shall be as follows:

1. The grievant shall present his/her grievance first, through testimony, witnesses, documents, etc. Cross-examination shall not be allowed by the other party in interest, if any.
2. The other party or parties in interest, if any, shall present their responses to the grievance. Cross-examination shall not be allowed.

3. The Committee may ask any questions that it deems necessary.
4. Arrangements to make a taped recording or to keep minutes of the proceeding shall be made by the Chairperson. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the hearing.
5. Within five (5) workdays following the date of the hearing, the Committee shall transmit its findings and recommendations for proposed resolutions to the Board. Within ten (10) workdays, the Board shall accept the recommendations of the Committee by a majority vote or agree to hear the grievance.

The holding of a hearing by the Board is discretionary with the Board, and such decision shall be made by the Board at its next regularly scheduled meeting after receipt of the written request for a hearing. If the Board rules that it is appropriate to hear the grievance, it shall set the date for such hearing and the parties in interest shall be notified by the Superintendent. The parties in interest shall submit written statements of position, which shall be delivered to the Board members at least five (5) work days prior to the hearing. In addition, any other documentary evidence desired to be reviewed by the Board shall be submitted at this time. The hearing shall be conducted as follows:

1. Each party in interest to the grievance shall have the opportunity to present oral statements limited to 30 minutes each. The presentation shall be limited to a review of evidence previously presented, unless the Board, in its discretion, allows new evidence to be presented during the hearing. Evidence may not be cross-examined by the other party in interest.
2. Since grievances are "personnel matters," the hearing may be conducted in an executive session, if the grievant so requests and the Board votes to close the hearing. The grievant may demand that the hearing be held in open session, in which case the hearing must be open.
3. The Board may make such inquiries of any party in interest as it deems necessary or appropriate.
4. The Board shall render a written decision within a reasonable time. In arriving at its decision, the Board has complete discretion in fashioning such relief, if any, as it believes is appropriate, regardless of the relief requested.

Adopted: August 14, 2006

Revised:

Legal Reference:

GRIEVANCE FORM

GRIEVANT: _____

POSITION: _____

STATEMENT OF GRIEVANCE

A. Date cause of grievance occurred: _____

B. Date of informal discussion with Party in interest: _____

C. Description of grievance: _____

(attached additional pages, if necessary)

D. Relief sought: _____

Date

Signature of Grievant

LEVEL 2
GRIEVANCE PROCEDURE
RESOLUTION

Supervisor: _____

Date Received: _____

Hearing Date (if any): _____

Resolution of Supervisor: _____

Date of Resolution

Signature of Supervisor

POSITION OF GRIEVANT

_____ I am satisfied with the resolution of the Supervisor.

_____ I am not satisfied with the resolution of the Supervisor and hereby appeal the resolution to Level 3.

Date

Signature of Grievant

LEVEL 3
GRIEVANCE PROCEDURE
RESOLUTION

Superintendent: _____

Date Received: _____

Hearing Date (if any): _____

Resolution of Superintendent: _____

Date of Resolution

Signature of Superintendent

POSITION OF GRIEVANT

_____ I am satisfied with the resolution of the Superintendent.

_____ I am not satisfied with the resolution of the Superintendent and hereby request a Level 4 hearing before the Board of Education. (The grievance must meet the specific requirements for Level 4 review otherwise the decision of the Superintendent is final)

Date

Signature of Grievant

2.21 Military Leave for National Guard and Reserves Training/Active Duty

Springer Municipal Schools employees who are members of the National Guard (Army or Air) or Reserves (Army, Air Force, Navy, Marine, or Coast Guard) shall be given military leave with pay when they are ordered to duty for training. Such leave shall not exceed fifteen (15) working days per federal fiscal year. This leave shall be in addition to other leave or vacation time with pay to which such employees are otherwise entitled.

Any regular employee of the District who is a member of a military reserve unit and is ordered to active duty shall provide a copy of military orders to be given military leave. Such military leave for active duty will be granted as follows:

- A. A. Leave with pay will be given for a period not to exceed fifteen (15) working days in any one calendar year or in any one continuous period for such absence. During the fifteen (15) days of paid leave, the District will continue the co-payment amount of the employee's insurance premiums. The employee will be returned to his/her former position if the leave is for temporary duty or short-term (less than 15 days) full-time duty.
- B. Should an employee need to go on extended military leave for active duty, leave without pay will be granted. Once the 15-day period of paid military leave and all accrued annual or personal/business leave have been exhausted, the employee must pay the full premium for insurance.

Upon application for re-employment, the employee shall be placed in his/her former position or in one, which is available and suitable. No employee will be subject to loss of seniority or benefits because of such leave.

In order to exercise the above rights, an employee must apply for re-employment within ninety (90) days following an honorable discharge or release from active duty or within a period of one (1) year should a disability or hospitalization continue after honorable discharge.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.22 Voting

Up to two (2) hours dismissal time for employees to vote on election days shall be granted in compliance with state law.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.23 Collective Bargaining

Policy Rescinded October 14, 1999

2.24 Staff-Student Relations

Staff members of the Springer Municipal School District are encouraged to take a sincere professional interest in students. Staff members shall maintain appropriate professional boundaries with students and avoid excessive informal or social involvement with individual students, since this is not in accordance with good professional practice.

Based upon the above philosophy, no member of the school staff shall pursue a personal, romantic or sexual relationship with students who are regularly enrolled in Springer Municipal Schools. Criminal penalties may apply to such conduct. All staff shall strictly comply with the District's Employee Code of Ethics and Conduct.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.25 Length of Teacher Contract

All school personnel hired on a Licensed School Instructor Contract will be employed for at least 159 days unless otherwise specified on their individual contracts.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.26 Selection of Licensed Employees

The Superintendent will endeavor to attract, secure, and retain the best-qualified personnel for all licensed positions. The selection of highly qualified personnel will be based upon an alertness to candidates who will devote themselves to the education and welfare of the children attending the public schools.

It is the responsibility of the Superintendent (and of persons to whom he/she delegates this responsibility) to determine District personnel needs and to locate suitable candidates for employment. Through effective administrative procedures, the Superintendent will seek the employment and retention of personnel who are motivated to do their best work and to be creative from their own inner resources.

It will be the duty of the Superintendent to ensure that persons employed in the schools meet all licensure requirements and any District requirements for the position for which the nomination is made.

The following guidelines will be used in the selection of personnel:

1. There will be no discrimination in the hiring process due to age, sex, sexual orientation, gender identity, religion, creed, race, color, handicap, disability, marital status, veteran status, national origin, or place of residence.
2. The quality of instruction is enhanced by a staff with varied backgrounds, educational preparation, and previous experience. Concerted efforts will be exerted to maintain a variation in the staff.
3. Interviewing and selection procedures will assure that the administrator who will be directly responsible for the work of a staff member is offered an opportunity to aid in the selection; however, the final selection must be made or approved by the Superintendent or designee.
4. No candidate for a certified position will be hired without a personal or videotaped interview. References and criminal background checks will be conducted for all employees.
5. No candidate is to be employed for, or assigned to, a position where his/her evaluation or recommendation for hiring or renewal will be made partly or entirely by a person to whom he/she is related, within the same degree as prohibited by the nepotism law. However, this policy will not affect the continued employment of personnel who are related to other staff members at the time of adoption of this policy.
6. Hiring decisions will be made in compliance with the nepotism law NMSA 1978 § 22-5-6.
7. All candidates will be considered on the basis of their merits and qualifications (training, education or degrees held, licensing or certificates held, previous work history or

experience and any applicable special qualifications) and the District's needs (advertised criteria and job requirements). In each instance, the Superintendent and others playing a role in the selection will seek to hire the best-qualified person for the job.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.27 Licensed Staff Assignments/Reassignments

The assignment of licensed personnel to positions in the District shall be made by the Superintendent. The needs of students and the instructional program shall receive first priority in the assignment or reassignment of licensed personnel. The Superintendent shall strive to assure that all schools are comparably staffed.

Licensed personnel may request reassignment to another vacant or available position for which the employee is qualified. These reassignments require approval of the Superintendent.

Licensed personnel may be reassigned involuntarily to different grade levels, courses, or locations at any time to meet the needs of the students and the instructional programs of the District so long as consistent with the employee's qualifications and licensing in the discretion of the Superintendent when the best interests of the School District are served by such action. The Superintendent shall have the final authority in decisions concerning transfers/reassignments of licensed personnel.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.28 Teacher Licensure

It shall be the responsibility of the individual teacher or licensed employee to obtain the education, training or experience to meet the qualifications for licensure as established by state statute NMSA 1978, §§ 22-10A-6 through 22-10A-11 and by the regulations of the New Mexico Public Education Department.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, §§ 22-10A-6 through 22-10A-11

2.29 Evaluation of Licensed Personnel

Evaluation of teachers/administrators is to be conducted to serve a dual purpose:

1. To provide a sound basis for the teachers, and administrators' improvement.
2. To provide an objective measure of teacher/administrator effectiveness.

The Public Education Department has adopted criteria and minimum highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees. The Superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators.

The building principal has the primary responsibility for teacher evaluation. The Superintendent may be called upon for additional help.

As part of the highly objective uniform statewide standard of evaluation for teachers, the school principal shall observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies. At the beginning of each school year, teachers and school principals shall devise professional development plans for the coming year, and performance evaluations shall be based in part on how well the professional development plan was carried out. If a level two or three-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal may require the teacher to undergo peer intervention, including mentoring, for a period the school principal deems necessary. If the teacher is unable to demonstrate satisfactory performance and competency by the end of the period, the peer interveners may recommend termination of the teacher.

At least every two (2) years, school principals shall attend a training program approved by the department to improve their evaluation, administrative and instructional leadership skills.

The Superintendent has the responsibility for administrators' evaluations.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.30 Unsatisfactory Work Performance of Licensed School Personnel

- A. Authority. This policy is adopted pursuant to Section 22-10A-30 NMSA 1978 and 6.69.2 NMAC.
- B. Purpose. This policy is adopted to establish procedures for supervising and correcting “unsatisfactory work performance” of licensed school personnel upon them, and further to distinguish between the terms “unsatisfactory work performance” and “insubordination.”
- C. Definitions. As used in this policy, the following words, terms and phrases shall have the meaning set forth in this paragraph.
1. “Administrative authority” means the Superintendent, principal or a person acting under the authority of such Superintendent or principal.
 2. “Insubordination” means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the New Mexico Public Education Department, the local School Board, or administrative authorities, or the lawful written or oral orders, requests or instructions of administrative authorities.
 3. “Uncorrected unsatisfactory work performance” means unsatisfactory work performance which the licensed school personnel has failed to correct pursuant to the provisions in 6.69.2 NMAC provided; however, that if unsatisfactory work performance is uncorrectable through the evaluation and supervision process, as determined by the local school board policy, the provisions in 6.69.2 NMAC shall not apply.
 4. “Unsatisfactory work performance” means the failure by licensed school personnel to satisfactorily perform those tasks which are evaluated by the employee’s supervisors, pursuant to the School District’s approved plan(s) for evaluation and supervision of its licensed employees. Furthermore, for the purpose of this policy and 6.69.2 NMAC, unsatisfactory work performance does not include insubordination or conduct deemed to be outside the normal scope of duties of licensed school personnel.
- D. Uncorrected Unsatisfactory Work Performance
1. Uncorrected unsatisfactory work performance is good cause for discharging licensed school personnel, so long as procedures established in paragraph D.2., herein are followed.
 2. Provisions Governing Procedures. The following procedures shall be followed by the Superintendent or governing authorities of state agencies in supervising and

correcting unsatisfactory work performance of licensed school personnel before serving them with notice of intent to discharge pursuant to Section 22-10A-27 NMSA 2003.

- a. Conferences. Two or more documented conferences shall have been held with licensed school personnel charged with unsatisfactory work performance by the Superintendent or governing authorities of state agencies before notice of intent to discharge is served upon him/her. Such conferences shall be held with the individual's immediate supervisor and such other persons as the Superintendent may designate.

For purposes of this regulation, the conference at which the supervisor first identifies unsatisfactory work performance shall be counted as one of the required conferences. Sufficient time shall have elapsed between the conferences to allow the licensed school personnel to correct the unsatisfactory work performance and to have been observed for an adequate time in the discharge of his or her duties.

- b. Record. A written record of all conferences shall be made, specifying the areas of uncorrected unsatisfactory work performance, all action suggested by the school which might improve such performance, and all improvements made. Each written record shall be signed by all parties to the conference. In the event of a refusal to sign, a notation shall be made of the refusal.

A copy of each record shall be given to the person charged with unsatisfactory work performance. The Superintendent shall retain a copy of the record to be introduced at any hearing for the person charged with unsatisfactory work performance.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-10A-27, § 22-10A-30, 6.69.2 NMAC

2.31 Reemployment/Termination/Discharge of Licensed School Instructors

Notice of Reemployment; Termination

On or before the fourteenth day prior to the end of the school year, the Superintendent shall serve written notice of reemployment or termination of each certified 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 Superintendent to serve a written notice of reemployment or termination on a certified 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 certified school instructors of like qualifications and experience employed by the School District. Nothing in this paragraph shall be construed to mean that failure of the Superintendent to serve a written notice of reemployment or termination shall automatically extend a certified school instructor's employment contract for a period in excess of one (1) school year.

Each certified school instructor shall deliver to the Superintendent a written notice of acceptance or rejection of reemployment for the ensuing school year within fifteen (15) days of the following:

- a. The date written notice or 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.

Delivery of the written acceptance of reemployment by a certified school instructor creates a binding employment contract between the certified school instructor and the Board until the parties enter into a formal written employment contract. Written employment contracts between the Board and certified school instructors shall be executed by the parties not later than ten (10) days before the first day of a 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, 22-10A-24, copies of which are on file and available in the Superintendent's office.

- A. The Superintendent may terminate an employee with fewer than three (3) years of consecutive service for any reason it deems sufficient. Upon request of the employee, the Superintendent or administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten (10) working days of the request. The reasons shall not be publicly disclosed by the Superintendent, administrator, or Board. The reasons shall not provide a basis for contesting the decision under the School Personnel Act, NMSA 1978, §§ 22-10A-1, *et seq.*

- B. Before terminating a non-certified school employee, the Superintendent shall serve the employee with a written notice of termination.
- C. An employee who has been employed by the School District for three (3) consecutive years and who receives a notice of termination pursuant to either Section 22-10A-22 NMSA 1978 or 22-10A-24, may request an opportunity to make a statement to the Board or governing authority on the decision to terminate him/her by submitting a written request to the Superintendent or administrator within five (5) working days from the date written notice of termination is served upon him/her. The employee may also request in writing the reasons for the action to terminate him/her. The Superintendent or administrator shall provide written reasons for the notice of termination to the employee within five (5) working days from the date the written request for a meeting and the written request for the reasons were received by the Superintendent or administrator. Neither the Superintendent or administrator nor the Board or governing authority shall publicly disclose its reasons for termination.
- D. The Superintendent may not terminate an employee who has been employed by a School District for three (3) consecutive years without just cause.
- E. The employee's request pursuant to subsection C shall be granted if he/she responds to the Superintendent's or administrator's written reasons as provided in subsection C by submitting in writing to the Superintendent or administrator a contention that the decision to terminate him/her was made without just cause. The written contention shall specify the grounds on which it is contended that the decision was without just cause and shall include a statement of the facts that the employee believes support his contention. This written statement shall be submitted within ten (10) working days from the date the employee receives the written reasons from the Superintendent or administrator. The submission of this statement constitutes a representation on the part of the employee that he can support his/her contentions and an acknowledgment that the Board may offer the causes for its decision and any relevant data in its possession in rebuttal of his/her contentions.
- F. The Board shall meet to hear the employee's statement in no less than five (5) or more than fifteen (15) working days after the Board receives the statement. The hearing shall be conducted informally in accordance with the provisions of the Open Meetings Act. The employee and the Superintendent or administrator may each be accompanied by a person of his/her choice. First, the Superintendent shall present the factual basis for his determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee pursuant to subsection C of this section. Then, the employee shall present his/her contentions, limited to those grounds specified in subsection E of this section. The Board may offer such rebuttal testimony as it deems relevant. All witnesses may be questioned by the Board or governing authority, the employee or his/her representative and the Superintendent or administrator or his representative. The Board or governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable.

No record shall be made of the proceeding. The Board or governing authority shall notify the employee and the Superintendent or administrator of its decision in writing within five (5) working days from the conclusion of the meeting.

Discharge

- A. The Board may discharge a certified school employee only for just cause according to the following procedure: (1) the Superintendent shall serve a written notice of his intent to recommend discharge on the certified school employee in accordance with the law for service of process in civil actions; and (2) the Superintendent shall state in the notice of his intent to recommend discharge the cause for his recommendation and shall advise the certified school employee of his/her right to a discharge hearing before the Board.
- B. A certified school employee who receives a notice of intent to recommend discharge pursuant to subsection A of this section may exercise his/her right to a hearing before the Board by giving the Superintendent or administrator written notice of that election within five (5) working days of his receipt of the notice to recommend discharge.
- C. The Board shall hold a discharge hearing no less than twenty (20) and no more than forty (40) working days after the Superintendent or administrator receives the written election from the certified school employee and shall give the certified school employee at least ten (10) days written notice of the date, time and place of the discharge hearing.
- D. Each party, the Superintendent and the certified school employee, may be accompanied by a person of his/her choice.
- E. The parties shall complete and respond to discovery by deposition and production of documents prior to the discharge hearing.
- F. The Board shall have the authority to issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and shall have the power to administer oaths.
- G. The Superintendent or administrator shall have the burden of proving by a preponderance of the evidence that, at the time of the notice of intent to recommend discharge, he had just cause to discharge the certified school employee.
- H. The Superintendent or administrator shall present his evidence first, with the certified school employee presenting his evidence thereafter. The Board shall permit either party to call, examine and cross-examine witnesses and to introduce documentary evidence.
- I. An official record shall be made of the hearing. Either party may have one copy of the record at the expense of the Board.
- J. The Board shall render its written decision within twenty (20) days of the conclusion of the discharge hearing.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.32 Reduction-in-force (R.I.F.)

A. Authority

Pursuant to NMSA 1978 § 22-5-14 (2003), the 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 22-10A-24(C) (hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of circumstances justifying a reduction-in-force as specified herein. 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.

B. Board Discretion

The Board is vested with the discretion to develop educational policies for the District, so long as the state 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.

C. Grounds Justifying Reduction-in-Force

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

1. decrease in student enrollment or reduced student demand for or participation in programs or activities;
2. decrease in revenue:
 - a. because of decrease of student enrollment;
 - b. because of loss or reduction of tax revenues;
 - c. because of reduction of state, local, or federal financial support; or
 - d. because of inflation reducing the value of revenues received or significantly increasing costs of operation;
3. change in the educational program of the District, as determined by the Board, in its good-faith exercise of discretion;
4. consolidation or de-consolidation involving the District;

5. court orders;
6. orders of the Secretary of Education;
7. legislative mandates;
8. unanticipated financial or programmatic exigencies identified by the Superintendent which warrants initiation of a R.I.F. process.

D. Good Faith Determination

The Superintendent 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.

E. Timing of Reduction-in-Force

A R.I.F. may occur at any time during the calendar year when the 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.

F. Determination of Need for Reduction-in-Force

Except as required by legislative mandate or orders of the State Secretary of Education and to the extent that circumstances permit, the 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.

1. Preparation of R.I.F. Plan

When the Superintendent 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:

- a. a detailed description of the cause or causes requiring a R.I.F.;
- b. 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 programs, etc.)
- c. 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;
- d. a designation of non-essential services or activities which are to be retained, with a justification for retaining such programs; and
- e. 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.

2. Board Considerations

The Board shall consider the recommendations of the 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 Superintendent as it deems appropriate, provided that the 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 Superintendent's office, within two (2) workdays after the final plan has been approved by the Superintendent.

