

# GOVERNING BOARD POLICY MANUAL

## Section 500– Human Resources

NOTE: Regulations associated with specific policies are in italics

<b>Philosophy</b>	<b>501</b>
<b>Observance of Policies and Regulations</b>	<b>502</b>
<b>Professional Ethics</b>	<b>503</b>
<b>Child Abuse and Neglect Reporting</b>	<b>503.1</b>
<b>Equal Employment Opportunity</b>	<b>504</b>
<b>Title IX Education Amendments of 1972</b>	<b>505</b>
<b>Sexual Harassment</b>	<b>506</b>
<b>Employee Selection</b>	<b>507</b>
<b>Health Requirements</b>	<b>508</b>
<b>Continuing Contract</b>	<b>509</b>
<b>Reassignment and Transfer</b>	<b>510</b>
<b>Supplemental Pay Assignment</b>	<b>511</b>
<b>Substitutes</b>	<b>512</b>
<b>Tutoring and Other Activities</b>	<b>513</b>
<b>Non-school Employment</b>	<b>514</b>
<b>Grievance Procedure</b>	<b>515</b>
<b>Promotion</b>	<b>516</b>
<b>Performance Evaluation</b>	<b>517</b>
<b>Blood Borne Contagious or Infectious Diseases</b>	<b>518</b>
<b>Student Teaching, Practica, Externship, Field Work</b>	<b>519</b>
<b>Reports of Violent Acts and Other Conduct</b>	<b>520</b>
<b>Early Retirement Incentive Program</b>	<b>521</b>
<b>Vacation Leave</b>	<b>522</b>
<b>Sick Leave</b>	<b>523</b>
<b>Personal Leave</b>	<b>524</b>
<b>Professional Leave</b>	<b>525</b>
<b>Civic Leave</b>	<b>526</b>
<b>Court Appearance Leave</b>	<b>527</b>
<b>Military Leave-Reserve Training</b>	<b>528</b>
<b>Short Term Leave Without Pay</b>	<b>529</b>
<b>Extended Leave Without Pay</b>	<b>530</b>
<b>Extended Leave Without Pay-Parental Leave</b>	<b>530.1</b>
<b>Sick Leave Bank</b>	<b>531</b>
<b>Benefits For Retirees</b>	<b>532</b>
<b>Reduction in Force</b>	<b>533</b>
<b>Nepotism</b>	<b>534</b>
<b>Teacher’s Duties and Responsibilities</b>	<b>535</b>
<b>Privacy Policy</b>	<b>536</b>
<b>Endorsement of Commercial Products by School Personnel</b>	<b>537</b>

<b>Drug and Alcohol-Free Workplace</b>	<b>538</b>
<b>Drug and Alcohol-Free Workplace</b>	<b>538.1</b>
<b>Smoking</b>	<b>539</b>
<b>Smoking</b>	<b>539.1</b>
<b>Compensation Plan</b>	<b>540</b>
<b>Leave Without Pay For Family and Medical Purposes</b>	<b>541</b>
<b>Leave Without Pay For Family and Medical Purposes</b>	<b>541.1</b>
<b>Appeal Process for Suspension Without Pay, Demotion, and Dismissal Procedure for Support Positions</b>	<b>542</b>
<b>Omnibus Transportation Employee Testing Act</b>	<b>543</b>

## **HUMAN RESOURCES – 501**

### **Philosophy**

The personnel policy of the school provides for the employment of individuals competently trained, unified in purpose and organization, and devoted to the cause of providing the best possible educational and work climate.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 502**

### **Observance of Policies and Regulations**

All employees are expected to know and shall be held responsible for observing the policies and regulations pertinent to their work activities.

Approved: August 11, 2005

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## **HUMAN RESOURCES - 503**

### **Professional Ethics**

The Board expects members of its professional staff to be familiar with the code of ethics that applies to their profession and to adhere to it in their relationships with students, parents and co-workers.

Approved: August 11, 2005

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## HUMAN RESOURCES – 503.1

### 503.1 Child Abuse and Neglect Reporting

#### Reporting Requirement

Every employee of the Appomattox Regional Governor's School who, in her or her professional or official capacity, has reason to suspect that a child is an abused or neglected child, in compliance with the Code of Virginia §63.2-1509 *et seq.* shall immediately report the matter to:

- The local department of social services where the child resides or where the abuse or neglect is believed to have occurred
- To the Virginia Department of Social Services' toll-free child abuse and neglect hotline; or
- To the person in charge of the school, or his designee, who shall make report forthwith to the local or state agency. The person making the report to the local or state agency must notify the person making the initial report when the report of suspected abuse or neglect is made to the local or state agency, and the name of the individual receiving the report, and must forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

Any person required to file a report pursuant to the Code of Virginia §63.2-1509 *et seq.* and this policy who fails to do so as soon as possible, but no longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

#### Notice of Reporting Requirement

The Governing Board shall post in the school a notice that

- Any teacher or other person employed there who has reason to believe that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the Executive Director or his designee;
- All persons required to report cases of suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person has acted in bad faith or with malicious purpose; and

**HUMAN RESOURCES – 503.1**

**Page 2**

- **Any person required to file a report pursuant to the Code of Virginia §63.2-1509 et seq. and this policy who fails to do so as soon as possible, but no longer than 24 hours after having reason to suspect a reportable offense of a child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.**