3. 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 state and federal or regulatory requirements or standards, as well as the educational and extra-curricular program established for the District. In performing the study called for above, the School Administration shall prepare a rating sheet and apply a point scale using the criteria applicable to the affected personnel specified in the following section.

G. Criteria for Selection of Employees

1. Licensed Personnel

a. Licensing as Qualification/Substandard Licenses

Substandard licensure is inferior to full licensure, and a person who is fully licensed to teach within the presently assigned content area shall be retained in preference to a person holding a substandard license.

- (i) A person holding a "teaching waiver" of licensure requirements approved by the Department of Education (per NMSA 1978 Section 22-10A-14B) shall be treated as having substandard licensure for the purpose of this policy, and shall receive zero (0) points for licensure.

- (ii) A licensed person working in the affected content area pursuant to an “assignment waiver” (per NMSA 1978 Section 22-10A-14C), but possessing full licensing in another content area not affected by the R.I.F. shall be allocated five (5) points on the rating sheet.
- (iii) A person who is fully licensed and teaching in the affected content area shall be allocated ten (10) points.

b. Endorsements

Licensed personnel possessing teaching endorsements recognized by the Department of Education beyond those requested or required as qualifications for the individual’s current assignment or content area shall receive an additional two (2) points per current valid endorsement, up to a maximum of six (6) points.

c. Extracurricular Licensing/Experience/Assignment

Licensing, experience and current assignment 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. Head coaches or trainers possessing current licensing as a coach or trainer who are also certified employees of the district may be allocated a maximum of ten (10) points for all current assignments. Licensed assistant coaches who are also certified employees of the district may be allocated a maximum of five (5) points for all current coaching assignments.

The Board shall also possess the discretion to grant up to, but no more than, five (5) points for current extra-curricular or co-curricular assignments, requiring specialized knowledge, training, expertise, or significant time commitment, but for which licensing is not available, in programs or activities which the Board has determined to retain as an integral part of its overall program.

No employee may receive in excess of ten (10) points on the rating sheet for extracurricular, athletic or co-curricular assignments. The Administration shall include in the proposed R.I.F. Plan a listing of all extracurricular, athletic and co-curricular programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and the proposed weight to be given to each category of such programs or activities for discussion at the Board meeting at which the R.I.F. Plan is considered.

d. Service in District

Where cumulative scores on the rating sheet are 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 of service.

- (i) Each licensed 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 extended leave of absence, up to a maximum of twenty (20) points.

e. Education

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

- | | | |
|-------|----------------------|-----------|
| (i) | B.A. | 1 point |
| (ii) | B.A. + 15 | 2 points |
| (iii) | B.A. + 45 or M.A. | 4 points |
| (iv) | M.A. + 15 | 6 points |
| (v) | M.A. + 45 and higher | 8 points |
| (vi) | Ed.D. and Ph.D. | 10 points |

f. Performance [Optional - The School Superintendent shall determine whether this criterion shall be used at the time the R.I.F. Plan is approved.]

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 twenty (20) 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 evaluation 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 the employee's performance.

2. Selection Based on Scores

The Superintendent shall total the points allocated based on the criteria specified above. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious and 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.

3. 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:

- a. 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.

b. 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.

(i) 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 position.

(ii) If neither the Superintendent nor the current 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 a 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 Secretary 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.

4. Non-Licensed Personnel

Seniority shall be the primary criterion in determining which non-certified personnel shall be recommended for complete or partial termination in order to implement the Plan. More senior non-certified personnel ordinarily shall be retained in preference to less senior non-certified personnel within the same job category. However, where multiple positions and programs are affected by the R.I.F., the School Administration may prepare a rating sheet which includes the following criteria in making the selection:

- a. Specialized Qualifications/Licenses. Specialized training/certification or licensing directly related to the current job duties of the non-certified employee (e.g., electrician's license held by maintenance employee) may be allocated up to but no more than five (5) points. This factor excludes credit for extra-curricular licensing referred to in the next section.
- b. Extra Curricular Licensing/Assignments/Experience. Licensing/training in extra-curricular activities, such as coaching or trainer in athletic programs, 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 making selection of personnel to be released under this policy. Head coaches and trainers who possess current licensing as a coach or trainer may be allocated up to but no more than 10 points for all current assignments. Licensed assistant coaches, or service in current extra-curricular assignments requiring specialized knowledge, training expertise, or significant time commitment, may be allocated up to but no more than 5 points for all current assignments.
- c. Service in District. Each non-certified employee rated shall be awarded one (1) point for each complete school year of full-time service during the most recent period of uninterrupted service with the District, up to a maximum of twenty (20) points. Periods of extended leave of absence without pay shall not be included. Where cumulative scores are equal, tenured non-certified individuals (those who have completed three full consecutive years of service in the District) shall be retained over non-tenured non-certified individuals.
- d. Performance. [Optional - To be used only if directed by School Superintendent] If two or more individuals have equal ratings on the above criteria, the current supervisor of each person classified as support staff who is considered for termination shall rate the relative performance of such person on a rating form to be prepared by the Superintendent. Such rating form will be designed based on the District's performance evaluation form for non-certified employees. The rating form will allow for a maximum score of twenty (20) points. The forms will be returned to the Superintendent for tabulation.
- e. Selection Based on Scores. The 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.

- f. Transfer/Reassignments. 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 is tenured and qualified for another program within the District in which a vacancy exists, that person shall be considered for transfer/reassignment to the other program.
- g. Termination. Each 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.

5. Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10A-25, NMSA 1978 22-10A-28, respectively and any applicable regulations of the State Secretary of Education.

6. Recall of Released Staff

For a period of one (1) 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.

- a. Every 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.
- b. 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.

- c. Any 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 Superintendents 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.
- d. Any 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.
- e. After the one (1) 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 Secretary of Education 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 Secretary's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Unless a different procedure is mandated by law, the termination or discharge of school employees in compliance with a state secretary order shall be governed by NMSA 1978, Statutes 22-10A-24, 22-10A-25, 22-10A-27, and 22-10A-28, if applicable.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-5-14

2.33 Professional Growth

Employees will be expected to grow and develop professionally during their employment with the Springer Municipal School District. To this end employees shall be provided opportunities and incentives for professional growth and for development of increased competence. At the discretion of the building principal, school employees may be provided professional leave for time away from their usual duties to participate in training and/or work related activities.

Employees are encouraged to participate in the development of curricular materials, including computer software, and other educational tools as a means of promoting professional growth.

In accordance with state law and regulation, all certified instructional staff shall complete the requirements of the three-tier licensing system.

Adopted: August 14, 2006

Revised:

Legal References: The School Personnel Act, NMSA 1978, §§ 22-10A-4, 22-10A-6 to 22-10A-11
NMAC 6.69.4

2.34 Salary Schedules for School Personnel

Prior to the beginning of each school year, the Superintendent shall file with the Public Education Department the School District salary system, which salary system shall incorporate any salary increases or compensation measures specifically mandated by the Legislature.

Salaries for teachers and school administrators shall be aligned with the licensure framework provided for in the School Personnel Act, NMSA 1978, §§ 22-10A-1, *et seq.*

The local Superintendent shall not reduce the School District salary system without the prior written approval of the State Secretary of Education.

Adopted: August 14, 2006

Revised:

Legal Reference: NMSA 1978 §§ 22-5-11, 22-10A-4D

2.35 Salary Payment and Deduction for Personnel

The contract salary for all personnel will be paid twice a month on or about the 15th and 31st of each month or the last working day before the 15th or 31st if that day is Friday, Saturday, Sunday, or a holiday.

Deductions will include federal income tax, state income tax, state retirement, and Social Security.

In addition, credit union, health, life, dental and liability insurance, tax deferred annuities, United Way, and annual dues for the Springer Education Association and New Mexico School Administrators Association may be deducted upon request of the employee. The Superintendent shall determine that program of employee fringe benefits, which may be offered to employees.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.36 Hiring Policy

The Springer Municipal School District is committed to ensuring equal employment opportunity, which means that all persons will be required to compete for positions on the basis of job-related criteria and qualifications. The goal of the District's recruitment and hiring process shall be to achieve a highly qualified and balanced workforce. The primary objectives of the hiring process are: (1) recruitment of the best-qualified candidates, matching the qualifications of the candidates to the needs, requirements and criteria of the job; (2) expeditious placement of qualified candidates into vacant positions; and, (3) fair, equitable and unbiased treatment of all candidates in the recruitment and hiring process. The following policy shall be observed in connection with the recruitment and hiring of employees of the Springer Municipal School District.

1. Hiring of the Superintendent and Other Personnel

Pursuant to NMSA 1978, § 22-5-4 (2004), the School Board shall hire and fix the salary of the Superintendent, who shall serve as the Chief Executive Officer of the School District. Pursuant to NMSA 1978, § 22-5-14(B)(3) (2003)) the Superintendent of Springer Municipal Schools shall employ, fix the salaries of, assign, terminate or discharge all employees of the School District.

2. Equal Employment Opportunity

With certain exceptions stipulated to below, the District shall adhere to a policy of equal employment opportunity for all employees. The District shall not fail or refuse to hire or discharge, nor shall it otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, nor shall the District limit, segregate, or classify its employees, or applicants for employment, in a way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as employee, on the bases of an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, or age.

As an exception to the District's equal employment opportunity policy stated herein, the Superintendent may employ an individual on the basis of the individual's religion, sex, national origin, or age in those certain instances where religion, sex, national origin or age is a bona fide occupational qualification reasonably necessary to the operation of the educational program or the business of the School District.

3. Disabled Individuals

The District shall not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. For purposes of this paragraph, a "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

4. Recruitment

The Board, within the limits of its budget and the approved salary schedule, is committed to the policy of acquiring and retaining the most qualified personnel for all vacant or available employment positions. The Superintendent shall institute procedures to recruit the best-qualified personnel for such positions. In filling existing vacant positions within the School District, preference will be given to recruiting existing employees of the School District over non-employees to fill a vacant position, as long as the existing employee is the best qualified candidate who can meet the criteria for the vacant position. Vacant positions shall be advertised on the District's web site and posted internally at either the Human Resources office or Central Administration Office. Vacant positions may also be posted at various locations at the individual school sites. In addition to the foregoing, vacant administrative positions and vacant positions that have been difficult to fill may be advertised in newspapers of general circulation within the District. Postings are generally weekly or bi-weekly. Some positions may be advertised as "open until filled".

5. Applications

Applications will be accepted on a year round basis. All applicants will become part of the applicant pool and given consideration in filling positions within the District. Applicants will be screened based on information submitted and selected applicants will be invited for an interview. All applications are kept on file for one (1) year. Applications may be reactivated for an additional year by notifying the administration office in writing. Applications, job descriptions and requirements, and salary schedules will be available in the district administration office. The School District shall adopt an application form that meets the following requirements:

- (a) Complete Information. The District's application form should be designed so that it elicits only information, which is relevant to the job and the applicants' suitability therefore. The application shall state that it must be fully completed or it will not be considered.
- (b) Limited Active Period. The District's application form shall limit the period of time for which the application will be considered as active.
- (c) Inquiries as to Ability to Perform Job Functions. The application may contain questions inquiring about whether the applicant can perform the essential job functions of the position for which he or she is applying.
- (d) Inquiries About Prior Positions of Employment. The application shall contain a detailed questionnaire soliciting information about the applicant's prior positions of employment. This inquiry should include the dates of hire and departure from any prior positions, the reason for departure, the positions held (including job titles and general description

of duties, and any transfers or promotions), the salary received (starting and ending), the names and address of the employer, and the name of the former supervisor.

- (e) Certification of Truthfulness. The application shall contain a statement by the applicant certifying that the information set forth in the application are true, correct, and complete to the best of the applicant's knowledge, and that failure to furnish such information shall be a basis for refusal to hire or to terminate or discharge if hired.
- (f) At-Will Disclaimer. The application shall explain the at-will policy for the School District, advising those applying for non-certified positions that the employment and contract shall be at-will until the completion of three consecutive years of service. Such language will be placed near the applicant's signature line.
- (g) Require a Release to Check Background. The applicant shall complete the acknowledgment waiver and release form and criminal history affidavit appended to the application. The questions on the application should not solicit information which could be interpreted as referring to race, marital status, age, sex, sexual orientation, gender identity, religion, national origin or handicap.

6. Interviews

Interview questions should not solicit or require disclosure of information which could be interpreted as referring to race, marital status, age, sex, sexual orientation, gender identity, religion, national origin or handicap. The Superintendent shall appoint an Interview Committee to: screen the job applications for completeness of the package and to assure the applicant meets the minimum hiring criteria; create a "short list" of those applicants to be interviewed; send out reference request letters or conduct telephone reference checks; create a standardized interview format and questions; establish what rating process will be used to judge responses during the interview; provide hiring recommendations, along with a rating sheet, ranking the interviewed candidates in order of the Committee's preference. The Committee shall provide its interview and reference notes and rating sheets to the Administration office, which shall preserve them for one calendar year.

7. Testing

At the discretion of the Superintendent, the skills of particular categories of employees may be tested to assess their degree of proficiency in job-related tasks. Drug and alcohol testing may be administered to applicants offered employment in safety-sensitive positions in accordance with the policy as to such positions.

8. Background Investigation and Reference Checks

Applicants recommended for employment with the District are subject to provide work history, education history, and reference investigations, including, but not limited to, substitutes and temporary employees. Each such applicant will be subject to a criminal background investigation, including mandatory fingerprinting, at the candidate's expense, as a condition of further consideration for employment.

All offers of employment are contingent upon the satisfactory completion of background investigations. Criminal convictions shall not automatically bar an applicant from obtaining employment with the District, but pursuant to the Criminal Offender Employment Act, NMSA 1978, §§ 28-2-3 and 28-2-4, may be the basis for refusing employment.

Criminal background checks, as described above, shall also be conducted upon each contractor or contractor's employee, at the expense of the contractor or contractor's employee, if the contractor or contractor's employee has unsupervised access to students. In such cases, the continuation of contracts or service by contractors or contractor's employee's contracts shall be subject to the satisfactory completion of background checks. All offers of employment shall be contingent upon successful completion of the reference and criminal background check process. Failure to satisfactorily complete the process shall form a base for withdrawal of a contingent offer to hire, even if the employee has initiated service with the District.

The Administration may also conduct the referenced background investigations of incumbent employees and the employee shall cooperate with such an investigation, if it becomes aware of facts, circumstances, or conduct that give rise to a reasonable suspicion that previously undisclosed aspects of the employee's background might disqualify him or her to continue employment with the District.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.37 Licensing

It is the responsibility of the employee to meet the qualifications for any license required in order to hold the position assigned. Any license required must be kept valid and up to date to qualify for continued employment.

Adopted: August 14, 2006

Revised:

Legal Reference:

2.38 Substitute Teachers

The Superintendent shall maintain a list of qualified substitute teachers who may be called on to replace regular teachers who are absent. Such a list shall be filed with the principal of each school.

Insofar as possible, principals will call individuals on the substitute list. An individual whose name does not appear on the substitute list may not be employed in the School District except when specifically approved by the Superintendent. Principals or designee will be responsible for seeing that the work of the substitute is as effective as possible and will provide him/her with a planned program.

Inclusion of a person's name on the approved list of substitute teachers shall not entitle said person to be called upon to serve as a substitute and shall not create any objective expectancy either to serve as a substitute teacher during the current school year or to inclusion on the list for subsequent school years. Inclusion on the list merely establishes that the person meets the necessary minimum qualifications to serve as a substitute teacher and in no way limits the discretion of the administration to select which qualified person will be called upon when a substitute teacher is needed.

- A. The School District shall apply the following criteria regarding substitute teachers employed by the District.
1. A substitute teacher who seeks to perform instructional services in grades K-8 must be 18 years of age and hold at least a high school diploma or GED equivalent education certificate. A substitute teacher who seeks to perform instructional services in grades 9-12 must be 21 years of age and hold at least a high school diploma or GED equivalent education certificate.
 2. The substitute teachers will complete a substitute teacher workshop conducted by, or acceptable to, the local school district in which the substitute is seeking employment.
 3. An instructional assistant employed in a particular school shall be asked to act as substitute teacher only when the building principal (or the designated authority) cannot find a substitute teacher to fill a particular need. Said instructional assistant shall be compensated the difference between a substitute teacher salary and his or her salary except where the instructional assistant's salary exceeds the substitute teacher salary and then there shall be no other compensation.
 4. Substitute teachers shall leave for the benefit of the returning teacher, a written report on the conduct of the class including, but not limited to, how the assignments were carried forth, any breach of the rules on the part of the students, or any other written report deemed necessary or required by the principal.
 5. Substitute teachers shall be expected to fulfill any assigned duties of the regular

teacher, including but not limited to, bus duty, cafeteria duty, ground duty, patrol duty, etc.

6. The School District shall conduct periodic in-service training sessions for potential substitute teachers. These training sessions shall be conducted by Central Office personnel, building principals, college professionals, and other staff that will result in the substitute teachers becoming as thoroughly familiar with as many facets of education as possible. All potential substitute teachers shall be invited to attend these sessions.
7. In classes wherein a student teacher is assigned, the student teacher may substitute when all of the above-mentioned requirements have been met.
8. Additionally, a substitute teacher must meet the requirements of either subsection (h) or (i) below, or shall meet the requirements of two or more of subsections (a) through (g):
 - (a) have, within twelve (12) months of his/her date for initial employment with the District, received on the job training by serving as a voluntary assistant to a licensed teacher in a school classroom for a minimum of three (3) hours during three (3) days;
 - (b) have observed three (3) hours or more of teaching in a school system and at the grade level of students in which the substitute will serve;
 - (c) have completed a substitute teacher workshop conducted by or acceptable to the District in which the substitute teacher is employed or seeking employment;
 - (d) have, within the past three (3) school years of application for employment or licensure, performed at least three (3) hours or instructional services as a substitute teacher in any school accredited or recognized by the New Mexico Public Education Department;
 - (e) have engaged in any paid employment in the three (3) years prior to applying for substitute teaching licensure or employment, which, after verification by and in the opinion of the Superintendent, invests that applicant with relevant work or life experience;
 - (f) have completed at least sixty (60) hours of college-credit courses in a regionally accredited college;
 - (g) have completed or currently be enrolled in an approved college course or program from a regionally accredited college, where the course or program is structured to provide primary/secondary school teacher preparation;

- (h) have completed an approved teacher preparation program from a regionally accredited college or university; and
- (i) is in possession of a current substitute or standard teaching license issued by another state's educator licensure issuing agency.

B. Non-degree and degree substitute teachers will be paid at the daily rate established by the Springer Board of Education.

- 1. Substitute applicants will be subject to a fingerprint-based background check. The background checks procedures and requirements set forth in § 22-10A-5, NMSA 1978 and 6.60.8 NMAC shall apply.

C. Substitute Teacher Duty Pay

- 1. Elementary and Middle Schools (K-6): An individual employed for the purposes of substituting at this level will maintain a duty day according to the following:
 - a. Report to work site: Reporting time for teachers.
 - b. Depart from work site: Fifteen (15) minutes after students' dismissal.

The above does not apply if the substitute must assume duties, for the teacher for which he/she is substituting, that require an earlier and/or later duty time reporting.

- 2. Secondary Schools (7-12): An individual employed for purposes of substituting at this level will maintain a duty day according to the following:
 - a. Report to work site: Fifteen (15) minutes prior to start of student school day.
 - b. Depart from work site: Fifteen (15) minutes after student dismissal or sooner if the last period of the day is a preparation period.

The above does not apply if the substitute must assume duties, for the teacher for which he/she is substituting, that require an earlier and/or later duty time reporting.

Adopted: September 14, 2006

Revised:

Legal References: NMSA 1978, § 22-10A-15
NMAC 6.63.10

2.39 Reemployment/Termination of Other Employees

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 Superintendent may terminate an employee with fewer than three (3) 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 (10) working days of the request. The reasons shall not provide a basis for contesting the decision under the School Personnel Act. The reasons shall not be publicly disclosed by the Superintendent, Administrator or Board.

Before terminating a non-certified school employee, the Superintendent shall serve the employee with a written notice of termination.

Adopted: September 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-10A-24A, B
NMSA 1978, § 22-10A-26

2.40 Bus Driver Training

The training of school bus drivers shall conform to all applicable federal, state, and local statutes, rules, and regulations, including NMSA 1978, §§ 22-16-1 to 11, NMAC 6.41.1, and 49 CFR Part 382.

Adopted: September 14, 2006
Revised:
Legal Reference: NMSA 1978, §§ 22-16-1 to 11
NMAC 6.41.1
49 CFR Part 382

2.41 Qualifications of Drivers of School-Owned Vehicles Other Than School Buses

The Board of Education of the Springer Municipal School District finds that it has the responsibility to provide safe and efficient transportation of all school children that are transported in School District vehicles with a designed seating capacity of nine or less students. In addition, the Board finds that it has the responsibility to ensure the safe and efficient operation of all School District vehicles or equipment, when used in connection with School District business or operations, but not for the transportation of students. The Board further acknowledges that setting qualifications and instituting training requirements for School District employees driving School District vehicles, as well as random testing of drivers for drugs and alcohol must be included in the School District's policy to ensure the safe and efficient operation of its school transportation system and as a condition for use of School District vehicles with a designed seating capacity of nine or less.

To ensure safe and efficient transportation of all school children in vehicles designed for nine or less students and the safe operation of all school-owned vehicles or equipment used for school business or operations, it is the Board's purpose through this policy to set forth the qualifications and other requirements for all School District employees who drive school-owned vehicles, and to set forth its policy regarding random testing of those drivers for drug and alcohol use or abuse.

A. General Requirements

1. The Superintendent or designee is authorized to determine when the needs of the School District warrant the use of school-owned vehicles with a designed seating capacity of nine persons or less or to operate school equipment in order to address the needs of the District's educational programs, activities, functions or events.
2. In carrying out this authority, the superintendent or designee may authorize school employees to drive school-owned vehicle or to operate school equipment for such purposes, so long as the use is consistent with state law (*i.e.*, the circumstances do not require the use of a school bus under state regulation) and the requirements of this policy are met.
3. This policy shall be interpreted in a manner, which is consistent with applicable statutes and regulations adopted by the federal and state governments. In the event of inconsistency, the federal or state-adopted requirements shall prevail.

B. Driver Qualifications

1. The Superintendent or designee shall verify the current qualifications and training records on each driver authorized to drive a school-owned vehicle or to operate school equipment under this policy, and verify that background checks and reference checks are made in accordance with applicable laws.
2. In carrying out this responsibility, the Superintendent or designee shall adhere to all applicable federal and state requirements relating to qualifications and training of individuals authorized to drive school-owned vehicles or operate school

equipment covered by this policy. The School District shall maintain records verifying completion of the following procedures in its files:

- a. For new hires, the following shall be completed:
 - (i) Submission of an application form that meets or exceeds state and federal requirements.
 - (ii) A check of the applicant's (or employee's, for current employees newly authorized to drive) driving record through the New Mexico Motor Vehicle Division, the National Driver Register, other states' Motor Vehicle Divisions, or the New Mexico Public Schools Insurance Authority.
 - (iii) A criminal background check in accordance with section 22-10-3, NMSA 1978 to determine if the applicant has a record of criminal convictions, and a reference check. The School District shall maintain an Agreement, Authorization, Waiver and Release form, in addition to a Criminal History Affidavit on any new employee who will have unsupervised access to school children in carrying out his or her driving duties. Hiring decisions as to such employees are expressly conditional upon successful completion of the criminal background and reference check process.
 - (iv) Satisfactory completion of physical examination, conducted as required by NMAC 6.41.4.11D.
 - (v) Verification or submission of documentation that the driver is properly licensed as a driver by the New Mexico Motor Vehicle Division.
3. For existing employees who are authorized to drive at the time this policy is adopted, periodic driving record checks shall be performed no less than once a year.
4. Drivers of school vehicles, including activity drivers, are not required to obtain a Commercial Drivers License (CDL) unless they operate a vehicle that is designed to carry ten or more passengers, including the driver.

C. Driver/Operator Training Requirements

1. Drivers operating a school-owned vehicle or school equipment for planned school-sponsored programs, functions or activities shall be employees of a school district. Before operating a school-owned vehicle or school equipment the driver or operator shall comply with the requirements of section 1.1.2 above and shall

meet the requirements for controlled substances and alcohol use and testing in accordance with 49 CFR Part 382.

2. All drivers transporting students in school-owned vehicles, whether on school activity trips or in connection with school programs or functions, shall be required to successfully complete a pre-service training conducted by a school bus driver instructor certified by the State School Transportation Director. As required by state regulations (NMAC 6.41.4.13F), such training shall include a minimum of 12 hours of training, 4 hours of which shall be classroom instruction; 1 hour of which shall address familiarization with the vehicle and equipment. Classroom instruction shall also address and review the Standards for Providing Transportation Services to Eligible Students, district and/or employer safety policies and regulations, general motor vehicle operating procedures, and passenger management.
 - a. All existing drivers at the time of adoption of this policy shall present documentation of completion of such training or satisfy this training requirement within six months of adoption of this policy.
 - b. Within the first year of driving a school-owned vehicle, all drivers shall complete training, unless documentation is provided for previous completion, in a nationally recognized or state-approved first aid course, including CPR, and a nationally recognized or state-approved defensive driving course.
3. All drivers authorized to use school-owned vehicles in connection with school district business or operations, but not to transport students, shall complete a nationally recognized or state-approved defensive driving course. Current employees authorized to drive school-owned vehicles for such purpose prior to the adoption of this policy shall complete the defensive driving course within three months of the adoption of this policy in order to continue use of such vehicles.
4. Employees whose positions are designated as safety sensitive or who are authorized to operate heavy or potentially dangerous school equipment shall satisfy the requirements of Sections 1.1 and 1.2 above, and shall receive such training in the use and operation of the equipment as recommended by its manufacturer and such additional safety training as determined by the Superintendent or designee.

D. Review of Driver Record

1. Upon receipt of criminal background or reference check information, the School District reserves the right to withdraw any conditional offer of employment made to an employee covered by this policy, if the background or reference check information is not satisfactory in the sole discretion of the School District. A

conditional offer of employment may be withdrawn by letter describing the reason therefore. The employee shall be entitled to no further process or procedure.

2. Upon offer of employment or approval for a current employee to drive school-owned vehicles, the driver shall furnish the School District with a complete release or authorization consenting to access by the School District to all records relating to the driver's license(s) to operate motor vehicles, as well as any citations, convictions, suspensions, or revocations, including any actions resulting in deferred or suspended sentences, and records of any juvenile, municipal, magistrate or district court actions arising from the driver's operation of a motor vehicle, wherever or whenever such records are located. Such release shall expressly authorize School District access to records, which may not be disclosed by a usual driving record check.
3. Upon receipt of the driver's driving record following an offer of employment or on periodic review thereafter, the School District shall be authorized to withdraw a conditional offer of employment in the same manner as provided in section 1.3.1 above, to suspend the driver's driving privileges, or to initiate termination procedures if driving is a regular and essential job function of the employee, if the record discloses convictions of the driver for:
 - a. Vehicular homicide, manslaughter or other death involving operation of a motor vehicle;
 - b. Hit and run, or failure to report property damage or personal injury while operating a motor vehicle.
 - c. Reckless driving.
 - d. Driving under the influence of alcohol or controlled substances (DWI).
 - e. Speeding.
 - f. Assault on a police officer, resisting arrest or evading an officer in connection with operation of a motor vehicle.
 - g. Illegal transport of weapons, controlled substances or explosives.
 - h. Other categories of moving violations prohibited by the New Mexico traffic laws, NMSA 1978 Sections 66-7-1 to 66-7-512 and 66-8-1 to 66-8-141, or provisions of the New Mexico Criminal Code imposing criminal sanctions for offenses committed while operating a motor vehicle.
 - i. Repeated or multiple citations and conviction of moving violations or other driving offenses, which indicate a pattern of unsafe operation of

vehicles or disregard for traffic laws.

E. Duty to Report

1. All school employees who are authorized to drive school-owned vehicles pursuant to this policy shall have a duty to report the following to the Superintendent and Transportation Director as soon as such event occurs:
 - a. the receipt of a citation for a moving violation received by the employee while operating a school-owned vehicle;
 - b. conviction of a moving violation received by the employee in connection with operation of a non-school vehicle, but during a time period when the employee is authorized to drive school-owned vehicles;
 - c. any incident in which a student or other authorized person being transported by the school employee is injured during such transport;
 - d. any incident in which a school-owned vehicle is damaged while in custody or control of the employee for school-authorized purposes; or
 - e. any action suspending or revoking the driver's license to operate motor vehicles.
2. Failure to report any matter addressed in section 1.4.1 above, or employee conduct in connection with such matters, may, upon investigation and review by the school administration, result in suspension of driving privileges, or termination or discharge of the employee's job duties.

F. Random Drug and Alcohol Testing

All employees authorized to drive school-owned vehicles, whose positions are designated as safety-sensitive or who operate heavy or potentially dangerous school equipment shall be subject to random testing for alcohol or drug use in accordance with the School Board's policy for such testing.

G. Delegation of Authority

1. The Superintendent or designee shall maintain and keep current a list of all employees who are authorized to drive school-owned vehicles or operate school equipment.
2. The Superintendent is hereby delegated the authority and responsibility to adopt and distribute such administrative regulations as the Superintendent deems necessary to carry out the provisions of this policy, to define safety-sensitive positions which may be subject to random alcohol and drug testing, and to assure

the establishment of a program of safe operation of all school-owned vehicles and equipment.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.42 Alcohol and Drug Testing for Safety-Sensitive Positions

This policy is adopted by the Board of Education in the interest of protecting the safety of the District's school children and employees, and the safety of the public generally, by detection and deterrence of the use of controlled substances by school employees in safety-sensitive positions, including bus drivers, and final candidates for such positions, in conformity with the terms of State Board of Education regulations, and in recognition of the policy preference expressed therein.

In the event that any portion of this policy or any portion of the regulations it incorporates are declared unenforceable, the remainder of this policy and such regulations shall remain in full force and effect.

A. Definition of "Safety-Sensitive Position"

For purposes of this policy, a "safety-sensitive position" means a position of an employee or an independent contractor, which involves:

1. Operation of school buses or school-owned vehicles as a regular function of the position or as a regular assignment;
2. Operation of heavy or potentially dangerous equipment or vehicles;
3. Handling or use of hazardous or toxic materials where misuse or accident may pose serious health or safety risks to staff or students;
4. Maintenance or administration of prescribed medication for students, treatments or implementation of medical plans for students;
5. Unsupervised nighttime access to or monitoring student health and safety and welfare during nighttime hours, if applicable.

B. Drug Testing

1. Any use, consumption, possession, or distribution of controlled substances, and being under the influence of controlled substances, during the workday, or while on school premises is specifically prohibited with regard to employees and with regard to independent contractors and the employees of such contractors (hereinafter jointly referred to as "employees/contractors") in safety-sensitive positions, and with regard to applicants for employment in such positions, which shall include all positions that involve driving a motor vehicle on behalf of the District, or which are owned by the District.
2. Employees/contractors/final candidates in or for safety-sensitive positions shall be subject to drug testing by the District on the following bases:

- a. Reasonable individualized suspicion: upon the determination of the Superintendent, or his or her designee, that there is reasonable cause to believe that the employee/contractor has been using a controlled substance, on the basis of observation by school personnel who have received training in the identification of actions, appearance, or conduct which are indicative of such use;
 - b. Pre-employment: upon employment by the district, following an officer of employment that is subject to such testing, but prior to commencing duties;
 - c. Random: by selection pursuant to a random selection process in which at least fifty percent (50%) of the average number of employees/contractors in safety sensitive positions employed annual by the District; and
 - d. Post-accident: within thirty-two (32) hours of any accident involving injury or damage to property or of any reportable vehicular accident in which a driver has been involved, and for which the driver has received a citation for a moving traffic violation arising from the accident.
3. Positive results of such testing, or a refusal to cooperate in such testing, shall be grounds for discharge, non-renewal, or refusal to hire. If an employee/contractor resigns after positive test results, the results of the test shall become part of the employee's personnel file or the contractor's file.
4. The circumstances in which testing shall be conducted, and the manner in which such tests will be conducted, shall be as set forth in the U.S. Department of Transportation regulations, namely, 49 C.F.R. Parts 391 and 340.
5. All contracts with school-bus operators are subject to such operators' providing the Superintendent with test results for their employees and applicants for employment pursuant to the criteria set forth in paragraph 1, above.
6. As used in this policy, drug testing involves the employee or applicant making himself or herself available at a place and time specified by the Superintendent or his or her designee, and providing a sample of body fluid or tissue to be analyzed for the presence of "controlled substances" as that term is defined by pertinent U.S. Department of Transportation regulations.
7. To the extent application of the federal regulations incorporated in SBE regulations hinges on the operation of a school bus in interstate commerce, or requires that it be subject to regulation by the U.S. Department of Transportation, or otherwise incorporates definitional phrases that are based on interstate activity or obligations to federal agencies, it is the intent of this policy that such testing requirements and procedures shall also apply to drivers not operating in interstate commerce or being subject to such federal regulation. To the extent any other

portion of the federal regulations incorporated in SBE regulations require reasonable modification to make them applicable to the operation of school districts, it is the intent of this policy to effectuate such reasonable modifications on a case-by-case basis and it is not the intention to make the regulation inapplicable.

8. The reporting requirements in SBE regulation that arise under 49 C.F.R. Part 394 are an element of this policy. To the extent such reporting requirements hinge on operations in interstate commerce or subjection to U.S. Department of Transportation regulation or require reporting to federal agencies, such reporting requirements may not be applicable where operations are in the intrastate environment. To that extent, the reporting requirements will not be applied.

C. Alcohol Testing

1. Employees/contractors occupying safety-sensitive positions are prohibited from entering school property, appearing for work, or performing their duties, while in possession of, or under the influence of alcohol. An employee contractor will be presumed to be “under the influence” of alcohol in every instance in which the employee/contractor is found to:
 - a. have a breath-alcohol concentration of more than .02 percent, as indicated by a breath-alcohol test with an evidential breath testing device;
 - b. be in possession of an open container of alcohol; or
 - c. has ingested alcohol during the six (6) hours preceding scheduled duty.
2. Employees/contractors in safety sensitive positions, as elsewhere defined herein, shall be subject to alcohol testing on the following bases.
 - a. Reasonable individualized suspicion: upon the determination of the Superintendent, or his or her designee, that there is reasonable cause to believe that the employee is in violation of the alcohol prohibition, on the basis of observation by school personnel who have received training in the identification of actions, appearance, or conduct which are indicative of such use;
 - b. Pre-employment: upon employment by the District, following an offer of employment that is subject to such testing, but prior to commencing duties as a driver;
 - c. Random: by selection pursuant to a random selection process in which at least fifty percent (50%) of the average number of employee in safety sensitive positions employed annually by the District;

- d. Post-accident: within twelve (12) hours of any accident involving injury or damage to property or of any reportable vehicular accident in which a driver has been involved, and for which the driver has received a citation for a moving traffic violation arising from the accident.
3. Positive results of such testing, or a refusal to cooperate in such testing, shall be grounds for discharge, non-renewal, or refusal to hire. If an employee resigns after positive test results, the results of the test shall become part of the employee's personnel file.
4. Alcohol testing may be conducted by use of evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA) as published in the *Federal Register*. When using an EBT device, two breath tests should be conducted to determine if the person has a breath alcohol concentration at or above the prohibited level. A screening test will first be conducted, and any result less than 0.02 alcohol concentration will be considered "negative." If the alcohol concentration is 0.02 or greater, a second confirmation test will be conducted. The employee and the person conducting the test will complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test should be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.43 Religion in the Schools

This policy is grounded in the understanding that active governmental participation in religious matters and even the appearance of official preference for or antagonism toward any religious belief or non-belief is disruptive and infringes upon the individual's freedom of conscience.

The schools of Springer Municipal School District shall neither actively sponsor nor interfere with religions. The District recognizes that religion has played an undeniable role in the formation of world civilizations, the foundation of our country and the lives of its citizens. The place of religion in our society should be recognized as an important one.

As allowed by the First Amendment and expressed by the U.S. Supreme Court, the proper role of religion in the public schools is in its educational value and not in religious observance or celebration. The schools can play a vital role in bringing about an understanding between peoples of different backgrounds. In that capacity and when appropriate within the curriculum, the schools have an appropriate role in teaching our children about various belief systems. Belief systems will be discussed in an atmosphere of tolerance and mutual respect. Intercultural programs or curriculum focusing on the role that religion has played in history, literature or in the development of society and the influence that religion has had on historical figures or movements are acceptable and desirable. It is anticipated that students will also develop tolerance and mutual respect as they become aware of diverse belief systems and their current and historical impact on human culture.

A. Curriculum

1. When information about religion is included in the curriculum as part of the study of art, literature, history, etc., it should be treated with the same objectivity and educational intent expected in other areas.
2. Religious themes in the fine arts, literature and history should be recognized and discussed only as extensively as necessary for a balanced and comprehensive study of the areas. Such studies should not foster any particular religious tenet or demean any religious belief.
3. Materials and activities should be sensitive to the diversity of belief systems.
4. Instructional activities addressing religion should meet the current three-part test established by the U.S. Supreme Court for determining constitutionality:
 - a. The activity must have a secular purpose.
 - b. The activity's principal or primary effect must be one that neither advances or inhibits religion.
 - c. The activity must not foster an excessive governmental entanglement with religion.

5. When the subject of religion occurs naturally in studying other topics such as history, literature, culture, etc., it should be treated as part of that study. For example, study of the American Indian, the Pilgrims, Greek mythology or the Crusades may be enhanced by the inclusion of the role of religion.
6. Student-initiated responses to questions or assignments, which reflect the beliefs or non-beliefs about a religious theme are to be accommodated when appropriate. For example, students are free to express religious beliefs or non-beliefs in compositions, art forms, music, speech, and debate.
7. Students should be taught to develop an appreciation of the value of religious liberty as guaranteed by the United States Constitution.
8. The teaching of theories to promote a religious doctrine is not permitted. Religious theories or beliefs shall not direct curriculum content.
9. Subject matter content may not be included or excluded from the curriculum primarily to conform to the religious views of a particular group.
10. Students may be excused, without penalty, from instructional activities that are contrary to their religious beliefs unless their absence would defeat an overriding educational goal.
11. Elective courses at the high school level may have as their focus the history, sociology and literature of religions.
12. The District shall provide training activities, which equip instructors to appropriately teach about religion in the curriculum. Training shall also promote increased awareness and sensitivity to religious diversity in the classroom.

B. School Calendar, Holidays, Schedules, Absences

1. Studying the origin and significance of diverse holidays shall be conducted in an unbiased manner without religious indoctrination. Holiday activities should not be religious or devotional in nature.
2. Neither instructional materials nor assembly programs may be used to promote, encourage or denigrate specific religious groups or religious activities.
3. Religious celebrations outside of school shall not be endorsed by the District or by school personnel in the school setting.
4. The District's calendar shall be prepared so as to minimize conflicts with religious holidays. Where conflicts are unavoidable, care should be taken to avoid tests, special projects, introduction of new concepts and other activities, which would be difficult to make up. Absences by students for religious observances shall be

allowed in such a manner as not to penalize such students for such absences.

C. Religious Symbols

A religious symbol is any object, which portrays or represents a religious belief. A religious symbol can also be an object, which is so closely associated with religion(s) or with the celebration of a religious holiday that it is commonly perceived as being of a religious nature.