**The notice shall also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline.**

**Interagency Agreement re: Investigating Complaints of Abuse and Neglect**

**The Governing Board and the local department of social services shall adopt a written interagency agreement as a protocol for investigating child abuse and neglect reports, including reports of sexual abuse of a student. The interagency agreement shall be based in recommended procedures for conducting investigations Developed by the Departments of Education and Social Services.**

**Adopted: August 14, 2014**

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**Legal Ref.: Code of Virginia, 1950, as amended, §§22.1-253.13:7.A, 22.1-291.3, 63.2-1509, 63.2-1511**

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**HUMAN RESOURCES – 504**

**Equal Employment Opportunity**

ARGS is firmly committed to prohibiting discrimination on the basis of race, color, sex, age, religion, national origin or handicapped status throughout the employment process, from selection through termination. To promote equal employment opportunities the Executive Director shall establish an affirmative action plan.

Approved: August 11, 2005

## **HUMAN RESOURCES – 505**

### **Title IX Education Amendments of 1972**

Any employee of ARGs who has been aggrieved by a violation of the Rules and Regulations as set forth in Title IX of the Education Amendments of 1972, as amended, shall use the grievance procedure which is prescribed by the State Board of Education (Appendix J -Procedures for Adjusting Grievances).

Approved: August 11, 2005

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## **HUMAN RESOURCES - 506**

### **Sexual Harassment**

Employees shall be free from sexual harassment in the carrying out of their employment responsibilities.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature shall constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
3. Such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Complaints of sexual harassment shall be directed to the Executive Director or designee who shall investigate the complaint and take appropriate action. He/she shall investigate pursuant to procedures established by the Executive Director.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 507**

### **Employee Selection**

All employment shall be by action of the Governing Board upon recommendation of the Steering Committee. The Executive Director shall make such recommendations to the Steering Committee for approval. The Executive Director is authorized to employ substitutes and other temporary employees.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, §§22.1-70, 22.1-293, 22.1-295

## **HUMAN RESOURCES – 508**

### **Health Requirements**

An applicant or an employee may be required to undergo a physical or mental examination when deemed necessary by the Executive Director.

All employees must submit evidence that they are free from communicable tuberculosis in a manner prescribed by the personnel department.

School bus drivers must have an annual examination.

Approved: August 11, 2005

Legal Ref: Code of Virginia, §§ 22.1-178, 22.1-300, 22.1-301

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## **HUMAN RESOURCES - 509**

### **Continuing Contract**

The Board will issue continuing contracts to teachers, principals, assistant principals and certain supervisory personnel, as required by law. A person hired as a teacher who has attained continuing contract status in another school division in the Commonwealth shall serve a one-year probationary term and shall be issued an annual contract before attaining continuing contract status in this school.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, §§ 22.1-294 and 22.1-303.

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## **HUMAN RESOURCES – 510**

### **Reassignment and Transfer**

The Executive Director shall have the authority to reassign or transfer any teacher, assistant Executive Director or other employee to any location or position within the school. The Executive Director shall report any such reassignments or transfers to the Governing Board at its next regularly scheduled meeting.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, § 22.1-297.

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## **HUMAN RESOURCES – 511**

### **Supplemental Pay Assignment**

The Governing Board shall approve all categories of extracurricular activities for which supplements may be paid and shall establish a pay scale for such activities. The Executive Director is authorized to make supplemental pay assignments consistent with the categories and pay scale approved by the Governing Board.

Approved: August 11, 2005

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## **HUMAN RESOURCES - 512**

### **Substitutes**

The Executive Director or designee shall maintain a list of approved substitute teachers from which substitutes shall be secured under procedures established by the Executive Director.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 513**

### **Tutoring and Other Activities**

No member of the staff shall receive compensation for professional services offered to his/her pupils, nor shall any activity or project be promoted in the school from which the staff member will receive compensation or remuneration other than the salary as an employee of the Governing Board. No teacher shall recommend that a pupil be tutored without reporting that fact to the Executive Director or designee.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 514**

### **Non-school Employment**

No employee shall accept employment in any private business or outside activity that will, in the opinion of the Executive Director, impair the employee's job performance.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 515**

### **Grievance Procedure**

The grievance procedure adopted by the Virginia Board of Education is located in the CCPS Human Resource Manual as Appendix J - Procedures for Adjusting Grievances.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, §§ 22.1-253.13:7 and 22.1-308.

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## **HUMAN RESOURCES – 516**

### **Promotion**

The Executive Director shall establish and maintain procedures for the discovery of suitable candidates for promotion, for the thorough study and appraisal of such persons, and for the development of their potentialities. In making promotions, the Executive Director shall give due consideration to current employees.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 517**

### **Performance Evaluation**

The procedures for evaluation of personnel are included in the Performance Evaluation Handbook, attached as Appendix H.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, § 22.1-353.13:7.

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## **HUMAN RESOURCES – 518**

### **Blood Borne Contagious or Infectious Diseases**

The attendance at work of employees who suffer from blood borne diseases which are infectious or contagious, such as AIDS and Hepatitis B, and which may be transmitted by the exchange of body secretions, shall be determined by the Executive Director on a case-by-case basis. The Executive Director shall obtain the advice of the Public Health Executive Director to assist him/her in making his/her determination. The employee may be excluded from work pending the Executive Director's decision. The Executive Director shall adopt regulations setting forth the procedures to be followed to effectuate this policy. (See Appendix R.)

Approved: August 11, 2005

## HUMAN RESOURCES - 519

### **Student Teaching, Practica, Externship, Field Work**

A student enrolled in an approved institution of higher education may take his/her student teaching, practicum, externship or other field work upon the approval of the Executive Director and provided that the progress of the students in any class is not adversely affected.

Approved: August 11, 2005

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## HUMAN RESOURCES – 520

### **Reports of Violent Acts and Other Conduct**

Any attempted or actual physical injury, including "unlawful wounding," maiming, and homicides, other than involuntary manslaughter, committed by a student on school personnel and all incidents involving the death, shooting, stabbing, cutting, or wounding of any person or any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity shall be reported immediately to the Executive Director, his/her designee or the person in charge of the facility. The Executive Director shall submit a report of this information to the State Department of Education as required by law and to the Governing Board.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, § 22.1-280.1

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## HUMAN RESOURCES - 522

### **Vacation Leave**

#### **A. Rate of Accumulation**

1. A twelve-month full-time employee shall earn and accumulate vacation in the following manner:
  - (a) From zero through ten years job related experience as granted at time of employment: 1 and 1/4 days per month and one bonus day which will be credited on June 30. Maximum accumulation shall be 288 hours.
  - (b) More than ten years job related experience as granted at time of employment: 1 and 1/2 days per month and two bonus days this will be credited on June 30. Maximum accumulation shall be 360 hours.
2. A permanent part-time twelve-month employee who works 50% or more of a specified contract period shall earn and accumulate vacation proportionally.

**B. Maximum Accumulation**

On October 1 of each year, vacation leave, including accumulation for bonus days, will be reduced to the maximum accumulation allowed.

The Executive Director or designee may approve up to six months extension of the above October 1 date, providing unusual workload conditions or emergency circumstances existed which prevented the employee from using excess vacation prior to October 1.

**C. Change in Status**

An employee who moves from a twelve-month contract to one with fewer days may convert accumulated vacation days to personal leave days; likewise, an employee who moves to a twelve month work assignment may convert personal leave to vacation days.

**D. Payment For Accumulated Leave**

An employee who resigns or retires shall be paid for accumulated vacation or personal leave not exceeding the maximum permissible accumulation set forth above. Prior written approval by the Executive Director must be obtained before such employee may use accumulated vacation leave in lieu of receiving payment thereof.

**E. Approval of Supervisor Required**

An employee who seeks to use any amount of vacation leave shall first secure the consent of the Executive Director. Such consent shall not be unreasonably withheld. Absent extenuating circumstances, such consent shall be secured at least 10 work days prior to the commencement of the leave period. In the event the employee is required to make travel or hotel reservations and/or submit any payment or down payment in advance of the leave period, the Executive Director's consent shall be secured prior to the employee making any such reservation or payment.

Revised: August 14, 2104 (E. added)

Approved: August 11, 2005

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## HUMAN RESOURCES – 523

### **Sick Leave**

#### **A. Eligibility**

The following employees can earn sick leave:

1. A full-time employee.
2. A permanent part-time employee in the Departments of Food Services, Transportation, and Facilities.
3. Any other part-time employee who works 50% or more of a specified contract period except summer school, evening school, or substitute employees.

#### **B. Accumulation of Sick Leave**

Sick leave shall be credited in the following manner:

1. A full-time employee shall earn leave at the rate of one day for each month of employment.
2. A permanent part-time employee earns sick leave in proportion to the length of the contract day.
3. Any other part-time employee who works 50% or more of a specified contract period shall earn sick leave at the rate of one-half day per month.
4. Sick leave may be accumulated without limit. The following schedule is used to compute sick leave accumulations for the initial calendar month in which the employee is appointed.
  - (a) An employee hired on or before the 10th of the month, one sick leave day is earned.
  - (b) An employee hired between the 11th and the 20th of the month, one half day is earned.
  - (c) An employee hired on or after the 21st of the month, no sick leave day is earned.
5. In subsequent months, sick leave accumulation is based on completed calendar months of service. A ten-month employee who fulfills all the obligations of his or her contract earns one sick leave day in June.
6. When an employee leaves the system, sick leave accumulation for the final month of employment will be determined as follows:
  - (a) An employee separated on or before the 10th of the month, no sick leave day is earned.
  - (b) An employee separated on or before the 11th and 20th of the month, one-half day sick leave is earned.

## HUMAN RESOURCES - 523

### Page 2

- (c) An employee separated on or after the 21st of the month, one sick leave day is earned.

#### **C. Sick-Leave Advancement**

A new employee must work one pay period before being eligible to anticipate sick leave. A full time employee shall be allowed to anticipate one-half of his or her annual sick leave at the beginning of each half of the contractual period as shown below.