1. Religious symbols may be displayed or used as a teaching resource provided no effort is made to impose any particular beliefs, which may be associated with such symbols.
2. Whenever appropriate, teachers are encouraged in their presentations to expose students to symbols and traditions from a variety of cultures.
3. Religious symbols may be displayed for show-and-tell or reports or class discussion as long as their appearance is volunteered by the students and as long as the symbols are removed from display upon completion of the report or discussion.
4. Students should not be discouraged from appropriately expressing themselves through the use of religious symbols in completing assignments.

D. Religious Disclosure/Privacy

Neither staff nor students shall be required, requested, coerced or induced to disclose their personal religious preferences or belief or those of their family members. No one shall be compelled to profess a religious belief or disbelief.

E. Performances, Ceremonies, Programs and Gatherings

1. School programs, assemblies or gatherings sponsored by the school shall not have a religious orientation. However, seasonal programs presented by school student groups may include religious music. Such program shall include a balanced variety of music not solely of a religious nature.
2. School musical groups may not participate, under the sponsorship of the school, in religious services.
3. The District shall not sponsor or conduct any baccalaureate services, nor shall it sponsor or allow religious invocations, benedictions or formal prayers at any school-sponsored event, with the exception of student-initiated invocations and/or benedictions as provided in D below. The Board of Education may begin its Board meetings with an invocation.
4. Student-initiated invocations and/or benedictions shall be allowed at high school

graduation ceremonies under the following conditions:

- a. Inclusion of invocations and/or benedictions shall rest solely within the discretion of the graduating senior class.
- b. Invocations and/or benedictions shall be only after a majority of the graduating class vote in favor of such inclusion at a student-initiated election on the subject and only if the invocations and/or benedictions are given by student volunteer(s), without any involvement of the Board or school staff.
- c. Consistent with the principle of equal liberty of conscience, such student-initiated invocations and/or benedictions shall be non-sectarian and non-proselytizing in nature.

F. Worship/Prayer

1. No form of prayer, worship or expression of belief shall be prescribed or sanctions in fact, or in appearance, by the schools.
2. Students may voluntarily pray and/or mediate during school and engage in discussions about religion provided this activity does not cause actual and substantial disruption of the educational process or infringe upon the privacy rights of others.

G. Proselytizing

1. In working with students, District staff shall not proselytize or inject personal religious beliefs into any school related activities. The expression of views by staff, which disparages or degrades any religion or religious beliefs, is not permitted at any school related activities.
2. Unwelcome attempts by individuals or groups of students to impose religious beliefs or convert others to religious beliefs or to non-belief are not permitted at school or at school-related activities.
3. The distribution of religious literature on School District property, unless directly related to instructional activities, shall be limited and governed by the District's policy governing distribution of written materials on school property.
4. Non-student members of religious groups are not allowed to proselytize on school property or recruit during the school day or during school activities.
5. Teaching materials shall not include the endorsement or disparagement of ideas or practices of any religious belief system.

H. Equal Access Act Policy

1. The Board does not require Springer High School to create a “limited open forum” or meeting place for non-curriculum-related student groups to meet on school premises during non-instructional time. However, if the principal allows non-curriculum-related student groups (e.g., chess club) to meet on school premises during non-instructional time before or after school, student-initiated religious, political, and philosophical groups shall have the right, guaranteed by the Equal Access Act of 1984, to meet on the same basis, subject to the same controls as any other student-initiated non-curriculum group. Subject to reasonable control of the item, place, and manner of speech, the secondary school shall not use the content of student speech to discriminate against those students requesting access to the forum if a “limited open forum” is provided other students.
2. Activities, traditionally sponsored by the school, but not directly related to the curriculum, such as athletic activities, school plays, and school talent shows, etc., shall not be considered as creating a “limited open forum.” A “limited open forum” for a school is created if student-initiated groups can meet on school premises during non-instructional time and the subject matter of the group is not directly related to the school’s curriculum. Subject matter is related to the curriculum under these circumstances:
 - a. the subject matter of the group is actually taught or will soon be taught in a regularly offered course;
 - b. if the subject matter of group concerns the body of courses as a whole;
 - c. if participation in the group is required for a particular course; or
 - d. if participation in the group results in academic credit.
3. The principal shall have the authority to determine other requirements for access to the “limited open forum” that satisfy the spirit and letter of the Equal Access Act and also satisfy minimum standards of fairness. In satisfying the secondary school’s obligations under the Equal Access Act, where a “limited open forum” is provided, school employees shall not:
 - a. Influence the content of any prayer or other religious activity in the school;
 - b. Require any person to participate in prayer or other religious activity in the school;
 - c. Provide any public funding of any religious activity other than the cost incidental to the space for the student meetings;

4. Compel school employees to attend any meeting if content of the speech at the meeting is contrary to the beliefs of the employees;
5. Sanction meetings, which would otherwise be unlawful;
7. Attend such religious meetings other than in a non-participatory capacity;
8. Allow meetings, which materially and substantially interfere with the orderly conduct of educational activity within the school;
9. Allow non-school persons to direct, conduct, or regularly attend activities of such religious meetings;
10. Limit the authority of the school to maintain order and discipline on school premises, to protect the well being of students and staff, to assure that attendance at such religious meetings is voluntary, and to make sure regulations as required by considerations of space, safety, and the common good;
11. Limit the access to the forum if the requesting students are not of a minimum specified numerical size and;
12. Abridge the constitutional rights of any person.

Unites states Supreme Court Decisions: Lee v. Weisman (1992); School District of Abington Township, Pa. v. Schempp (1963); Engel v. Vitale (1962); Karen B. v. Treen (1982); Jager v. Douglas Country School District (1989); Jones v. Clear Creek Indep. School District (1991).

Adopted: September 14, 2006

Revised:

Legal Reference:

2.44 Acceptable Use Procedures for the Computer System and Internet

A. Purpose

The purpose of this policy is to provide the procedures, rules, guidelines, and code of conduct for the use of technology and the information network in the Springer Municipal School District. Use of such technology is a necessary element of the School District's educational mission, but is furnished to staff and students as a privilege, not a right. The School District seeks to protect legitimate users of technology by establishing limits on such use and sanctions for those who abuse the privilege. Eliminating computer abuse provides more computing resources for users with legitimate needs.

B. Definitions

The definition of information networks is any configuration of hardware and software, which connects users. The network includes all of the computer hardware, operating system software, application software, stored text and data files. This includes electronic mail, local databases, externally accessed databases, CD-ROM, recorded magnetic or optical media, clip art, digital images, digitized information, communication technologies and new technologies as they become available. Stand-alone workstations are also governed by this policy on acceptable use of the School District computer system. As used herein, the user shall mean the system operations, staff members, account holders, and authorized students afforded access and use of the School District computer system as part of the School District curriculum under the supervision and as monitored by an authorized user.

C. Introduction

The Springer Municipal School District provides resources for teaching and learning, communication services, and business data services by the acquisition of computer equipment and maintaining access to local, regional, national and international sources of information. The School District permits use of its computer system and information resources by students and staff who must maintain respect for the public trust through which they have been provided, in accordance with policy and procedures established by the School District. The procedures do not attempt to articulate all required or prescribed behavior by its users. Successful operation of the computer system and network requires that all users conduct themselves in a responsible, decent, ethical and polite manner while using the network. The user is ultimately responsible for his/her actions in accessing network services.

1. Guidelines

- a. Access to the computer system, information networks and to the information technology environment within the School District's system is a privilege and must be treated as such by all users of the network and its associated systems.

- b. The School District's system will be used solely for the purpose of research, education, and school-related business and operations.
- c. Any system which requires password access or for which the School District requires an account, such as Internet, shall only be used by the authorized user. Account owners are ultimately responsible for all activity under their account and shall abide by this policy and the School District's computer and Internet Code of Conduct.
- d. The School District's technological resources are limited. All users must exercise prudence in the shared use of this resource. The School District reserves the right to limit use of such resources if there are insufficient funds, accounts, storage, memory, or for other reasons deemed necessary by the system operators, or if an individual user is determined to be acting in an irresponsible or unlawful manner.
- e. All communications and information accessible and accessed via the School District's system is and shall remain the property of the School District.
- f. Student use shall be supervised and monitored by system operators and authorized staff and shall be related to the School District curriculum.
- g. Any defects or suspected abuse in system accounting, security, hardware, or software, shall be reported to the system operators.
- h. The Superintendent or his/her designee shall develop appropriate forms, regulations or guidelines to carry out the intent of this policy.

D. Unacceptable Use

The Springer Municipal School District has the right to take disciplinary action, remove computer and networking privileges, or take legal action or report to proper authorities, any activity characterized as unethical, unacceptable or unlawful. Unacceptable use activities constitute, but are not limited to, any activity through which any user:

- 1. Violates such matters as institutional or third party copyright license agreements or other contracts. The unauthorized use of, and/or copying of software is illegal.
- 2. Interferes with or disrupts other network users, services, or equipment. Disruptions include, but are not limited to, distribution of unsolicited advertising, propagation of computer viruses or worms, distributing quantities of information that overwhelm the system, and/or using the network to make unauthorized entry into any other resource accessible via the network.

3. Seeks to gain or gains unauthorized access to information resources, obtains copies of, or modifies files or other data, or gains and communicates passwords belonging to other users.
4. Uses or knowingly allows another to use any computer, computer network, computer system, program, or software to devise or execute a scheme to defraud or to obtain money, property, services, or other things of value by false pretenses, promises, or representations.
5. Destroys, alters, dismantles, disfigures, prevents rightful access to, or otherwise interferes with the integrity of computer-based information resources, whether on stand-alone or networked computers.
6. Invades the privacy of individuals or entities.
7. Uses the network for commercial or political activity or personal or private gain.
8. Installs unauthorized software for use on district computers
9. Uses the network to access inappropriate materials.
10. Uses the School District system to compromise its integrity (hacking software) or accesses, modifies, obtains copies of or alters restricted or confidential records or files.
11. Submits, publishes or displays any defamatory inaccurate, racially offensive, abusive, obscene, profane, sexually oriented, or threatening materials or messages either public or private.
12. Uses the School District system for illegal, harassing, vandalizing, inappropriate, or obscene purposes, or in support of such activities is prohibited. Illegal activities shall be defined as a violation of local, state, and/or federal laws. Harassment is defined as slurs, comments, jokes, innuendoes, unwelcome compliments, cartoons, pranks, and/or other verbal conduct relating to an individual which:
 - a. has the purpose or effect of creating an intimidating, hostile or offensive environment;
 - b. has the purpose or effect of unreasonably interfering with an individual's work or school performance; or
 - c. interferes with school operations.

Vandalism is defined as any attempt to harm or destroy the operating system, application software or data. Inappropriate use

shall be defined as a violation of the purpose and goal of the network. Obscene activities shall be defined as a violation of generally accepted social standards in the community for use of a publicly owned and operated communication device.

13. Violates the School District Computer and Internet Code of Conflict.

E. School District's Rights and Responsibilities

1. Monitor all activity on the School District's system.
2. Determine whether specific uses of the network are consistent with this acceptable use policy or the Computer and Internet Code of Conduct.
3. Remove a user's access to the network at any time it is determined that the user is engaged in unauthorized activity or violating this acceptable use policy or the Computer and Internet Code of Conduct.
4. Respect the privacy of individual user electronic data. The district will secure the consent of users before accessing their data, unless required to do so by law or policies of the Springer Municipal School District.
5. Take prudent steps to develop, implement and maintain security procedures to ensure the integrity of individual and district files. However, information on any computer system cannot be guaranteed to be inaccessible by other users.
6. Attempt to provide error free and dependable access to technology resources associated with the School District system. However, the district cannot be held liable for any information that may be lost, damaged, or unavailable due to technical or other difficulties.
7. Ensure that all student users complete and sign an agreement to abide by the district's acceptable use policy and administrative regulations. All such agreements will be maintained on file in the school office.

F. Violations/Consequences

1. Students
 - a. Students who violate this policy or the Computer and Internet Code of Conduct shall be subject to revocation of district system access up to and including permanent loss of privileges, and discipline up to and including expulsion.
 - b. Violations of law will be reported to law enforcement officials.

- c. Disciplinary action may be appealed by parents and/or students in accordance with existing district procedures for suspension or revocation of student privileges.
2. Staff
- a. Staff who violate this policy or the Computer and Internet Code of Conduct shall be subject to discipline, up to and including suspension, termination or discharge, in accordance with Board policy, negotiated agreements and applicable law.
 - b. Violations of law will be reported to law enforcement officials.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.45 Training and Experience Credit on the District Salary Schedule for Licensed Positions which Require a Bachelor Degree

A. Training Requirements

1. Official transcripts from an accredited university, college, or post-secondary institution must verify training recognized on the district salary schedule. Official transcripts must be mailed directly to the Office of the Superintendent by posted deadline.
2. Official transcripts of additional graduate and/or approved hours must be received by the Office of the Superintendent prior to October 1 of the salary school year for which an individual is to receive credit on the salary schedule (or eight (8) weeks after employment, for employees that start after the school year has begun).
3. Beginning with school year 2001-2002, graduate hours must be approved by the Superintendent for credit on the salary schedule before they are taken. It is each individual's responsibility to seek written approval for courses from the Superintendent.

B. Experience Requirements

1. The District will recognize and pay for verified experience for teachers, nurses, counselors, and other licensed personnel according to the district salary schedule.
2. Beginning with the school year 2001-2002, individuals are allowed one (1) year of experience on the salary schedule for 76 days of experience, which is verified by a previous employer. No experience is allowed for substitute teaching.
3. Recognized experience on the salary schedule for teachers must be related to instruction and must be verified by use of a district verification form, a W-2 Form, or an in-district contract and evaluation form. Recognized experience on the salary schedule for other licensed personnel must be related to their licensure and must be verified by use of a district verification form, a W-2 Form, or an in-district contract and evaluation form.
4. Verified employment for trades and industries instructors may be counted (with approval by the Superintendent) as experience for training and experience purposes in their licensed or instructional area.
5. The Personnel Office must receive verification of experience by October 1, of the school year for which an individual is to receive experience credit on the salary schedule (or eight (8) weeks after employment, for employees that start after the school year has begun).
6. Verified employment for support services personnel may be counted (with

approval by the Superintendent) as experience for training and experience purposes in their licensed or instructional area. (Support personnel are coordinators/subject matter specialists, library/media specialists, guidance counselors, registered nurses, diagnosticians, speech therapists, occupational psychologists, audiologists, interpreters, orientation and mobility specialists, and social workers.)

Adopted: September 14, 2006

Revised:

Legal Reference:

2.46 Cellular Telephone Policy

The Board finds that it is in the best interests of the school district that certain administrators and others have at hand ready means of communications regarding school business regardless of location.

A. Distribution of District Cellular Telephones

1. Cellular telephones shall be allocated by the Superintendent
2. Each cellular telephone shall have a program or administrative assignment
3. Each cellular telephone shall have a primary user

B. Financial Responsibility

1. Allotments or plan types shall be reviewed annually by the Superintendent, primary user and Business Manager
 - a. Review shall be made of the usage during the past year to determine the appropriate plan
 - b. Review shall be made of the roaming and long distance charges during the past year to determine the appropriate plan
2. Monthly charges shall be reviewed and approved monthly the Superintendent and Business Manager
3. Charges in excess of the monthly allotment shall be the responsibility of the primary user unless justification is provided that such use is only the result of Springer School District business
 - a. Excess charges shall be immediately reimbursed directly to the Springer School District by the user
 - b. If the monthly allotment is exceeded two months in a row, the Superintendent, primary user and Business Manager shall review the allotment

C. Purpose of Cellular Telephone Distribution

1. The primary purpose shall be support of the organization
 - a. In order to quickly reach the user
 - b. To allow the user to contact the office
 - c. To allow the user to contact members, vendors or address other immediate concerns

2. Unused, allocated time may be used responsibly by the primary user, however roaming and long distance charges for personal call are always the responsibility of the primary user

Adopted: September 14, 2006

Revised:

Legal Reference:

2.47 Prohibiting Violence, Intimidation, and Hostile or Offensive Conduct

The effective education of our students requires a school environment in which students feel safe and secure. The Board of Education is committed to maintaining an environment conducive to learning in which students are safe from violence, threats, name-calling, intimidation, and unlawful harassment.

A. Definitions

1. “Unlawful harassment” means verbal or physical conduct based on a student’s actual or perceived race, color, national origin, sex, religion, disability, sexual orientation or gender identity and which has the purpose or effect of substantially interfering with a student’s educational performance or creating an intimidating, hostile or offensive environment. Sexual harassment of students is further addressed by a separate policy of the Board. See Policies No. 3.50 and 4.02.
2. “Bullying” means intimidating verbal or physical conduct toward a student when such conduct is habitual or recurring.
3. “Name-calling” means the chronic, habitual, or recurring use of names or comments to or about a student regarding the student’s actual or perceived physical or personal characteristics when the student has indicated by his or her conduct, that the names or comments are unwelcome, or when the names or comments, by their nature, are clearly unwelcome, inappropriate, or offensive.

B. Prohibitions

1. It is the policy of the Board of Education to prohibit violence, threats, name-calling, bullying, intimidation, assault, battery, extortion, robbery, vandalism, and other victim-based misconduct that creates an intimidating, hostile or offensive environment, regardless of motive or reason. The Board will not tolerate such victim-based misconduct by students or staff.
2. It is the express policy of the Board to encourage students who are victims of such physical or verbal misconduct to report such claims. Students or their parents may report such conduct to any principal, assistant principal, or counselor.

C. Reporting

Any employee who, as a result of personal observation or a report, has reason to believe that a student is a victim of conduct prohibited by this policy, whether the conduct is by another student or by another employee, must notify his or her principal or supervisor, or the Superintendent of such observation or report as soon as possible.

D. Investigation

1. All reports of physical or verbal misconduct in violation of this policy shall be promptly investigated by the school principal or his/her designee.
2. In assessing the existence of a violation of this policy and the appropriate discipline, the principal or designee shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and any prior history of conduct prohibited by this policy on the part of the violator.

E. Sanctions

1. Any employee found to have engaged in misconduct in which a student is a victim of violence, threats, name-calling, bullying, assault, battery, extortion, robbery, vandalism, etc. shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension, termination, or discharge, subject to applicable procedural requirements.
2. Any student found to have engaged in misconduct in which another student is a victim of violence, threats, name-calling, bullying, assault, battery, extortion, robbery, vandalism, etc. shall be subject to discipline, including, but not limited to suspension or expulsion, subject to applicable procedural requirements.

Adopted: September 14, 2006

Revised:

Legal Reference:

Policy 2.48 TITLE IX POLICY

The Board of Education for the Springer Municipal Schools finds that the Springer Municipal Schools must provide equivalence of benefits in all its boys' and girls' athletics, academics, and training programs as required by Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), which prohibits discrimination on the basis of gender by educational institutions that receive federal funds directly or indirectly. The Board of Education further acknowledges that the School District must undertake a continuous evaluation of its compliance with Title IX, and that the School District must therefore take care to maintain a balance in the benefits provided by the boys' and girls' programs.

To promote compliance with Title IX, it is the Board of Education's purpose through this Policy to help maintain the overall equivalence of opportunity for male and female students and employees to participate in athletic programs, academic programs, and training within the School District.

2.48.1 Nondiscrimination Policy under Title IX

The Springer Municipal Schools is committed to the philosophy of equal opportunity/equal access in all its employments, educational programs, activities and services. All students shall have the opportunity to participate in and receive benefits from all programs or activities including, but not limited to, course offerings, graduation requirements, athletics, counseling, employment assistance, extra-curricular and other school-related activities. Discrimination in education or employment because of race, color, national origin, ancestry, religion, creed, sex, age, physical or mental handicap, marital or parental status, pregnancy, sexual orientation, or veteran status is prohibited.

2.48.2 Sexual Harassment Policy under Title IX

The Springer Municipal Schools is committed to a positive and productive working and learning environment free of discrimination. Discrimination adversely affects morale and interferes with employee and student ability to work and learn. The Springer Municipal Schools prohibits sexual harassment of its employees or students, whether committed by a co-worker, supervisor, subordinate, contractor, volunteer or student. Such behavior may constitute a basis for disciplinary action up to and including discharge or expulsion. Whereas sexual harassment substantially compromises the attainment of educational excellence, the Springer Municipal Schools will not tolerate such behavior between members of the same or opposite sex.