1. Twelve-month employees July/January
2. Eleven-month employees August/December
3. Ten-month employees September/January

#### **D. Extended Sick Leave**

In case of a prolonged personal illness which results in the depletion of all accumulated sick and personal leave days, the Executive Director or his designee may approve up to an additional 20 days of sick leave to an employee with five or more years of employment in the school. The rate of pay for those days shall be based upon 75% of the per diem rate.

#### **E. Adoption**

Accumulated sick leave (for a maximum of 20 consecutive days) may be used for the purpose of an employee remaining at home with a newly adopted infant. If both parents are employees of ARGs, they may use up to 20 days of sick leave between them, at parents' discretion. Both parents may use accumulated sick leave at the same time for this purpose. Certification of adoption is required.

#### **F. Illness in the Family**

An employee may use up to six days of accumulated or anticipated sick leave for illness or death in the immediate family. The "immediate family" of an employee shall be regarded to include spouse, children, parents, step-parents, siblings, grandchildren, grandparents, step-grandparents, parents-in-law, daughters-in-law, sons-in-law, sisters-in-law, brothers-in-law, grandparents-in-law, aunts and uncles, nieces and nephews, and any other relative, no matter how distant, living in the household of the employee.

An employee may use all accumulated sick leave or anticipated sick leave, accrued annual leave, and accrued personal leave for catastrophic or life threatening illness as defined in Policy 541.1, or the death of a child, spouse, or parents, and excludes the use of any other forms of paid leave benefits such as the Sick Leave Bank as stated in Policy 530 and Extended Sick Leave as stated in Policy 531.

## HUMAN RESOURCES - 523

Page 3

### G. Physician's Certificate

An administrator may request a medical statement at any time. An employee exhibiting behaviors that indicate impairment may be required to go directly to the emergency room or primary care physician.

### H. Transfer of Sick Leave

Accumulated sick leave earned by an employee in other public school divisions or institutions will be accepted at full value upon presentation of acceptable proof of sick leave by an employee transferring to the school system.

Accumulated sick leave will be transferred to other divisions or institutions, if requested by the employee within three years from the resignation date.

### I. Flexible Sick Leave

Personnel employed less than 12 months who do not earn annual leave may be permitted discretionary use of up to two days annually of their sick leave accumulation when they are required to observe a recognized religious holiday. Requests to use flexible sick leave must be received in writing prior to an absence. Approval is granted by the Executive Director or his designee.

Approved: August 11, 2005

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## HUMAN RESOURCES - 524

### Personal Leave

Leave with pay, not to exceed five days in any school year, may be used by a full-time ten or eleventh month employee to conduct essential personal matters which cannot be transacted during off-duty time. An employee shall earn two personal leave days per year with unlimited accumulation. During the first year of employment, an employee shall earn personal leave as follows:

- An employee hired prior to January 1<sup>st</sup> – two days
- An employee hired after January 1<sup>st</sup> – one day

In extenuating circumstances the Executive Director or designee may grant permission for leave beyond the five-day limitation. In such cases, the employee must have sufficient accumulated personal leave to cover the leave period.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 525**

### **Professional Leave**

An employee may be requested to represent the school at professional meetings, to conduct workshops and serve on committees, participate in staff development, or to observe other personnel without loss of pay and with prior approval of the Executive Director or designee.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 526**

### **Civic Leave**

The Governing Board encourages involvement of an employee in public service so long as such service is consistent with the Governing Board's Philosophy and Goals. Leave may be granted to an employee who has received prior approval from the Executive Director to accept appointment to public committees, commissions, and boards.

Approved: August 11, 2005

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## **HUMAN RESOURCES – 527**

### **Court Appearance Leave**

Leave of absence may be granted to an employee to serve on a jury or to attend court as a witness under subpoena. If an employee is involved in a personal case, either as a plaintiff or as a defendant, he or she may not be granted court appearance leave. The time may be charged to personal leave, vacation leave, or leave without pay.

Approved: August 11, 2005

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## **HUMAN RESOURCES - 528**

### **Military Leave Reserve Training and Active Duty**

An employee who is a member of the National Guard or an organized military service of the United States and, as such, is required to report for training periods; shall be granted military leave with pay.

The leave shall not exceed 15 workdays during any fiscal year.

Upon receipt of official notice to report for duty, a written request for military leave along with a copy of the official orders shall be submitted to the Executive Director or designee.

When possible, military leave for an employee on less than twelve-month contracts shall be arranged during non-duty periods.

An employee called up for reserve or active duty will be accorded all rights under the Uniformed Services Employment and Reemployment Rights Act of 1994.

Approved: August 11, 2005

Legal Ref.: Code of Virginia, § 4493  
38 U.S.C. § 4301 et seq.

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## HUMAN RESOURCES – 529

### **Short Term Leave Without Pay**

The Executive Director shall have sole discretion in determining whether or not to grant any such leave of absence. Absent extenuating circumstances, all such approvals shall be secured at least 10 work days prior to the commencement of the leave period.

Legal Ref.: Code of Virginia, 1950, as amended, §§22.1-70, 22.1-78

Revised: August 14, 2014

Approved: August 11, 2005

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## HUMAN RESOURCES – 530

### **Leave of Absence Without Pay**

A leave of absence without pay may be granted to any employee with at least three consecutive years of service in the school based on documentation provided and detailed information indicating the reason for the request. The leave may not exceed one contractual year.

Based on satisfactory job performance, leave may be granted for illness, family demands, education, or military leave. For illness-related leaves, supporting documentation from a physician must be submitted at the time of request. An employee returning from a leave of absence will not be guaranteed his/her former assignment but will be placed in a position for which he/she is licensed and qualified. (Special provisions apply for employees requesting military leave and may be found under Policy 528.)

- A. All leaves of absence **granted pursuant to this policy** are unpaid.
- B. A request for a leave of absence must be submitted, in writing, to the **Executive** Director or designee at the earliest possible date, but no less than thirty (30) days prior to the expected commencement of leave. Factors to be considered in granting the leave of absence shall include **but not be limited to the length of the employee's contract (10-month, 11-month, 12-month, etc.), the length of the requested leave and the employee's work requirements.** If



## HUMAN RESOURCES - 530

### Page 2

the leave is for illness or disability, the leave of absence can commence only after leave under the Family Medical Leave Act has been taken.

**If the leave is approved, the employee must inform the Executive Director or designee in writing of his/her intention to return to active status for the following contract year no later than April 1 of the current contract year. Failure to provide written notification to the Executive Director or designee by April 1 may result in termination of employment effective at the end of the leave period.**

- C. Sick leave/annual leave does not accrue during a leave of absence; however, the individual may maintain his/her accrued leave during the period of the leave of absence unless the Family Medical Leave Act applies (see B.).
- D. Credit for experience will not be earned during the period of leave of absence.
- E. The employee is eligible during a leave of absence to continue all insurance coverage; however, the employee must make arrangements to pay the entire premium for such insurance except in the case of approved medical leave. For approved medical leaves, ARGS will continue to pay its portion of the medical and/or dental insurance for up to six months. Worker's Compensation benefits are not applicable during the leave.

An employee must inform the Executive Director or designee in writing of his/her intention to return to active status for the following contract year no later than April 1 of the current contract year. Failure to provide written notification to the Executive Director or designee by April 1 may result in termination of employment effective at the end of the leave period. If no suitable vacancy exists, that is one for which the individual is qualified, the employee will continue in a leave without pay status and will be given preference over new applicants for the next suitable opening. If more than one employee has given notice of intent to return to active employment, employees will be assigned to available positions based on notification date. The guarantee of a suitable available position will expire twelve (12) months after the April 1 deadline for written notification to the Executive Director or designee of his/her intent to return. Failure to accept a suitable position will result in termination of employment.

### **Extended Leave Without Pay - Parental Leave**

#### **I. Purpose**

To outline procedures by which employees who have completed three (3) years of continuous service in ARGS and who have exhausted all available Family and Medical Leave Act leave may be granted leave of absence, without pay, for parental leave reasons.

#### **II. Definitions**

- A. Extended leave for childcare is defined as released time that may be granted for the entire contractual year or for the remainder of the contractual year.
- B. Any employee (parent) who wishes to stay home with a newly born child or newly adopted child may apply for parental leave.

## HUMAN RESOURCES - 530

### Page 3

- C. This Parental Leave will expire twelve (12) months after the birth or adoption of a child.

### III. Procedures

- A. A request for extended leave must be submitted to the Executive Director or designee at least thirty (30) days prior to the requested beginning date for such leave. In case of emergency, the Executive Director or designee may authorize leave with less than thirty (30) days notice.
- B. The request for leave of absence must be accompanied by a statement from an attending physician or adoption agency stating the actual or expected date of delivery or adoption. In the case of adoption, a second written notification from the adoption agency must confirm the date of the child's legal transfer to the custody of the employee.
- C. Any leave granted shall be without pay or other benefits except as identified in Regional Governing Board Policy 530.
- D. Written notice of intent to return to active employment must be given by the employee sixty (60) calendar days before the leave expires. Failure to submit to the Executive Director or designee in writing the intent of the employee to return within the allotted time will result in termination of continued employment.
- E. The employee will be assigned to the first available vacant position for which the employee is qualified. If no suitable vacancy exists, the employee will continue in a leave without pay status and will be given preference over new applicants for the next suitable opening. If more than one employee has given notice of intent to return to active employment, employees will be assigned to available positions based on notification date. The guarantee of an available position will expire twelve (12) months after the employee notifies the Division Executive Director of his/her intent to return or if the employee refuses a position for which he/she is qualified, whichever first occurs.
- F. The form "Application For Extended Leave of Absence Without Pay" should be used.

Revised: August 14, 2014 (Items A & B)

Approved: August 11, 2005

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Legal Ref.: Code of Virginia, 1950, as amended, §§22.1-70, 22.1-78

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## HUMAN RESOURCES – 531

### **Sick Leave Bank and Donation of Sick Leave**

The Board shall maintain a sick leave bank for a full-time employee who has prolonged, catastrophic or long-term illness or injury and who has exhausted his or her own sick leave as long as one third of the eligible members participate in the sick leave bank.

#### **A. Eligibility**

Membership in the sick leave bank shall be voluntary and open to all eligible employees.

Each full-time employee who accumulates sick leave is eligible for membership and may become a member by donating one day of sick leave upon joining and one day thereafter whenever an assessment is required.