The Springer Municipal Schools also prohibits retaliation against

2.48.2.a. any employee or student for having made a report of alleged sexual harassment, and

2.48.2.b. against any employee or student who has testified, assisted or participated in the investigation of a report.

Retaliation is itself a violation of State and Federal regulations prohibiting discrimination and may constitute a basis for disciplinary action up to and including discharge or expulsion.

This Policy applies to individuals attending any events on the property of the Springer Municipal Schools, whether or not school-sponsored and to any school-sponsored events regardless of location. Any complaints of sexual harassment in violation of this Policy should be reported within 20 calendar days of occurrence.

A copy of the Springer Municipal Schools' Sexual Harassment Policy may be obtained at the school-based principal's office. Nothing in this Policy applying to Title IX is intended to alter the Springer Municipal Schools' Sexual Harassment policies as set forth in Policy No. 2.50 (employees) and Board of Education Policy No. 3.02 (students).

2.48.3 Creation of Title IX Coordinator and Grievance Procedures for the Springer Municipal Schools

2.48.3.a. The Superintendent shall:

2.48.3.a.i. designate a principal or associate/assistant superintendent within the School District to act as the School District's Title IX Coordinator for a period of not less than two years or until the end of the designee's employment which ever is shorter;

2.48.3.a.ii. ensure that the Title IX Coordinator has sufficient authority to continuously evaluate the School District's compliance with Title IX, conduct necessary investigations and issue reports to the Superintendent regarding the School District's compliance with Title IX, and ensure that he or she has sufficient authority and the necessary procedures to investigate and report on all written complaints of alleged violations of Title IX or the School District's policies regarding Title IX;

2.48.3.a.iii. promulgate grievance procedures that allow any student or employee of the Springer Municipal Schools who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any School District education program or activity on the bases of sex in violation of this Policy or Title IX, to file a written complaint with the Title IX Coordinator;

2.48.3.a.iv. ensure that the grievance procedures provide for a thorough and objective investigation and review of all written complaints by the School District's Title IX Coordinator and that the procedures also provide for notice and an opportunity for hearing on all written complaints by the creation of a hearing committee to hear matters unresolved by the Title IX Coordinator and provide for an opportunity to present evidence.

2.48.3.a.v. ensure that the grievance procedures provide for a final appeal on all unresolved matters to the Board of Education.

Grievance Procedures

This Policy will be updated yearly to ensure that all information is current. In addition, these procedures will be published each year in the student handbook and will be distributed to each student athlete at the beginning of each school year.

As provided under this Policy, all inquires or complaints regarding discrimination in violation of Board of Education Policy No. 3.48 (Title IX Policy) should be directed to:

High School Principal
Title IX Coordinator
Springer Municipal Schools
P O Box 308
Springer, New Mexico 87747
(505) 483-3432

The employment procedures of the Springer Municipal Schools will be in compliance with all appropriate State and Federal laws. All inquires or complaints regarding discrimination other than those in violation of Board of Education Policy No. 3.48 (Title IX Policy) with regards to employment with the Springer Municipal Schools should be directed to:

Director of Human Resources
Springer Municipal Schools
P O Box 308
Springer, New Mexico 87747
(505) 483-3432

As provided in this Policy, all inquires and complaints regarding sexual harassment in violation of Board of Education Policy No. 3.48 (Title IX Policy) should be directed to:

FOR STUDENTS

High School Principal
Title IX Coordinator
Springer Municipal Schools
P O Box 308
Springer, New Mexico 87747
(505) 483-3432

FOR EMPLOYEES

Director of Human Resources
Springer Municipal Schools
P O Box 308
Springer, New Mexico 87747
(505) 483-3432

Creation of Grievance Hearing Committee:

As part of these procedures, there shall be the creation of a Grievance Hearing Committee to hear, when appropriate, all matters under these procedures.

Title IX Grievance Hearing Committee shall consist as follows:

Superintendent, Chair

Counselor, Member

Parent Liaison, Member

Instructor, Member (affected school)

Student Member

Principal, Member (from another school)

Instructor, Member (from another school)

Standards of Conduct

Every student and employee of the Springer Municipal Schools may rightfully expect that the faculty, staff, athletic coaches and administration will maintain an environment in which there is freedom to learn and equity in access to any educational program or activity. As members of the Springer Municipal Schools community, employees and students will be encouraged to develop the capacity for: accepting constructive criticism; an openness to critical judgments; engagement in sustained and independent search for the truth; and the ability to exercise their rights to free speech in a responsible, non-violent manner.

Every employee and students shall respect and obey civil and criminal law, and shall be subject to legal penalties for violation of City, County, State and Federal law. Employee and student conduct at the Springer Municipal Schools must conform to School District and school-based rules and regulations.

Equity and Participation

The Springer Municipal Schools is committed to nondiscrimination and to provide an equal opportunity for admission, access and participation in its education programs and activities. Each academic course, education program or activity is open fully to enrollment and participation by any person who has been admitted to any school within the Springer Municipal Schools and who meets the prerequisites of the course, educational program or activity.

Title IX Coordinator

In order to ensure equity and nondiscrimination under Title IX, the Springer Municipal Schools authorizes the Title IX Coordinator to coordinate the School District's compliance with the requirements of Title IX. The Title IX Coordinator will be responsible to ensure that this policy is adhered to and that the School District notifies all students, parents and employees that (1) it does not discriminate in its programs and activities; and (2) inquiries concerning the nondiscrimination policies may be referred to the designated employee(s). The Title IX Coordinator will direct the Superintendent's responsibility to provide continuing training to administrators, instructors, coaches and employees regarding the appropriate implementation of its Title IX policies and procedures, including associated grievance procedures.

Director of Athletics

In order to ensure equity and nondiscrimination under Title IX in athletics, the Springer Municipal Schools authorizes the Title IX Coordinator to work with the Director of Athletics to ensure compliance with Title IX.

Grievance Procedures

The purpose of the Grievance Procedures is to provide a prompt and equitable means for resolving employee and student issues arising on the basis of Title IX and shall be the exclusive procedures utilized in addressing such issues within the Springer Municipal Schools. The procedures enumerated in Board of Education Policy 3.48 (Title IX Policy) shall be available to any student who believes a school; instructor, coach or employee decision or action has adversely affected his or her status, rights, and/or privileges as a student outside the those granted under Title IX of the Higher Education Amendments of 1972 (and applicable regulations).

Any student or employee of the Springer Municipal Schools who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any School District education program or activity on the basis of his or her gender in violation of Board of Education Policy No. 3.48 (Title IX Policy), may file a written complaint with the Title IX Coordinator.

The Title IX Coordinator shall initially review the written complaint to determine if the matter affects the School District's overall compliance under Title IX or violation of Board of Education Policy No. 3.48 (Title IX Policy) or if the matter involves the administration of internal procedures and rules.

Should the written complaint involve internal procedures or rules, including matters arising under any collective bargaining agreement, the Title IX Coordinator shall forward the matter to the appropriate school principal for resolution under the School District's informal

grievance procedures as set out in the School District's policies and procedures for grievances or under the existing procedures set forth in the applicable collective bargaining agreement.

Should the written complaint involve the School District's overall compliance under Title IX or violation of Board of Education Policy No. 3.48 (Title IX Policy), the Title IX Coordinator will cause a thorough and objective review of the written complaint to be conducted and a written response mailed to complainant within 30 calendar days of receipt of the complaint. The Complainant shall also have the opportunity to present evidence to the Title IX Coordinator regarding all issues of the School District's overall compliance under Title IX or of a violation of Board of Education Policy No. 3.48 (Title IX Policy).

A copy of the written complaint, including all evidence presented by the Complainant and the Title IX Coordinator's response shall be provided by the Title IX Coordinator to the Superintendent of the Springer Municipal Schools and to each member of the Board of Education for the Springer Municipal Schools.

If the complainant is not satisfied with the response of the Title IX Coordinator, he or she may submit a written appeal within 15 calendar days of receipt of the response to the Title IX Grievance Hearing Committee indicating with particularity the nature of disagreement with the response from the Title IX Coordinator and his or her reasons underlying such disagreement.

The Title IX Grievance Hearing Committee shall schedule a hearing within 15 calendar days of receipt of the written appeal to review the facts underlying the disagreement and to allow the complainant to present additional evidence and witnesses regarding his or her disagreement with the response of the Title IX Coordinator.

The Title IX Grievance Hearing Committee shall provide the complainant with a minimum of 5 calendar days notice of the hearing date. The Title IX Grievance Hearing Committee shall issue a written decision and mail it to complainant within 10 calendar days of the completion of the hearing. A copy of the written decision shall be provided by the Title IX Coordinator to each member of the Board of Education for the Springer Municipal Schools.

If the complainant is not satisfied with the decision of the Title IX Grievance Hearing Committee, he or she may submit a written appeal to the Board of Education for the Springer Municipal Schools within 5 calendar days of receipt of the committee's decision indicating with particularity the nature of disagreement with the decision of the Title IX Grievance Hearing Committee and his or her reasons underlying such disagreement.

The Board of Education for the Springer Municipal Schools shall consider the appeal at its next regularly scheduled meeting following receipt of the complainant's appeal as permitted under the New Mexico Open Meetings Act. At the Board of Education's sole discretion, it may hear additional evidence regarding the facts underlying the disagreement and may open or close the meeting to the general public as permitted by the New Mexico Open Meetings Act. The Board of Education shall issue its decision and mail it to complainant within 15 calendar days of its meeting.

Steps for Filing a Title IX Grievance

1. Pick up a Grievance Form from the Title IX Coordinator, Director of Athletics or School-based Principal or prepare a written complaint/grievance.
2. Return or mail the completed form or the written grievance with documentation attached to:

High School Principal
Title IX Coordinator for Springer
Springer Municipal Schools
P O Box 308
Springer, New Mexico 87747
(505) 483-3432
FAX (505) 483-2387

3. The complaint process will then follow the specific steps and time lines set forth in the “Grievance Procedures” section of this Policy.
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GIFTS AND DONATIONS POLICY

The Board of Education for the Springer Municipal Schools finds that private gifts and donations provided to the various athletic or academic programs of the School District could potentially alter the equivalence of benefits required to be provided to boys’ and girls’ athletics, academics, and training required by Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), which prohibits discrimination on the basis of gender by educational institutions that receive federal funds directly or indirectly. The Board of Education further acknowledges that contributions of gifts and donations must be included in the School District’s ongoing evaluation of its compliance with Title IX, and that the School District must therefore take care to maintain a balance in the benefits provided by the boys’ and girls’ programs.

To promote compliance with Title IX, it is the Board of Education’s purpose through this Policy to help maintain the overall equivalence of opportunity for male and female students and employees to participate in athletic programs, academic programs, and training within the School District.

Donor Responsibilities.

A donor must fully complete and submit to the Superintendent or his or her designee the Gifts and Donations Form provided in Appendix A of this policy. The receipt of the fully

completed Gifts and Donations Form and the approval of the gift or donation by the Board of Education is required before the gift or donation may be accepted by the Springer Municipal Schools.

Anonymous Donors.

The Gifts and Donations Forms cannot be kept confidential should the donor wish to be anonymous. However, the School District will refrain from publicizing the name of donors who wish to remain anonymous.

Procedures for Determination of Acceptance.

- a. The Superintendent or his or her designee shall:
 - i. ensure that the Gifts and Donations Form provides notice to the person, persons, group or organization donating to the Springer Municipal Schools that acceptance of all gifts and donations is conditional on the determination that such provide a benefit to the overall academic or athletic programs of the Springer Municipal Schools, and that the donation shall not be limited to any one team, sport, class, seminar, athletic program or academic program;
 - ii. ensure that all gifts and donations offered to School District schools will be considered in regard to Title IX requirements and any gift or donation that would result in the School District's violation of Title IX will be declined, except as otherwise provided in this policy;
 - iii. ensure that all gifts and donations provide an overall benefit to the academic or athletic programs of the School District .
 - iv. ensure that the gift or donation is not directed to any one team, sport, class, seminar, athletic program, or academic program.
 - v. provide the Board of Education with a written recommendation regarding acceptance of each gift or donation, and its effect on the School District's compliance with Title IX.
- b. The Board of Education shall meet in open session to consider the Gifts and Donations form and the recommendation of the Superintendent, and to act upon such recommendation regarding acceptance or non-acceptance of a gift or donation by the School District pursuant to an action item on the meeting agenda.

Gifts or Donations affecting Title IX Compliance.

- a. If the Superintendent finds that the School District's acceptance of a gift or donation will create an imbalance of benefits provided to male or female students such as to violate Title IX, the Superintendent will develop and

recommend to the Board of Education a proposal for the redistribution of sufficient School District funds to offset the benefit provided to students of one gender over those of the other by the donation.

b. The Board of Education shall ensure that no gift or donation will be approved for acceptance that will make the school district fail to comply with the requirements of Title IX unless the Board of Education redistributes sufficient School District funds to offset the benefit provided by the donation to one gender over the other returning the School District into compliance with Title IX.

Adopted: September 14, 2006

Revised:

Legal Reference:

GIFTS AND DONATIONS FORM

Springer Public Schools

To ensure the School District's compliance with federal law prohibiting gender discrimination in educational institutions, it is the policy of the Springer Municipal Schools that there be the overall equivalence of opportunity for male and female students and employees to participate in athletic programs, academic programs, and training within the school district. Accordingly, it is the policy of the School District that acceptance of all gifts and donations are conditioned upon the gift or donation providing an overall benefit to the academic or athletic programs of the School District and school and that the donation shall not be limited to any one team, sport, class, seminar, athletic program or academic program except as otherwise provided in the Board of Education's policies.

All gifts and donations to the Springer Municipal Schools will be reviewed by the Superintendent and considered by the Board of Education for acceptance. **Accordingly, please do not attach your gift or donation to this form.**

Please complete this form and submit it to the Superintendent's Office. Thank you for your generosity!

Name: _____

Mailing Address: _____ City _____ State _____

Telephone: _____ E-Mail: _____

Please describe your proposed gift or donation:

Are there any conditions or limitations to your gift or donation? _____ Yes _____ No

Please describe any conditions.

Signature _____

Date _____

2.49 TITLE VI POLICY

2.49.1. The purpose of this Policy is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 to the end that no employee or student of the School District shall; on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any educational program or activity of the School District.

2.49.2. The Superintendent shall:

2.49.2.a. designate a principal or associate/assistant superintendent within the School District to act as the School District's Title VI Coordinator for a period of not less than two years or until the end of the designee's employment which ever is shorter;

2.49.2.b. ensure the Title VI Coordinator's identity and contact information is published in such a manner to ensure availability of this information to each employee and student and his or her parent(s)/guardian(s) of the School District annually;

2.49.2.c. ensure that the Title VI Coordinator has sufficient authority to continuously evaluate the School District's compliance with Title VI, conduct necessary investigations and issue reports to the Superintendent regarding the School District's compliance with Title VI, and ensure that he or she has sufficient authority and the necessary procedures to investigate and report on all written complaints of alleged violations of Title VI or the School District's policies regarding Title VI.

2.49.3. Any employee or student who believes he or she has been denied any service or benefit because of race should contact the Title VI Coordinator for the School District as identified by the School District or by obtaining the contact information from the Superintendent of Schools.

Adopted: September 14, 2006

Revised:

Legal Reference:

Policy 2.50 AMERICANS WITH DISABILITIES ACT

Title II of the Americans with Disabilities Act 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.

Pursuant to the US Department of Justice regulations implementing Title II of the Americans with Disabilities Act as amended in the future, the School District has adopted the following internal grievance procedure.

- A. Complaints are to be submitted within thirty (30) days after the complainant becomes aware of the alleged violation of the ADA.
- B. Complaints are to be submitted in writing to the ADA Coordinator: Director for Human Resources, Springer Municipal Schools, P O Box 308, Springer, New Mexico 87747.
- C. Complaints shall set forth the name and address of the person submitting the complaint and a brief description of the alleged violation.
- D. Complaints submitted pursuant to this procedure shall be appropriately investigated by the ADA Coordinator or his or her designee. Investigations shall be conducted on an informal basis and shall afford all interested parties and their representatives an opportunity to submit evidence relevant to the complaint.
- E. A written determination of the validity of the complaint and a description of the resolution shall be issued by the ADA Coordinator. A copy of the determination and resolution shall be forwarded to the complainant within thirty (30) calendar days of the filing of the complaint.
- F. The complainant may request a reconsideration of the resolution of the complaint by submitting a written request for reconsideration to the Superintendent of Schools within thirty (30) calendar days of the issuance of the resolution by the ADA Coordinator.
- G. The rights of individuals under this procedure are in addition to other remedies provided by law, including the filing of a complaint under the ADA with the appropriate federal department or agency. The submission of a complaint pursuant to these procedures is not a prerequisite to the pursuit of any other remedies provided by law.
- H. These rules shall be construed and interpreted to protect the substantive rights of persons under the ADA and to ensure that the School District complies with its obligations under the ADA and implementing regulations.
- I. The ADA Coordinator shall maintain files and records for the School District regarding complaints submitted pursuant to this procedure.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.51 School Site-Based Councils

Each public school within the District shall have a school council to assist the principal in an advisory capacity with school-based decision-making and to provide parents with the opportunity for greater involvement in their children's education.

A. Membership

Each school council shall be composed of a seven-member council, to be chaired by the principal, and whose membership shall be composed of two school employees, two parents and two community members. If such person is available, at least one community member shall represent the business community. The principal shall be an active member on the council. In the event insufficient interest is shown in a seven-member council, as demonstrated by the failure of sufficient numbers of candidates to declare for positions, the principal may reduce the membership to retain, as closely as possible an equitable ratio of categories of members.

B. Election Procedures

1. Term. Each school council shall be elected annually no later than the fortieth day after the beginning of each school year and shall serve until the expiration of the council's term on June 30th of the following year.
2. Qualifications for Membership. Any qualified registered voter of Colfax or Union County physically residing in a school's attendance zone shall be eligible for election to that school's council and any qualified registered voter whose child is enrolled in and attends the school shall be eligible for election to such school's advisory council. School council members shall be eligible for re-election to no more than two successive terms so long as they remain qualified for membership as specified in this section.
3. Declaration of Candidacy. A declaration of candidacy for membership on a school council may be obtained from the first day of each school year through the first Tuesday of September of each school year at the school site or the central administrative office. The completed declaration of candidacy shall be returned to the principal of the school site at which the candidate desires to be a council member along with a separate statement of 50 words or less of the candidate's reasons for desiring to serve on the council no later than 4:00 p.m. on the second Friday in September. **[Note: The Declaration of Candidacy provides that a candidate shall select only one category of membership (employee, parent or community member) in which he or she desires to serve.]**
4. Conduct of Election. The election shall be nonpartisan. The election shall be conducted by paper ballot on white paper of uniform size. The names of the candidates shall be printed on each ballot in black ink. Voting shall be conducted by circling the name of the candidate the voter approves as a member of the council. Only one name in each council member category may be approved.

Each school site shall maintain a locked ballot box at the principal's office where

ballots may be deposited.

Voters may deposit ballots in the ballot box at each school site during the normal business hours of such school beginning at 8:00 a.m. on the fifth school day prior to the date set for the election and ending at 4:00 p.m. on the election date set by the school principal for that school council's election.

C. Qualification of Voters

A person is a qualified voter for purposes of a school council election if he or she is a qualified registered voter in Colfax or Union County and a resident of the attendance zone of the school at which the voter wishes to vote or is a parent of a child enrolled and attending the school at which the voter intends to vote.

D. Notice and Administration of Election

The District shall publish the list of candidates for each school council position on the District's website, if any, beginning two (2) weeks prior to the date of the election, by posting a notice of the candidates at each school site and by publishing a list of candidates once a week for two consecutive weeks immediately prior to the date of each election in a newspaper of general circulation in the district. Such publications shall also include the dates for voting and the location of each school site and be in English and Spanish. Each school site may also provide additional public information concerning each election and candidate.

E. Canvass

Voting at each school site shall be canvassed by the principal and shall be completed by 5:00 p.m. on the second day after the date of the school site election. The candidate in each category receiving a majority of votes shall be the elected member for that category. In the event of a tie in any category, the tie shall be broken by coin-toss of the candidates who are tied.

F. Publication of Election Results. The principal shall post the names of the elected members to the council at the principal's office of each school site by 5:00 p.m. on the third day after the election. The District shall publish the names of the elected members on the District's website, if any, and once in a newspaper of general circulation in the district as a press release no later than the tenth day after the date of election.

G. Vacancies

In the event of a vacancy on an advisory council due to death, resignation or other cause, the vacancy shall be filled by appointment by the Superintendent of another qualified individual in the category in which the vacancy exists. The appointed member shall serve until the end of that school council term.

H. Meetings

The first meeting of the advisory council shall occur no later than the fiftieth day after the

commencement of the school year. Thereafter, meetings shall be called by the principal. Meetings of advisory council are not policy-making meetings of the Board and are not required to be called and conducted in accordance with the Open Meetings Act, NMSA 1978 §10-15-1, *et seq.*

I. Role of Council

Each school council shall function as an advisory council to the principal in accordance with Section 22-5-16 NMSA 1978 and such other duties and responsibilities as the principal may from time to time delegate.

J. Status

Members of the advisory councils are not employees or officers of the District and are not entitled to any benefits of employment or other payments or reimbursements.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.52 Sexual Harassment of Students

The effective education of our students requires a school environment in which students feel safe and secure. Sexual Harassment of students by employees impairs the proper atmosphere for education, and often creates an inequitable climate for learning.

Nationwide survey information indicates that the problem is widespread. A majority of students - both boys and girls - reported that they have experienced some form of sexual harassment in school. Those students reported that their experiences had a variety of negative effects on themselves and their education. Some of the results reported were that students did not want to go to school or did not want to participate in class as much, found it harder to pay attention in class or to study, thought about changing schools, or wondered if they could graduate.

In addition to its negative effect upon education, sexual harassment negatively affects the characters of young people, both the harassers and the victims of harassment. That is particularly so in view of the special vulnerability of students at different stages of their personal development. It is clear that sexual harassment, whether verbal or by other conduct, can create stress and distraction, and upsetting feelings of fear, inferiority, or anger, which are detrimental to the education of young people. Toleration of sexual harassment also sends the wrong message regarding appropriate social conduct. Sexual harassment is inappropriate behavior in school because it is inappropriate behavior in society.

Title IX of the Federal Education Amendments of 1972, provides that schools must provide an educational program that offers equal educational benefits for boys and girls. Decisions of the United States Supreme Court and the United States Department of Education make clear that sexual harassment of students by employees may violate the law.

The Board of Education therefore forbids harassment of any student on the basis of sex. The District will not tolerate sexual harassment of students by employees.

The intent of this policy regarding conduct between employees and students is clear and straightforward: No employee of the School District may engage in any conduct of a sexual nature with any student, regardless of the student's age, ability to consent, or actual consent.

Detailed Specification of Policy

A. Definitions and Standards of Conduct

Between an employee and a student, sexual harassment is **any** conduct of a sexual nature. Specific definitions follow:

1. Conduct of a Sexual Nature

Conduct of a sexual nature may include, but is not limited to:

- a. verbal or physical sexual advances, including subtle pressure for sexual activity;
- b. verbal descriptions of sexual activity or soliciting or encouraging such

description from students;

- c. repeated or persistent requests for dates, meetings, and other social interactions;
- d. initiating or repeating rumors, gossip or speculation or creating or circulating written material about a student's sexuality, sexual activity, sexual preference or orientation;
- e. dating, engaging in a romantic or sexual interaction or relationship or any sexual activity with a student;
- f. sexually-oriented touching, pinching, patting, staring, pulling at or attempting to look under clothing, or intentionally brushing against another;
- g. showing or giving sexual pictures, photographs, illustrations, messages, or notes;
- h. using physical proximity or closeness as a physical or sexual advance;
- i. comments or name-calling of a sexual nature to or about a student regarding alleged physical or personal characteristics, appearance, clothing or sexual preference or orientation;
- j. sexually-oriented kidding, teasing, "double-entendres," and jokes;
- k. use of sexually-oriented or nonverbal signs, sounds, facial expressions or gestures to convey sexual messages; and
- l. any harassing conduct to which a student is subjected because of or regarding the student's sex.

2. Standard of Conduct for Employees

No employee may engage in conduct of a sexual nature with a student at any time or under any circumstances, regardless of whether such conduct takes place on school property or in connection with any school sponsored activity.

3. In order to be considered prohibited conduct of a sexual nature for which administrative or disciplinary action may be taken under policy:
- a. submission to or rejection of the conduct **need not** be a basis for an academic or educational decision affecting the student; and
 - b. the conduct **need not** substantially interfere with the student's academic or educational performance and **need not** create an intimidating, hostile or offensive school environment.

B. Reporting, Investigation, and Sanctions

1. Reporting. It is the express policy of the Board to encourage students who feel they have been sexually harassed by a school employee to report such claims.
 - a. Reporting of Sexual Harassment by a school employee
 - (i) any student who believes he or she has been subjected to any conduct of a sexual nature by a school employee may tell a counselor or principal;
 - (ii) if a student who believes he or she has been sexually harassed by a school employee feels uncertain about who to tell, or feels uncomfortable telling any counselor, or principal, the student should tell his or her parent(s) about the problem, and ask for the parent(s) help in reporting the sexual harassment to appropriate school personnel;
 - (iii) if a student believes he or she has been sexually harassed by a counselor or a principal, or by any other administrator, the student should seek the assistance of his or her parent(s) in reporting such harassment to the Superintendent or to a member of the Board.
 - b. Reporting by Employees Mandatory

Any employee who receives **any** report of sexual harassment of a student, by an employee whether the report is given by a student, a parent, or another employee, or who himself or herself observes instances of sexual harassment of a student and by an employee **must** notify his or her immediate supervisor or the Superintendent, regardless of whether the employee receiving the report or observing the instance considers the matter credible or significant.
2. Investigation. All reports of sexual harassment of students by employees will be appropriately and promptly investigated by the Superintendent or his or her designee for possible employment action, and also to local law enforcement authorities for investigation of criminal violation. Any incident of sexual harassment which may allegedly involve sexual misconduct by an employee shall be immediately referred to local law enforcement for investigation. In determining whether alleged conduct constitutes sexual harassment misconduct, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated.
3. Sanctions. Any employee found to have engaged in conduct of a sexual nature with a student shall be subjected to sanctions, including, but not limited to, warning or reprimand, suspension, termination or discharge, subject to any applicable procedural requirements. The Administration need not use “progressive discipline” or intermediate disciplinary measures for sexual harassment. The discretion to seek immediate termination or discharge of an

employee for any individual incident of sexual harassment is hereby delegated to the Administration in appropriate circumstances.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.53 Solicitations

The Superintendent will assure that staff members are not disturbed during the duty day by solicitors. Staff members shall refrain from solicitations which involve the Springer Municipal Schools, other than for authorized purposes as approved by the Superintendent. State law precludes staff members from certain forms of solicitation of business, commercial sales or employee involvement in purchases, unless specific conditions are met. Thus, all solicitations of or by staff members must be approved by the Superintendent.

No person shall sell or use student, faculty or staff lists with personal identifying information obtained from a public school or a local school district for the purpose of marketing goods or services directly to students, faculty or staff or their families by means of telephone or mail. The provisions of this paragraph shall not apply: (1) to legitimate educational purposes, which shall be determined by rules and regulations developed by the department of education; or (2) when a parent of a student authorized the release of the student's personal identifying information in writing to the public school or local school district. For the purposes of this subsection, "personal identifying information" means the names, addresses, telephone numbers, social security numbers and other similar identifying information about students maintained by a public school or local school district.

Adopted: September 14, 2006

Revised:

Legal References: NMSA 1978, §§ 22-21-1 and 22-21-2
NMSA 1978, §§ 13-1-190 to 13-1-199

2.54 Nepotism

The School District is prohibited from the initial employment or approval of employment in any capacity, of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter or daughter-in-law of any member of the School Board or the Superintendent. The School Board may waive the nepotism rule for family members of the Superintendent. The continued employment of an individual related to a member of the School Board or to the Superintendent shall not be prohibited so long as the individual was regularly employed by the School District at the time of the election or appointment of the related Board member of the Superintendent to the respective office.

Adopted: September 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-5-6

2.55 Fair Labor Standards Act

A. Wage and Hour Information

This policy excludes employees considered exempt under the Fair Labor Standards Act, including professional, executive or administrative employees under federal definitions, and part-time employees. All other employees working more than forty (40) hours (authorized only) per week are entitled to overtime or compensatory time. Detailed records of actual hours worked by non-exempt employees must be maintained by the Administration for audit and payroll purposes.

Each forty-hour week is separate regardless of whether pay period is weekly or otherwise. The forty-hour maximum must be enforced. Employees cannot remain on the job over forty (40) hours per week, even voluntarily. No employee shall receive less than the minimum wage.

B. Support Staff Overtime Compensation Plan (Compensatory Time Off)

1. Overtime at the rate of time and one-half will be earned by any employee who is required to work more than forty (40) hours during the work week.
2. All overtime must have prior approval of the Superintendent or the Superintendent's designee(s).
3. Compensation for overtime may be made by granting compensatory time off at a rate of one and one-half hours for each hour of overtime worked. Compensatory time off shall be taken during the workweek following the week in which it was earned, unless the use of the compensatory time off would unduly disrupt the operations of the District. Such compensatory time off may be taken as soon as is reasonably possible thereafter. Compensatory time off shall not be accrued in excess of twelve (12) hours in twenty (20) school days.
4. An employee who has accrued compensatory time off as provided in this policy, shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than:
 - a. the average regular rate received by such employee during the last three (3) years of the employee's employment; and
 - b. the final regular rate received by such employee, whichever is higher.
5. The hours worked by an employee, who, at his or her option, engages in part-time occasional sporadic employment for the District in a different capacity than his or her primary employment, shall be excluded from the calculation of hours for which the employee is entitled to overtime compensation.
6. If an employee, solely at his or her option and with the approval of the Superintendent, agrees to substitute during the scheduled work hours for another employee who is employed in the same capacity, the hours worked as a substitute

shall be excluded by the District in the calculation of hours for which the employee is entitled to overtime compensation. This overtime compensation plan does not apply to employees considered exempt under the Fair Labor Standards Act.

7. Payment for overtime shall be made on the employee's regular payday for the pay period encompassing the workweek in which such overtime was earned. The hours worked by an employee, who, at his or her option, engages in part-time, occasional, or sporadic employment for the District in a different capacity than his or her primary employment, shall be excluded from the calculation of hours for which the employee is entitled to overtime compensation.
8. Records are to be kept on all overtime payment and compensatory time by the site supervisor and the Business Office.
9. Classified employees performing work on behalf of the District in multiple job categories (e.g., teacher aide/club sponsor; bus driver/coach; cafeteria aide/concession operation) shall have all hours worked in multiple capacities documented and aggregated for purposes of entitlement to overtime or compensatory time.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.56 Employee Drug and Alcohol Abuse Policy

A. Substance Abuse Prohibited

Springer Municipal Schools forbids any employee from possessing, using, selling, distributing, manufacturing, or being under the influence of alcohol or drugs, and from possessing, using, selling, manufacturing or distributing drug paraphernalia while on School District property, including residence halls, or while involved in, or attending School District activities, or in School District vehicles or contracted buses.

B. Reporting Use of Prescription Drugs

1. If an employee is properly using drugs pursuant to an authorized prescription or properly using an over-the-counter drug, and such use may affect or impair such employee's performance of his or her job duties, such employees shall report such use to his or her supervisor.
2. In appropriate cases, the supervisor may limit, modify, or suspend the employee's duties during the time her or she is using the drug, but such use shall not be considered a violation of this policy.

C. Definitions

The terms used in this policy are defined as follows:

1. Alcohol. Any liquor, wine, beer or other beverage containing alcohol.
2. Drugs. Any drug, including illegal drugs, marijuana, inhalants, legal prescription and over-the counter drugs used or possessed or distributed for unauthorized purposes and counterfeit (look-alike) substances.
3. Drug Paraphernalia. Equipment or apparatus designed for or used for the purpose of measuring, packaging, distributing or facilitating the use of drugs.
4. Substance Abuse. The use of drugs or alcohol in violation of state or federal law or in violation of School District policy.

D. Enforcement of Policy

The School District reserves the right to search an employee's person, personal effects, and vehicle, when there is reasonable suspicion that such employee has violated this policy. An employee's refusal to cooperate in any such enforcement procedures may be grounds for discipline, including discharge.

E. Penalties for Violations

Employees found to have been in violation of this policy may be subject to discipline, including suspension, discharge, or non-renewal of employment, and report to law enforcement.

Adopted: September 14, 2006
Revised:
Legal Reference:

2.57 Possession of Weapons

No person shall go onto District premises, property or vehicles or attend or participate in school sponsored activities or events with a firearm, explosive weapon, or illegal weapon unless pursuant to written regulations or written authorization of the Superintendent. An employee shall not interfere with normal activities, occupancy, or use of any building or portion of the campus by exhibiting, using, or threatening to exhibit or use the firearm, explosive weapon, or illegal weapon.

Employees found to be in violation of this policy shall be subject to appropriate disciplinary action, including suspension and/or discharge from employment, and report to law enforcement.

Adopted: September 14, 2006

Revised:

Legal Reference: NMSA 1978, §30-7-2.1
Gun Free Schools Act

2.58 Special Education Employee Evaluation

The Board recognizes the complexities of the laws and regulations pertaining to students served in Special Education and pertaining to all employees who work with those students. All these employees, however, are also members of our school staff and as such are subject to the same policies and expectations pertaining to other school employees.

All district staff persons in Special Education will be evaluated by the principal(s) of the school(s) where they work according to the expectations held for any other employee of similar status, i.e., licensed instructors, instructional assistants, or other. These employees will also be evaluated on the same regular schedule by the Special Education Director for their competence and performance of duty in working with Special Education students, with special regard to their faithful adherence to those matters which relate to keeping the Springer Schools in compliance with federal and state law and regulation.

The Special Education Director will be evaluated by the Superintendent with evaluation input from Special Education staff members and the school principals.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.59 Communications with Parents

The Springer Municipal School Board expects for all teachers to communicate with parent(s)/guardian(s) concerning their children's attendance, progress, needs, or concerns once per grading period. Each teacher will keep a log on contact made with each student's parent(s)/guardian(s) in their class. This log will be turned in to the principal at the end of the school year. The principal will keep teacher logs for a period of five (5) years.

Teachers are to contact parents when a student is absent after three (3) days or when there is an attendance problem. Parent(s)/guardian(s) are to be contacted by the teacher within that week when a student is in academic trouble. A student in academic trouble is identified when the student's grade is lower than a "C" or when any work is less than satisfactory.

Adopted: September 14, 2006

Revised: July 24, 2007

Legal Reference:

2.60 Family and Medical Leave of Absence

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 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 12 months, during which the employee must have worked a total of 1250 hours.
- B. Pursuant to the Family and Medical Leave Act, employees are permitted up to twelve (12) workweeks 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 a child);
 - 3. care of the employee's spouse, son or daughter or parent with a serious health condition; or
 - 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:
 - 1. requires in-patient care in a hospital, hospice, or residential medical care facility;
 - 2. 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 (3) days, or
 - 3. involves parental 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 their 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 Superintendent 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 specific 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) workweeks 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 treatment of the employee's own serious health condition, each spouse may take up to twelve (12) weeks per 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 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 percent (20%) 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;
2. transfer temporarily to an equivalent position, which better accommodates recurring periods of leave.

“Instructional employees” include teachers, instructional assistant, 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 - examination, 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 (5) weeks before the end of a semester: If an instructional employee starts a leave more than five (5) 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 (3) weeks’ duration; and
 - b. the employee would return from leave during the three-week period preceding the semester’s end.
2. Leaves beginning five (5) weeks or less before the end of a semester: If an instructional employee begins a leave five (5) 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 (2) weeks; and
 - b. the employee would return from leave during the two-week period before the term’s end.
3. Leaves beginning three (3) weeks or less before the end of a semester: If an instructional employee starts a leave three (3) 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 (5) working days.

- M. All requests for family/medical leave must be approved by the employee's supervisor and the Superintendent of Schools or his/her designee must approve family/medical leave.
- 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 (6) weeks sick leave. The employee must use the six (6) weeks of paid sick leave and may thereafter use the remaining six (6) weeks of unpaid leave available under this policy.

Example B: An employee wishes to use four (4) 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 the other district leave policies. Such identification shall be made at the time leave is requested or during such leave, on the basis of information provided by the employee.

- O. During the period of leave, the School District will maintain for 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 re-sorted 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 (10%) 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.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.61 Reference, Background and Criminal Records Investigations

Applicants recommended for employment with the district are subject to work history, education history, and reference investigations, including, but not limited to substitutes and temporaries. Each such applicant will be subject to a criminal background investigation, including mandatory fingerprinting, at the candidate's expense, as a condition of further consideration for employment.

All offers of employment are contingent upon the satisfactory completion of background investigations. Criminal convictions shall not automatically bar an applicant from obtaining employment with the District, but pursuant to the Criminal Offender Act, NMSA 1978 §§ 28-2-4 and 28-2-5, may be the basis for refusing employment.

Criminal background checks, as described above, shall also be conducted upon each contractor or contractor's employee, at the expense of the contractor or contractor's employee if the contractor or contractor's employee has unsupervised access to students. In such cases, contracts shall be subject to the satisfactory completion of background checks.

The administration may also conduct the reference or 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.

Adopted: September 14, 2006

Revised:

Legal Reference: NMSA 1978, § 22-10A-5

2.62 Conflict of Interest

No School Board member or School District employee shall directly or indirectly, sell or be a party to any transaction to sell any instructional materials, services, furniture, equipment, insurance, school supplies or work under contract to the department of education, school district or public school with which he/she is associated or employed. Direct or indirect participation means involvement through decision, approval, disapproval, recommendation, formulation of any part of a purchase request, influencing the content of any specification, investigation, auditing or the rendering of advice. No such person shall receive any commission or profit from the sale or any transaction to sell any instructional material, furniture, equipment, insurance, school supplies or work under contract to the department of education, school district or public school with which he is associated or employed. The provisions of this paragraph shall not apply to a person making a sale in the regular course of his/her business who complies with the provisions of Sections 13-1-1 through 13-1-26 NMSA 1978. The provisions of this paragraph shall not apply in cases in which School Board members or School District employees contract to perform special services with the department of education, school district or public school with which they are associated or employed during time periods wherein service is not required under a contract for instruction or administration.

No Board member or employee of the School District shall solicit or sell or be a party to a transaction to solicit or sell insurance or investment securities to any employee of the department of education or any employee of the school district whom he supervises.

No school employee shall participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

No school employee shall accept bribes, gratuities or kickbacks.

It is unlawful for a school employee to be retained upon an agreement or understanding that the compensation is contingent upon the award of the contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and persons or businesses employed by the Board of Education which are providing professional services to the Board of Education in anticipation of the receipt of federal or state grants or loans.

It is unlawful for any school employee who is participating directly or indirectly in the procurement process to become or to be, while a school employee, the employee of any person or business contracting with the School District.

Adopted: September 14, 2006

Revised:

Legal Reference: NMSA 1978, §§ 22-21-1;13-1-190 to 13-1-194.

2.63 Code of Ethics and Conduct

I.