#### **B. Enrollment**

An employee may enroll within the first 30 calendar days of employment. An employee who does not enroll when first eligible may do so between any subsequent August 15 and September 15 period. An employee must be enrolled in the plan for three months prior to becoming eligible to utilize the benefits of the sick leave bank.

Membership in the bank shall be continuous unless the employee informs the sick leave bank administrator prior to September 15 of his or her intent to withdraw from participation in the bank.

#### **C. Application**

1. A member must make application for use of the sick leave bank entitlement within ten working days after using all accrued sick leave.
2. The first 30 consecutive contract days of illness or injury will not be covered by the sick leave bank but must be covered by the employee's own accumulated leave, donated sick leave, or leave without pay. A maximum of 45 days each school year can be drawn by any one member.
3. A member of the bank will not be able to utilize sick leave bank benefits until his or her own sick leave is depleted. Applications must be submitted within ten working days after all accrued sick leave has been exhausted. A member utilizing days from the bank will not have to replace these days.
4. Days drawn from the bank for any one period of eligibility must be consecutive. If a member suffers a recurrence or relapse within 30 days due to the original illness or injury, the member will not have to meet another thirty-day elimination period. Otherwise, a member must return to work and meet the thirty-day elimination requirement before becoming eligible to utilize sick leave benefits again.

## HUMAN RESOURCES – 531

Page 2

5. A doctor's certificate is required before a sick leave bank member can use his or her leave bank entitlement. This statement is to be submitted in writing to the Executive Director or designee in advance of the absence for which the days are to be granted. Requests cannot be made retroactively.
6. The sick leave bank cannot be used for family care.

### **D. Assessment**

1. A participant in the sick leave bank will be assessed an additional day(s) of sick leave at such times as the bank is depleted to 30 days. Notification of such assessment shall be sent to each member at the time it is determined to be necessary .
2. A member who has no sick leave to contribute at the time of assessment shall be assessed this day(s) from the first sick leave day(s) subsequently accumulated.

### **E. Donation of Sick Leave**

Under certain circumstances, an active or retiring employee may donate sick leave days to the Sick Leave Bank for the express usage of that leave for a specific employee. Use of donated sick leave is limited to 30 days, and may be used to cover the thirty-day waiting period prior to Sick Leave Bank. Should the recipient require fewer than 30 days, the donated leave converts to the general Sick Leave Bank.

### **F. Termination**

Upon termination of employment or withdrawal of membership, a participant will not be permitted to withdraw or be paid for his or her contributed day(s). The bank will carry over its total days from one school year to the next. The effective date of this policy will be July 1, 2008.

Approved: August 11, 2005

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## HUMAN RESOURCES – 532

### **Benefits for Retirees**

#### **A. Payments for Unused Sick Leave**

1. An individual must have been an employee of ARGS for at least five years to be eligible.
2. The employee must have applied and been approved for retirement under the rules and regulations of the Virginia Retirement System or the Social Security System.
3. Payment will be made at a maximum of \$30.00 a day for each day of unused sick leave not to exceed a maximum payment of \$4,000.
4. For employees with the last 15 years of consecutive employment prior to retirement with ARGS, payment will be made at a maximum of \$30.00 a day for each day of unused sick leave with no limit on the maximum payment.

Approved: August 11, 2005

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## HUMAN RESOURCES - 533

### **REDUCTION IN FORCE**

#### **A. Reduction in Force**

A decrease in pupil enrollment, insufficient funding, expiration of special grants and/or other conditions may require a modification of the educational program which results in a reduction in staff from the school. In such event the Regional Governing Board, upon the recommendation of the Executive Director, shall determine the program adjustments to be made and the reduction in force required. The application of the reduction in force policy shall be for the school as a whole rather than by individual department except that employees employed in programs funded through special grants and other special sources of funding shall be treated as separate categories, unless otherwise provided for in this policy.

#### **B. General Provisions**

1. The Executive Director or designee will develop and maintain seniority listings for each of the position classifications being reduced.
2. Employees on the recall list with proper application will be eligible for temporary positions such as part-time and substitute positions. Acceptance of these positions will not affect their recall rights.
3. Released employees have the option of continuing their group health care coverage for up to eighteen (18) months by paying the group rate plus the administrative fee on a monthly basis.
4. Upon reemployment, all rights related to salary, fringe benefits, and length of service shall be fully restored. However, time which has elapsed between release and reemployment will not count toward length of service.

#### **C. Teachers**

1. Teachers shall mean a person who holds a current teaching certificate issued by the Virginia Department of Education, who is employed on a full-time contractual basis by ARGS, and who has been placed on the teacher's salary schedule by formal action of the Governing board.

There are three exceptions to these descriptions. Procedures outlined in paragraph D, Support Personnel, will apply to occupational and physical therapists. Procedures outlined in paragraph E, administrative/Supervisory Personnel, will apply to administrative assistants.

2. The layoff of teachers due to reduction in force shall be accomplished according to the following provisions:
  - a. The Governing board on the recommendation of the Executive Director shall determine the specific endorsement areas of instructional programs in which reductions need to be made and the extent of those reductions.