ADOPTION OF STATE CODE OF ETHICS: LICENSED PERSONNEL

The Board of Education recognizes that the New Mexico Public Education Department has set standards of acceptable ethical behavior and professional conduct in education that are applicable to all licensed school personnel, instructional personnel under contract, including any other person who provides instructional services in a school but who does not hold a standard license and whose presence is authorized by the NMPED through a waiver, alternative license, substitute license, or an educational plan approved by the NMPED. See Code of Ethical Responsibility of the Education Profession, NMAC 6.60.9.1 to 6.60.9.12.

The Board of Education further recognizes the need to adopt local standards of ethical behavior and conduct which, if violated may constitute just cause for termination or discharge of licensed and non-certified personnel.

As a result, the Board of Education hereby adopts the NMPED's Code of Ethical Responsibility cited above and, by such adoption, makes the code of ethics therein applicable to all licensed personnel of the School District and compliance with those ethical standards a contractual duty of all licensed personnel of the District.

II.

CODE OF CONDUCT: ALL PERSONNEL

The Board of Education further adopts the following code of conduct **for all employees** establishing standards and expectations for employee behavior which, if violated, may form a basis for discipline, up to and including termination or discharge.

This code highlights employment responsibilities, and sets forth concrete behaviors appropriate for all school personnel. We are committed to this code and understand that it provides minimally-accepted standards of conduct for employees of the District.

To satisfy this obligation, all school employees shall:

A. AS TO STUDENTS:

(1) serve as a constructive role model for students of the District in accordance with the NMPED's Code of Ethical Responsibility, this policy and local community standards;

(2) in compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. Section 1232g, 29 C.F.R. Part 99 Subparts A - E), the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1401 *et seq.*, 34 C.F.R. Part 300) the Mental Health and Developmental Disabilities Code (43-1-19, NMSA 1978), the Inspection of Public Records Act (12-2-1A, NMSA 1978), the Public School Code (22-1-8, NMSA 1978), and the Children's Code (32A-2-32, 32A-4-3, NMSA 1978), refrain from disclosing and withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law.

(3) not discriminate, or permit students within the employee's control, supervision or

responsibility to discriminate against any other student, on the basis of race, color, national origin, ethnicity, sex, disability, religion, or serious medical condition.

(4) avoid using their position as a school employee to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a school employee or student to discipline for misconduct whether or not the student actually engages in the behavior.

(5) fraternize with or tutor students outside school or school-sponsored activities only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian.

(6) not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason.

(7) not lend a student money except in clear and occasional circumstances, such as instances in which a student may go without food or beverage or be unable to participate in a school activity without such financial assistance, and shall report all such instances and the reason therefore to the employee's supervisor as soon as practicable after the instance.

(8) not have inappropriate contact with any student, whether or not on school property, which includes, but is not limited to:

a. all forms of sexual touching, sexual relations or romantic relations;
b. inappropriate touching including but not limited to any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;

c. any open displays of affection toward mostly-boys or mostly-girls;
d. offering or giving a ride to a student unless absolutely unavoidable, such as instances in which a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements, and shall report all such instances and the reason therefore to the employee's supervisor as soon as practicable after the instance.

e. report any instance to the administration in which the employee reasonably suspects that another employee, student or person has engaged in such behavior toward a student at school or during any school-sponsored activity;

f. abide by the prohibitions of NMSA 1978 Section 30-9-10 which imposes felony sanctions for a school employee to have sexual relations with a student under 18 years of age;

(9) not interfere with a student's right or access to a public education by sexually harassing a student or permitting students within the control, supervision or responsibility of the employee to sexually harass any other student, which includes:

a. avoid making any sexual advances, requests for sexual favors, repeated sexual references, and avoid any name-calling by means of sexual references or references directed at gender-specific students; avoid any other verbal or physical conduct of a physical nature with a student even where the employee believes the student consents or the student actually initiates the activity, and any display or distribution of sexually-oriented materials, or information where students can see them;

b. avoid creating an intimidating, hostile or offensive school environment by, at a minimum, not engaging in any of the prohibited behaviors set forth in subparagraphs (8) or 9(a) above.

c. become familiar with and abide by the School Board's policies related to inappropriate contact with a student or sexual harassment of students by employees or students

by students.

d. report to the administration any instance in which the employee reasonably suspects that a student has been subjected to sexual harassment at school or during school-sponsored activity.

(11) not engage in unauthorized or inappropriate discipline of a student or corporal punishment in excess of, or contrary to, local school board policy, and in exercise of disciplinary action toward students, the employee shall:

a. control anger, de-escalate conflicts and confrontations, avoid losing his or her temper, and refrain from any form of excessive physical discipline or physical or verbal abuse of students. Physical intervention shall be used only to restrain students actively engaged in or threatening physical violence or harm toward himself, other staff members or students. Instances of such physical restraint shall be reported to the administration as soon as practicable.

b. refrain from using derogatory terms, offensive names or nicknames, or vulgar or profane language directed to, in the vicinity of, or when referring to students. School personnel shall further avoid name-calling, racial epithets or racially-insensitive terms, crude anatomical references, racial, ethnic or sexual jokes or slurs, or offensive or pejorative verbal or non-verbal communication, signs or other physical gestures which are likely to elicit a negative response. It shall be the duty of the employee to assure that particular forms of communication as specified herein are appropriate for use in a school setting or in the context in which he or she proposes to use them.

c. Decline to permit himself or herself to be provoked into a response barred by this policy, by student conduct or communication.

(12) not engage in violent or threatening behavior toward students, regardless of provocation, except when required for the immediate defense from serious physical harm of the employee, another student, staff member or authorized person on campus

B. IN GENERAL:

(1) comply with all school board policies and administrative regulations, or if applicable, approved collective bargaining-agreements, setting forth specific employee behavior or conduct standards.

(2) not make a false or misleading statement or fail to disclose a material fact in any application for employment or licensure.

(3) not orally or in writing misrepresent his or her qualifications for an employment position or promotion.

(4) not assist persons in obtaining educational employment whom he or she knows to be unqualified in respect to their character, education, or employment history.

(5) not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in the District.

(6) not permit or assist unqualified or unauthorized persons to engage in employment within the School District.

(7) not disclose personal, medical, or other confidential information about other employees to anyone unless disclosure is required or authorized by law.

(8) not knowingly make false or derogatory personal comments about an employee, although First Amendment-protected comments on or off campus are not prohibited.

(9) not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100, excluding approved educational or employment-related awards, honoraria, plaques, trophies, and prizes.

(10) avoid conduct connected with the performance of official duties that is improper, illegal or gives the appearance of being improper or illegal.

(11) not sexually harass any school employee, any school visitor or anyone else whom he or she might encounter in the course of official duties, which includes:

a. avoid making any sexual advances, requests for sexual favors, repeated sexual references, and avoid any name-calling by means of sexual references or references directed at gender-specific individuals; avoid any other verbal or physical conduct of a physical nature with any of the above-named individuals even where the employee believes they consent or they actually initiate the activity, and any display or distribution of sexually-oriented materials or information where the above-named individuals can see them;

b. avoid creating an intimidating, hostile, or offensive work/school environment by at a minimum not engaging in any of the prohibited behaviors set forth at subparagraph 11(a) above.

c. become familiar with and abide by the School Board's policies related to sexual harassment of employees.

d. report to the administration any instance in which the employee reasonably suspects that a school employee, school visitor, or other person present at school or a school-sponsored activity has been subjected to sexual harassment.

(11) not engage in inappropriate displays of affection, even with consenting adults, while on school property, during school-sponsored activities or school events off campus.

(12) not use public school property to conduct personal business or personal affairs without permission of a supervisor.

(13) use educational facilities and property only for proper purposes related to legitimate School District business or purposes for which they are intended consistent with applicable policy, law and regulation.

(14) not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, disability, religion, or serious medical condition.

(15) not engage in any outside employment:

a. the performance of which conflicts with school employment duties;

b. which uses confidential or privileged information obtained from public school employment as part or all of private employment duties;

c. that impairs the physical ability to perform school employment duties.

(16) not, with the intent to conceal or confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

a. in connection with official school duties;

b. in connection with another person's official school duties;

c. in connection with any standardized or non-standardized testing;

d. in connection with any school application or disclosure process;

e. in connection with any writing submitted to the Department of Education related to initial or continued licensure, including endorsements.

(17) not, with the intent to deceive, engage in any conduct or make any statement:

a. that would breach the security of any standardized or non-standardized tests;

b. that would ignore portions or the entirety of any standardized or non-standardized testing instructions;

c. that would assist students in obtaining services or benefits to which they do not qualify or are not entitled.

(18) not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, disruptive, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace or interfere with or obstruct the lawful mission, processes, procedures or functions of the schools or the School District.

(19) not engage in violent or threatening behavior toward co-workers, supervisors, parents, members of the school community or members of the public, or others with whom the employee has contact in connection with his or her job duties.

(20) not engage in any behavior prohibited by the state's criminal code or conduct which may result in criminal penalties, civil fines or similar sanctions.

(21) respond in a constructive and professional manner to lawful directives, instructions or requests from supervisors or administrators.

III.

PENALTIES FOR FAILURE TO COMPLY WITH THIS CODE

A. The Board of Education finds that adherence to this Code of Ethics and Conduct has a significant bearing on a school employee's competence, turpitude or the proper performance of his or her duties. Further, the Code of Ethics and Conduct is intended to provide a valuable framework of personal ethics to assist employees in their interactions with colleagues, students and parents. However, the Code of Conduct establishes minimal standards of accepted conduct with which all employees are expected and required to comply.

B. The failure to abide by the standards of ethical behavior and conduct set forth in the Code of Ethics and Conduct may constitute just cause for termination or discharge of personnel subject to this code, by action of the local school board in accordance with applicable statutory procedures.

C. The failure or refusal to abide by the standards of conduct set forth in this code shall constitute insubordination and shall be considered conduct deemed to be outside the normal scope of duties of school personnel and, thus, shall not be subject to the procedures for correction of unsatisfactory work performance applicable to discharge of licensed personnel for unsatisfactory work performance, set forth in NMSA 1978 Section 22-10-21 and 6 NMAC 4.5.1.

D. It shall be the duty of the school superintendent to provide written notification to the Director of the Licensure Unit of the New Mexico Public Education Department, after taking final action to discharge or terminate the employment of any licensed or certified school employee, or any other person providing instructional services in a school who does not hold a standard license but whose presence was authorized by the NMPED through a waiver, alternative license, substitute license, or an educational plan approved by the NMPED, based in whole or part on a violation of this Code of Ethics or conduct, for possible license suspension or revocation.

Adopted: September 14, 2006

Revised:

Legal Reference: NMAC 6.60.9.1 to 6.60.9.12

2.64 Code of Ethics of Coaches

I hereby pledge to live up to the Springer Municipal Schools philosophy of POSITIVE INSTRUCTION AND ENCOURAGEMENT by following the CODE OF ETHICS.

1. I will place the emotional and physical well being of my players ahead of a personal desire to win.
2. I will treat each player as an individual, remembering the large range of emotional and physical development in their age group by controlling personal emotions on the court or field.
3. I will do my best to provide a safe playing situation for my players.
4. I will promise to review and practice basic first aid principles needed to treat injuries to my players.
5. I will do my best to organize practices that are fun and challenging to all my players.
6. I will lead by example in demonstrating fair play and sportsmanship to all my players.
7. I will provide a sports environment for my players that are free of drugs, tobacco, and alcohol, and I will refrain from their use at ALL SPORTS EVENTS.
8. I will play individuals fairly.
9. I will remember that I am a sports coach, and that the game is for the players and not the adults.
10. I will travel with the team and be responsible for my team's actions.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.65 Athletic Booster Clubs and Parent-Teacher Organizations

I. Purpose.

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

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

II. Group Status.

Booster clubs and parent-teacher organizations (PTO's) are neither school-sponsored clubs or student-initiated. Booster clubs and PTO's shall constitute "outside clubs or groups" which are school-related but must meet the terms of this policy in order to use the School District's or an individual school's name, mascot or logo and to use School District facilities as a school-related organization.

III. Booster Clubs.

Booster clubs for athletics, marching band, drill team, cheerleading, drama, choir, or other athletic, fine arts or academic activities are welcome to form, support and assist such student activities or programs, both financially and with volunteer assistance.

A booster club must prepare and submit to the School Board a copy of its organizational bylaws and constitution by presenting the same to the office of the Superintendent prior to initiating such support or assistance. All booster organizations must operate within the applicable standards and guidelines set by the New Mexico Activities Association, and shall not either promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards.

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

IV. Parent Teacher Organizations.

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

thereafter, each organization must provide the site administrator and the Superintendent with the names, telephone numbers and addresses of each officer of the organization, and position held.

V. Accounting by Booster Clubs and PTO's.

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

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

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

VI. Fundraising.

Each booster club or parent teacher organization shall be limited to two fund-raisers each school year which involve students in fundraising activities outside of the school setting. Booster clubs and PTO's shall notify and obtain the approval of the Superintendent or designee to assure that scheduling of fundraisers does not conflict with School District programs or activities, and that the fund-raising process is consistent with the goals and mission of the school or School District. All fundraising activities shall comply with state and federal law, and in particular, shall assure compliance with any applicable provisions of the New Mexico Bingo and Raffle Act, NMSA 1978 Sections 60-2B-1 to 60-2B-14. School employees, including athletic coaches, trainers or sponsors of school-sponsored student groups, shall not act as the primary organizers or spokespersons for any booster club or PTO fundraising event. Participation in fundraising activities by a booster club or PTO shall not be considered as a factor in a student's level of participation in any school activity or athletic program.

VII. Title IX Compliance.

The School Board discourages the formation or organization of booster clubs, which sponsor, assist or support student activities or athletic programs, which predominantly serve student participants of a single sex. In order to assure that contributions or support by booster

clubs and PTO's do not create inequities or significant disparities in the program, equipment and facilities made available to students participating in single sex sports, the booster club or PTO shall report to the Superintendent or designee as part of its annual financial or audit report the amount of funds donated or tangible personal property contributed to the District's educational, extracurricular or athletic programs, by program or sport, on an annual basis. Documentation establishing such donations or contributions shall be submitted with the annual financial report. Such donations or contributions shall be considered by the School District in determining whether comparable benefits are provided to extracurricular or athletic programs primarily designed for participants of a single sex. The Superintendent shall be authorized to decline particular donations or contributions to extracurricular or athletic programs, which may result in inequitable or unbalanced programs for male versus female athletes. In the alternative, the Superintendent may accept such donations or contributions on the express condition that the donation or contribution be made to the general school or School District student activity fund in order to prevent such imbalance. Support provided to a single athletic program, regardless of source, must be included in the School District's evaluation of its overall athletic program and the comparability of benefits made available to male versus female athletes.

The Administration shall create and complete a gifts and donations form prior to approval or acceptance by the School District of all donations or contributions of tangible personal property by the School District. All such donations or contributions must be considered in regard to the District's Title IX compliance prior to acceptance. Final approval of acceptance of all donations and contributions will be made by the Superintendent or designee.

VIII. Notice of Compliance.

At the beginning of each school year, the School District will publish the names of those booster clubs and PTO's, which are in compliance with this policy in the student handbook for the school or School District. Groups or organizations, which are not in compliance will not be identified, and the Superintendent may refuse the consent of the School District to use of the District's name, school name, campus or District mascot and logos or the use of District facilities as a school-related organization.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.66 Employment Recommendations for Current or Former Employees of the School District

A. Board Findings

The Board of Education finds as follows:

1. That under current New Mexico law, an employer and individual employees may be held liable for having provided incomplete or misleading employment references or recommendations in regard to the employer's current or former employees under certain circumstances;

2. That individual employees of the School District who wish to provide employment references or recommendations for current or former employees may not be in possession of all pertinent information regarding a current or former employee necessary to provide a complete and fair employment reference or recommendation;

3. That under current law, an individual employee of the School District who provides a recommendation or reference for a current or former employee of the School District may be mistakenly perceived as providing such reference or recommendation on behalf of the School District; and

4. That limitations and conditions are required to prevent employment references or recommendations by individual employees from being attributed to the School District when such references or recommendations have not been authorized by the School District.

B. Rules Regarding Employment References and Recommendations

In view of the foregoing, no employee of the School District is authorized to issue a written or oral employment reference or recommendation for a current or former employee of the School District except in compliance with the following:

1. No employee may issue or provide an employment reference or recommendation in his or her capacity as an employee of the School District for a current or former employee orally -- all such references or recommendations shall be in writing only.

2. No employee may issue or provide an employment reference or recommendation in his or her capacity as an employee of the School District for a current or former employee of the School District without first:

a. Providing a copy of the proposed reference or recommendation to the Superintendent for approval; and

b. Receiving the Superintendent's written authorization of the reference or recommendation provided.

3. An employee who wishes to provide an employment reference or recommendation in his or her *personal capacity only* for a current or former employee of the School District, without the authorization or endorsement of the School District, shall observe

the following limitations and conditions:

- a. No employee providing such *personal* reference or recommendation orally may do so during working hours, or while on School District premises, or through the use of a telephone or other communications media owned by the School District;
- b. No employee providing such *personal* reference or recommendation in writing may do so during working hours or while on School District premises, or using any District or school letterhead or any communications media owned by the School District, or by other means that suggests School District authorization or agreement; and
- c. An employee providing any such oral or written reference or recommendation shall specify in providing the reference or recommendation that he or she is speaking for himself or herself, and not on behalf of the Springer Municipal Schools.

C. Investigation and Record-keeping

1. Upon receiving a copy of or a request for a proposed reference for a former employee, the Superintendent shall make appropriate inquiries about the former employee of building administrators at each building in which the former employee worked while employed by the School District, and shall compile a record of all information regarding the former employee's competency, turpitude, and proper performance of duties. In approving the issuance of a recommendation on behalf of the School District, the Assistant Superintendent for Personnel shall ensure that the recommendation fairly reflects all relevant and reliable information bearing upon the former employee's competency, turpitude, and proper performance of duties.

2. The Superintendent shall keep and maintain copies of all proposed references or recommendations submitted to the Superintendent for Personnel, copies of information compiled as to each, and the Superintendent's responses to each such proposed reference or recommendation.

D. Penalties

Any violation of the provisions of this policy or any of its procedures by any employee shall subject such employee to discipline, including termination or discharge.

Adopted: September 14, 2006

Revised:

Legal Reference:

2.67 TEACHER PERFORMANCE EVALUATION FOR 3-TIERED LICENSURE

The New Mexico 3-Tiered Licensure System created by the passage of HB212 and the Public Education Department Regulation 6.69.4 Performance Evaluation System Requirements for Teachers sets forth specific requirements for a Highly Objective Uniform Statewide Standard of Evaluation (HOUSSE) for teacher licensure. New Mexico Statute 22-10A-4.B states that the New Mexico licensure framework for teachers is a progressive career system in which licensees are required to demonstrate increased competencies and undertake greater responsibilities as they progress through the licensure levels. PED Regulation 6.69.4.8.D states the format for this evaluation shall be established by the department and shall be uniform throughout the state in all public schools.

The 3-Tiered Licensure annual teacher performance evaluation system provides a differentiated approach to teacher performance evaluation in compliance with the requirements on NMSA22-10A-4.B for each level of licensure: Level I Provisional Teacher, Level II Professional Teacher, and Level III Master Teacher. The teacher performance evaluation instrument has nine competencies with differentiated indicators for each licensure level. The teacher performance evaluation procedures and the Professional Development Plan (PDP) procedures are also differentiated for each of the three licensure levels.