## HUMAN RESOURCES - 533

### Page 2

- b. The Regional Governing Board on the recommendation of the Executive Director shall then determine which individuals, if any, shall be laid off. The primary factor to be considered in making both the recommendation and determination shall be based on seniority, the least senior person being laid off first. Probationary teachers shall be laid off prior to continuing contract teachers.
    - c. Seniority shall be that period of time commencing with the most recent term of continuous service as certificated employee with ARGS including authorized leave, but excluding temporary, interim, substitute, or part-time employment. The initial date of employment shall be the date of appointment to a teaching position, as distinguished from the date of the Governing Board meeting where such an appointment was approved. If two or more teachers have the same length of service, they are ranked by date of contract offer that begins the most recent period of continuous service, and, if necessary, date of receipt of most recent application resulting in employment, and finally, by lot.
    - d. Each teacher in the affected endorsement area or instructional program who is recommended for lay off from that area or program shall have the right to be considered, on the basis of paragraph C.2.c., in all programs or instructional areas for which the endorsement requirements are fully met by the endorsement on which the teacher's active assignment has been based. In addition, a teacher who holds current endorsement in an area previously taught on a full-time basis within the past seven years, will be placed on the seniority list for that endorsement area.
3. Released continuing contract teachers shall be offered reemployment as vacancies occur. When a vacancy occurs, the most senior released employee will be recalled first. No new teachers shall be employed for an area or program until all properly certified continuing contract teachers released from such assignment have been provided with the opportunity of filling the available positions. A teacher on continuing contract shall have the right to be offered a position by recall letter, pursuant to the provisions of this paragraph, for a period of fifteen (15) months from the date of the teacher's release. Such recall letter shall be sent by certified mail. It shall be the responsibility of the teacher to keep the Executive Director informed of the teacher's current address. A teacher's eligibility for recall shall terminate if he or she:
  - a. Fails to respond affirmatively in writing fifteen (15) calendar days after the mailing of a recall letter offering him or her a teaching position
  - b. Otherwise indicates in writing that he or she no longer wishes to be considered for recall
  - c. Fails to maintain certification requirements

## HUMAN RESOURCES - 533

### Page 3

4. Teachers employed in a program funded through special grants or other special sources of funding (Chapter 1, contracted arrangements with other governmental entities, etc.) shall be placed on the seniority list for that program only and shall not be entitled to be placed on other seniority lists pursuant to paragraph C.2.c. The recall rights of such teachers under paragraph C.3, shall be limited to vacancies in the program from which they were released. An exception to this provision would apply to a teacher who achieved continuing contract status at ARGs as a teacher and who is recommended for reduction. That teacher shall also be placed on the seniority list under section C as a teacher in the program or area in which he or she was actively assigned prior to serving in the funded position, provided his or her certification is still valid.
5. The provisions of paragraph C, shall not apply in those cases where the employment of teachers whose special skills and/or active assignment is essential to the effective operation of the school system. The determination of essential personnel shall be at the sole discretion of the Governing Board upon recommendation of the Executive Director.

#### **D. Support Personnel**

1. Support personnel are defined as those persons assigned full-time to a position not categorized as a teacher or administrative/supervisory personnel.
2. The Governing Board, upon the recommendation of the Executive Director, shall determine the specific position classifications in which a reduction in force needs to be made and the specific number of positions therein needed to be reduced.
3. The Governing Board on the recommendation of the Executive Director shall determine which individuals, if any, shall be laid off within the position classification. The primary factor to be considered in making both the recommendation and the determination shall be based on seniority, the least senior being laid off first.

The procedure by which support personnel are recommended by the Executive Director for reduction shall be as set out in paragraph C.2.c. with the exception that all employment with ARGs, regardless of position, shall be counted toward seniority.

In addition, an employee who is recommended for layoff from his or her present position may be considered for lesser positions which the Executive Director determines to have generally similar duties and for which the person is otherwise qualified.



## HUMAN RESOURCES - 533

### Page 4

4. Released employees shall be offered reemployment as vacancies occur in the position which they held. When a vacancy occurs the most senior released employee will be recalled first. No new persons shall be employed for a position until all persons released from such positions have been provided with the opportunity of filling the available positions. A person shall not have a right to be recalled to a position higher than the one in which he or she was working at the time of the reduction. (However, the Executive Director may allow recall to a substantially similar lower position.) A person shall have the right to be offered a position by recall letter for a period of fifteen (15) months from the date of layoff. Such recall letter shall be sent by certified mail to the employee's current address. It shall be the responsibility of the employee to keep the Executive Director or designee informed of his or her current address. An employee's eligibility for recall shall terminate if he or she:
  - a. Fails to respond affirmatively in writing within fifteen (15) calendar days after the mailing of a recall letter offering him or her a position.
  - b. Otherwise indicates in writing that he or she no longer wishes to be considered for recall
  - c. Fails to maintain certification/license requirements, if any.
5. The provisions of paragraph D.3, shall not apply in those cases where the employment of support staff whose special skills and/or active assignment is essential to the effective operation of the school. The determination of essential personnel shall be at the sole discretion of the Governing Board upon recommendation of the Executive Director.

#### **E. Administrative/Supervisory Personnel**

1. Administrative/supervisory personnel are defined as those persons in a position identified on the administrative/supervisory list.
2. The Governing Board upon the recommendation of the Executive Director shall determine the specific position classifications in which a reduction in force needs to be made and the number of positions therein to be reduced.
3.
  - a. Where there is only one person in a position classification determined to be one which must be reduced, that person shall be laid off unless the Executive Director considers such employee for another administrative or professional position pursuant to paragraph D, hereof. For purposes of this regulation only, an administrator or professional who achieved continuing contract status in Chesterfield or in any school division in the Commonwealth as a teacher prior to taking the administrative or supervisory position and who is recommended for reduction, shall also be considered under section C of this regulation as a teacher in the program or area which he or she left, providing his or her certification is still valid.

## HUMAN RESOURCES - 533

### Page 4

- b. Where there is more than one person in a position classification, the Regional Governing Board on the recommendation of the Executive Director, shall determine which individual(s) shall be laid off. The primary factors to be considered in making both the recommendation and determination shall be job performance, the specific needs of the school division, and any special qualification an individual might possess.
  - c. In those cases where no significant difference among individuals exists after a review of these factors, the recommendation and determination shall be based on seniority, as determined by paragraph C.2.c., the least senior being laid off first.
  - d. An employee who is recommended for layoff from his or her present position may be considered for other positions which the Executive Director determines to have generally similar duties and for which the person is otherwise qualified.
4. Released employees shall be offered reemployment as vacancies occur in the position which they held under the procedure set out in paragraph D.4

#### **F. Transfer**

This policy shall not apply to the transfer of employees but shall only apply when, due to a reduction in force, an employee must be laid off. The Executive Director retains the authority to transfer teachers or other employees to other assignments at any time to reduce the number of persons affected by the reduction in force.

#### **G. Board Minutes**

So that there will be no negative implications regarding the professional record of an employee laid off under these regulations, the minutes of the board will clearly show that such termination of employment was due to a reduction in force.

#### **H. Seniority Lists**

This policy will be activated upon recommendation of the Executive Director to the Governing Board. It will not be necessary for the Executive Director or designee to establish seniority lists, etc.

#### **I. Effect on Term of Contract**

Nothing in this policy shall be construed as granting an employee on a term contract the right to employment beyond the term of his or her contract or to grant such person a property interest in employment beyond the term of his or her present contract.

**HUMAN RESOURCES - 533**

**Page 5**

**J. Interpretations**

The Governing board realizes that questions will arise about the application of the policy to a specific case. Consequently, interpretations of this policy shall be made by the Executive Director when necessary. Any such interpretation shall be presumed valid until specifically ruled otherwise by the Governing Board.

Approved: August 11, 2005

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**HUMAN RESOURCES - 534**

**Nepotism**

The employment of spouses and certain other relatives by the Board is prohibited under certain circumstances by the "State and Local Government Conflict of Interest Act." All employment will be consistent with these requirements.

Approved: August 11, 2005

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Legal Ref.: Code of Virginia, § 2.1-639.1, et seq.

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## HUMAN RESOURCES - 535

### **Teachers' Duties and Responsibilities**

Teachers are responsible for stimulating maximum learning on the part of all students assigned them by providing a conducive learning environment and by guiding sound curriculum experiences and activities in the classroom, the school and the community.

Teachers shall be under the supervision of the Executive Director and shall fulfill the requirements as set forth in these policies and regulations. They shall subscribe to the practices and policies of the school and Governing Board.

**In addition, the teachers are responsible for carrying out all tasks ancillary to instruction, as well as performing other non-instructional duties assigned by the Executive Director or his designee(s), in a quality manner. Among other things, teachers are responsible for implementing a constructive system of classroom management; and acting in the best interests of his or her students, including filing timely reports of suspected child abuse and/or neglect pursuant to Policy 503.1 *Child Abuse and Neglect Reporting*.**

Every teacher shall function within the requirements of federal and state law; policies of the Governing Board; and rules, regulations, instructions and direction of the Executive Director and his/her designee(s) apprised of matters relating to student achievement as well as other important matters. Each teacher shall strive to improve his or her professional skills on a continual basis through reflection, self-awareness, and self-assessment, and as otherwise recommended by their Department Head, the Executive Director or his/her designee. The Executive Director shall provide assistance to teachers as appropriate to support teachers in their self-improvement efforts. Such assistance shall include offering suggestions for improvement regardless of whether such suggestions are a part of a formal performance evaluation process. A teacher's performance shall be formally evaluated according to the schedule and procedures set forth in the school's formal performance evaluation process for teachers.

In addition to responsibilities set forth elsewhere, teachers shall be cognizant of cultural, religious, viewpoint and other differences represented in their classroom and shall approach controversial and/or sensitive topics in a manner that is consistent with Policy 303.1. Individual teachers shall work in a collegial manner as a member of a team of educational professionals who make students and their needs the central focus, and shall strive at all times to create and maintain an atmosphere of mutual respect and professional courtesy especially but not only while in the presence of students.

Teachers shall be aware that he/she is a role model to students and shall conduct him- or herself accordingly. In addition, as respected professionals, teachers represent not only the school, but also the Governing Board in their interactions with parents and other members of the community. Teachers shall, therefore, present themselves in a professional manner while at school or attending to other official duties, as well as whenever officially representing the school or the Governing Board.

The performance of each teacher including, but not