Required Performance Evaluation Components

Teacher Performance Evaluation Requirement:

PED Regulation Title 6, Chapter 69, Part 4: Performance Evaluation System Requirements for Teachers, states *“every public school teacher must have an annual performance evaluation based on an annual professional development plan...Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the measurable objectives were achieved. The school principal shall observe each teacher’s classroom practice at least once annually to determine the teacher’s ability to demonstrate state adopted competencies and indicators for each teacher’s licensure level.”* (6.69.4.8.D and 6.69.4.10.C & D)

There are many purposes for evaluation. Among them:

1. To assist in identifying and building upon teacher strengths.
2. To serve as the basis for the improvement of instruction.
3. To develop remediation goals.
4. To enhance the implementation of programs of curriculum.
5. To plan meaningful professional development.
6. To address accountability and teacher quality.
7. To support fair, valid and legal decisions for rehire, promotion decisions or termination.

Documentation Requirement:

1. Professional Development Plan (PDP) – required for every teacher every year
2. Reflection on Annual Professional Development Plan (PDP) - required for every teacher every year
3. Progressive Documentation of Teacher Performance – required for Level II or Level III licensed teachers for year one and year two of three-year cycle.
4. NM Teacher Performance Summative Evaluation for Licensure – required every year for Level I licensed teachers, required every three years for Level II and Level III licensed teachers.

Professional Development Plan Requirement:

PED Regulation 6.69.4.10.B.1-3 requires that the teacher and the school principal create the Professional Development Plan (PDP) no later than forty (40) days after the first day of each school year. The Plan must have measurable objectives, and must be based on, among other things:

- The nine teacher competencies and indicators for the teacher’s licensure level,
- The previous year’s annual evaluation (if applicable), and
- Assurance that the teacher is highly qualified in the core academic subjects the teacher teaches.

Classroom Observation Requirements and Data Collection:

PED Regulation 6.69.4.10.D requires that the principal “*observe each teacher’s classroom practice at least once annually to determine the teacher’s ability to demonstrate state adopted competencies/ indicators for each teacher’s licensure level*”. In the Springer Municipal School District Level 1 teachers will have two (2) formal observations and Level II and III teachers will have one (1) formal observation.

In addition to observations, collection of additional forms of data will assure a valid assessment of each employee’s ability to demonstrate the competencies. Options for additional data collection include but are not limited to: review of videotape; written documentation of activities; locally developed survey of staff, students, and/or parents; review of student work and performance; review of the teacher’s contribution to the school’s vision, mission, and outcomes; portfolios; information gained through peer observation and/or peer coaching; anecdotal records; reflective journals; self-evaluations; instructional artifacts; and other formats satisfactory to the teacher and the principal

Evaluation Criteria Requirement:

Evaluation for different purposes requires different procedures. The 3-Tier Licensure and Performance Evaluation System emphasizes teacher growth through differentiated teaching indicators that are reflective of the competency levels of teachers and the creation of individual Professional Development Plans.

Each of the three levels of licensure has nine (9) common competencies with differentiation occurring through license level-specific indicators. The performance evaluation system will indicate a teacher’s proficiency in these license level-specific indicators and competencies. The nine common competencies are:

1. The teacher accurately demonstrates knowledge of the content area and approved curriculum;
2. The teacher appropriately utilizes a variety of teaching methods and resources for each area taught;
3. The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding;
4. The teacher comprehends the principles of student growth, development and learning, and applies them appropriately;
5. The teacher effectively utilizes student assessment techniques and procedures;
6. The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment;
7. The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept;
8. The teacher demonstrates a willingness to examine and implement change as appropriate; and
9. The teacher works productively with colleagues, parents, and community members.

Assessment Guidelines for Teacher Competencies and Indicators:

The purpose of the Assessment Guidelines for Teacher Competencies and Indicators is to give teachers and administrators a tool to differentiate different levels of performance for Licensure Levels I, II, and III-A. The Assessment Guidelines provide concrete descriptions of effective teaching that develop over time. The descriptions contained in the Assessment Guidelines will accomplish three purposes:

1. Help teachers and administrators evaluate daily teaching practices in order to maintain and advance professional licenses;
2. Help teachers and administrators across the state develop consistent understandings of professional growth and evidence of student learning growth; and
3. Provide educators with professional language to talk about and build evidence for what they know and do that makes a difference for their students.

Administrators and teachers in the Springer Municipal School District will use the NM Teacher Licensure Assessment Guidelines for Teacher Competencies and Indicators as a tool to differentiate different levels of performance for Licensure Levels I, II and III-A.

Training for Teachers and Administrators Requirement:

Training must assure that all participants at the school level understand the purpose of and criteria for

performance evaluation through an annual Evaluation Orientation. The Evaluation Orientation must address the Teacher Competencies and Indicators for each level of licensure, and the role of the Professional Development Plan in the Performance Evaluation System. The Evaluation Orientation must also include an overview of the process whereby observations will be made and performance data collected, the forms to be used, and the timeline for completion. All teachers and administrators new to the district must attend the Evaluation Orientation.

Professional Development Plan Procedures

Within the first 40 days of the school year, the teacher and the school principal will establish a PDP utilizing the Springer Municipal School District PDP format.

- The plan must identify one or more measurable objectives.
- The measurable objectives must be based on the nine teacher competencies and indicators as determined by the teacher and the school principal. All nine competencies do not have to be addressed every year.
- The PDP may include multi-year measurable objectives and a plan to annually review the progress toward meeting measurable objectives.
- The PDP may be correlated with the district and or school's Educational Plan for Student Success (EPSS).

The PDP should include measures for determining progress, at regular intervals, toward meeting the goals.

Once the teacher and the school principal have established the measurable objectives and goals, both parties should collaboratively develop a clearly written plan to include the following:

1. Goals including competencies and indicators to be addressed;
2. Action plan including key actions, person responsible for the actions, resources, timelines, measures to assure desired results have been met; and
3. Observable target or desired results.

Before the end of the school year the teacher and the administrator will meet:

1. To assess how well the PDP was carried out;
2. The extent to which measurable objectives were achieved including a description of student achievement and learning growth; and
3. Will complete the annual formative evaluation of the PDP utilizing the Reflection on Annual Professional Development Plan (PDP) form.

The results of the annual formative evaluation of the PDP will be documented on the summative evaluation. [Annually for Level I; every 3 years for Levels II and III].

The PDP process shall be differentiated for level of licensure to meet the varied needs of the teachers at each level.

LEVEL I LICENSE PDP GUIDELINES:

The Level I license PDP process should have a structured focus on feedback and support regarding the teacher's performance on the nine teacher competencies during the first three years of the teacher's career. This focus should include the active involvement of a mentor teacher in the PDP process.

The Level I License PDP goals should focus on the teacher's efforts during the third year to develop a Professional Development Dossier (PDD) for advancement toward a Level II license.

LEVEL II LICENSE PDP GUIDELINES:

The Level II license PDP process may have multi-year objectives and have an option for a collaborative PDP with a colleague.

The Level II license PDP process may also address, after three years of experience as a Level II licensed teacher, the teacher's efforts to develop a Professional Development Dossier (PDD) for advancement to a

Level III license.

LEVEL III LICENSE PDP GUIDELINES:

The Level III License PDP Process should empower the teacher's self-directed development of the PDP, allow for multi-year objectives, and have an option for a collaborative PDP with a colleague.

Evaluation Procedures

The principal may complete a summative evaluation and hold a conference with the teacher at any time during the school year.

A summative evaluation of a teacher must be carried out by a licensed administrator.

The summative evaluation shall address how well the professional development plan was carried out and the measurable objectives achieved including a description of student achievement and learning growth.

Evaluation of Level I Teachers:

Evaluations will be completed annually, and will include:

1. **Reflection on Annual Professional Development Plan (PDP) progress toward accomplishing PDP goals and objectives;**
2. Documentation of annual observation of classroom practice (Two (2) observations);
3. Completion of the NM Teacher Performance Summative Evaluation based on Level I Competencies/Indicators.

Progressive Documentation and Evaluation of Level II and III Teachers:

Progressive documentation of a teacher's performance and professional development plan is a continuous process by which data are collected and analyzed annually to improve teacher quality. Progressive documentation is a process of ongoing formative evaluation over a three-year period. It includes a running record of authentic information about a teacher's performance in the areas of instruction (Strand A), student learning (Strand B), and professional learning (Strand C).

Progressive documentation includes:

1. **Reflection on Annual Professional Development Plan (PDP) progress toward accomplishing PDP goals and objectives;**
2. Documentation of annual observation of classroom practice (One (1) observation);
3. Other formative performance data;

Unless the principal determines that teacher performance indicates a need for more frequent evaluation, a Summative Performance Evaluation will be completed for Level II and III teachers only at the end of each three-year period based on appropriate Level II or Level III Competencies/Indicators.

PED Regulations regarding Demonstration of Essential Competencies at Level II or Level III:

If a Level II or Level III-A teacher does not demonstrate essential competencies for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the teacher still fails to demonstrate essential competencies, a district may choose not to contract with that teacher. [PED Regulation 6.69.4.10.E]

If a Level III-A teacher does not demonstrate essential competencies at Level III-A for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of the following school year the teacher still fails to demonstrate essential level III-A competencies, the superintendent may recommend to the Secretary of the Public Education Department that the teacher's Level III-A license be suspended until such time as the teacher demonstrates the essential competencies at Level III-A. Depending on the outcome of any due process proceeding under the Uniform Licensing Act, Sections 61-1-1 through 61-1-31, NMSA 1978, and if the superintendent verifies that the teacher meets the standards for a Level II license, the teacher may be issued a Level II license during the period of Level III-A licensure suspension. A suspended Level III-A license may be reinstated by the Secretary of

the Public Education Department either upon verification by a local superintendent that the teacher now demonstrates the essential competencies at Level III-A or through the process described in 6.69.4.11 NMAC. [PED Regulation 6.69.4.10.F]

Summative Evaluation Conference:

The principal shall conference with the teacher to discuss the results of observations and to review the Summative Evaluation. This conference may be combined with the meeting with the teacher to review the Reflection on Annual Professional Development Plan. A PDP for the next school year may also be initiated in this conference.

The teacher will sign the summative evaluation to indicate that he/she has received a copy of the evaluation. If the teacher refuses to sign for acceptance of the evaluation, a third party will witness that the teacher received a copy of the evaluation and will sign the evaluation as a witness to its delivery. The teacher may provide a written response to summative evaluation within five (5) working days. The teacher's written response will be attached to the summative evaluation in the teacher's personnel file.

The summative evaluation conference shall be a confidential conference between the teacher and the principal unless the parties mutually agree to allow other individuals to attend the conference.

Timeline for Assessment

Signed copies of required written documentation are due in the office of the Superintendent on or before the following dates:

Professional Development Plan (PDP)	the 40th day of the school year
Reflection of the PDP	March 1st
Progressive Documentation of Teacher Performance, Level II & III	March 1st
Summative Evaluation:	March 1st

If any of the above dates fall on a non-working day, the deadlines will be the following working day.

Employees hired after the 40th day of the school year are required to have a PDP within 40 days of first date of employment.

Employees hired before March 1st must have a summative evaluation completed.

A signed copy of the PDP, Reflection of the PDP, Progressive Documentation of Teacher Performance and Summative Evaluation will be placed in the certified school employee's personnel file.

Professional Growth Plan

A Professional Growth Plan maybe initiated whenever the teacher's principal has reason to believe that the teacher's performance may not meet the competency standard for the level of licensure.

A Professional Growth Plan shall be initiated when a teacher receives a "1" rating of "does not meet competency" on the NM Teacher Performance Summative Evaluation.

The teacher's principal may initiate a summative evaluation and a PGP at any time during the year when the principal has reason to believe the teacher's performance may not meet the competency standards for the level of licensure. The PGP is developed collaboratively by the supervisor and the employee. It is the supervisor's responsibility to monitor the implementation of the PGP and to ensure that help is provided to the employee. It is the employee's responsibility to implement the PGP and to meet the goals of the plan.

The teacher's principal will identify the competency areas where the teacher does not meet competency on a summative evaluation. The teacher will have an opportunity for input into the development of the PGP and will be provided with direction and assistance by teacher's principal. A PGP must be written

and implemented within ten (10) working days of a Summative Evaluation with a “1” rating. When the teacher is placed on a PGP, the principal will make a good faith effort appropriate to the circumstances to suggest improvement action and to give the teacher a reasonable amount of time to make the improvements before evaluating the teacher’s performance. The expected completion date for the PGP will be stated on the plan. The expected completion date cannot be later than March 1st of the school year. A copy of the PGP will be filed in the employee’s personnel file in the district Human Resources Office.

Should a teacher on a growth plan transfer to another position in the district, the growth plan will follow the teacher to the new position. The teacher shall continue to implement the PGP and is expected to meet the goals of the plan.

Conferences:

Three or more conferences shall have been held with the employee on a PGP before a notice of intent to non-renew or to discharge is served upon him/her by the Superintendent. Such conferences shall be held with the teacher’s principal and any other resource person(s) as the PGP may designate. The conference during which the principal first makes a rating of “does not meet competency” on the summative evaluation shall be counted as one of the required conferences. Sufficient time shall have elapsed between the conferences to allow the teacher to correct the “does not meet competency” and to have been observed for an adequate time in the performance of his or her duties.

The teacher will be asked to sign the PGP to indicate that he/she has received a copy of the plan. If the teacher refuses to sign for acceptance of the PGP, a third party will be asked to witness that the teacher received a copy of the PGP and will also sign the PGP as a witness. The teacher may provide a written response to the PGP for the teacher’s personnel file within five (5) working days.

The PGP conference shall be a confidential conference between the teacher and principal unless the parties mutually agree to allow other individuals to attend the conference.

A copy of the PGP shall be kept at the school site, given to the teacher, and a copy shall be placed in the teacher’s personnel file at the district central office. The teacher may submit a written rebuttal within ten (10) working days after the conference in which competencies are identified as “does not meet competency”.

Record:

A written record of all conferences shall be made to document progress in the areas specified on the PGP, all action(s) suggested for improvement, and all improvements made. All parties to the conference shall sign each written record. The teacher will be asked to sign each written record to indicate that the teacher has received a copy of the written record. The teacher’s signature will not necessarily indicate that the teacher is in agreement with the written record. In the event of a refusal to sign, a notation shall be made of the refusal. A copy of each record shall be kept at the school site, given to the teacher, and a copy shall be placed in the teacher’s personnel file.

Steps for Development of the PGP:

- a. The principal shall identify on the PGP the competencies/indicators with a “1” rating of “does not meet competency” on the Summary Evaluation and will provide a rationale or describe the reason for the rating.
- b. The PGP plan will include the key actions to be taken to correct the deficiency, the person(s) responsible for the actions, resources, timelines, measures to assure desired results have been met and observable target or desired results.
- c. The principal will meet with the teacher to develop and implement the PGP within ten (10) days after the summative evaluation.
- d. On or before March 1st, the principal will complete a 2nd summative evaluation to document the teacher’s progress on the PGP and make a recommendation for renewal of the teacher’s contract.

SPRINGER MUNICIPAL SCHOOL DISTRICT LICENSED EMPLOYEE PROFESSIONAL DEVELOPMENT PLAN

Objective:
Owner:

Goal: Competency To Be Addressed	Rationale: Describe the Reason

Key Actions: What should we do in what order?	<i>Person Responsible for each action</i>	<i>Resources Employee Should Access to Accomplish Growth</i>	Timeline	Measure: To assure desired results have been met	Target: Desired Result

_____/_____
 Employee Signature Date

_____/_____
 Evaluator Signature Date

Copies: ____ Employee ____ Supervisor ____ Employee Personnel File

**New Mexico Teacher Performance
Reflection on Annual Professional Development Plan (PDP)**

Name of Teacher _____
Grade/Assignment _____
Name of Principal and/or
Supervisor _____

Date _____
Level of License _____
School Campus _____

Teacher Reflection: Provide a written comment on your PDP, including a description of student achievement and learning growth.

Principal Feedback (optional):

Professional Development Plan Completed Yes No Continued (if multi-year plan)

Teacher meets highly qualified requirements for teaching assignment: Yes No

Principal / Supervisor
Copies to: Staff Member, Personnel File, Supervisor

*Teacher

Copies: Employee Supervisor Employee Personnel File

Progressive Documentation of Teacher Performance

Teacher _____ SSN/Employee ID _____

Level (circle one) II III Documentation Year (circle one) 1 2 3

Progressive documentation of a teacher's performance and professional development plan is a continuous process by which data are collected and analyzed annually to improve teacher quality. Progressive documentation is a process of ongoing formative evaluation over a three-year period. It includes a running record of authentic information about a teacher's performance in the areas of instruction (Strand A), student learning (Strand B), and professional learning (Strand C).

School Year _____ Grade/Subject _____
School _____ District _____

PDP Review (Required annually): Evaluator/Title: _____ Date: _____
Observation of Classroom Practice (Required Annually): Evaluator / Title _____ Date: _____
Optional Data for Strand A: Evaluator/Title: _____ Date: _____
Optional Data for Strand B: Evaluator/Title: _____ Date: _____
Optional Data for Strand C: Evaluator/Title: _____ Date: _____

Teacher Signature Date Evaluator Signature Date

Copies: Employee

 Supervisor

 Employee Personnel File

New Mexico Teacher Performance Summative Evaluation for Licensure

Level I Teachers – to be completed annually
Level II & Level III Teachers – to be completed every 3 years

Name of Teacher	_____	Date	_____
Grade/Assignment	_____	School Campus	_____
Name of Principal and/or Supervisor	_____	Level of License	<u> </u> I <u> </u> II <u> </u> III

Rating identification: 1. Does not meet competency for licensure level 2. Meets competency for licensure level

Competency

Number

STRAND A. INSTRUCTION

- | | | | |
|----|--|---|---|
| 1. | The teacher accurately demonstrates knowledge of the content area and approved curriculum. | 1 | 2 |
| 2. | The teacher appropriately utilizes a variety of teaching methods and resources for each area taught. | 1 | 2 |
| 5. | The teacher effectively utilizes student assessment techniques and procedures. | 1 | 2 |

Strand A. Instruction Evidence, including student achievement and learning growth:

STRAND B. STUDENT LEARNING:

- | | | | |
|----|---|---|---|
| 3. | The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding. | 1 | 2 |
| 4. | The teacher comprehends the principles of student growth, development and learning, and applies them appropriately. | 1 | 2 |
| 6. | The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment. | 1 | 2 |
| 7. | The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of student involvement and self- concept. | 1 | 2 |

Strand B. Student Learning Evidence:

STRAND C. PROFESSIONAL LEARNING:

- | | | | |
|----|---|---|---|
| 8. | The teacher demonstrates a willingness to examine and implement change, as appropriate. | 1 | 2 |
| 9. | The teacher works productively with colleagues, parents, and community members. | 1 | 2 |

Strand C. Professional Learning Evidence:

Professional Development Plan Completed Yes No Continued (if multi-year plan)

Teacher meets highly qualified requirements for teaching assignment: Yes No

Principal / Supervisor/Date
Copies to: Staff Member, Personnel File, Supervisor

Teacher/Date

SPRINGER MUNICIPAL SCHOOL DISTRICT EMPLOYEE PROFESSIONAL GROWTH PLAN

Objective: Facilitate improved student learning and student achievement

Owner:

Goal: Competency To Be Addressed			Description	
Key Actions: What should we do in what order?	<i>Person Responsible for each action</i>	<i>Resources Employee Should Access to Accomplish Growth</i>	Timeline	Measure: To assure results have been achieved

_____/_____

Employee Signature

Date

_____/_____

Evaluator Signature

Date

Copies: ___ Employee ___ Supervisor ___ Employee Personnel File

2.68 Principal Evaluation Policy

In accordance with New Mexico statutes 22-10A- 11(G) NMSA and Title 6 Chapter 69 Part 7 of the New Mexico Administrative Code (NMAC). It is the policy of the Springer School District to evaluate Principals and Assistant Principals using the New Mexico Highly Objective Uniform Statewide Standard of Evaluation for Principals and Assistant Principals (HOUSSE-P). Additional information and input may be used to provide the employee with job performance feedback. These additional items will be determined by Superintendent or his or her designee. Additional items used will be shared with the Principal or Assistant Principal prior to the evaluation cycle.

Adopted:

Revised:

Legal Reference: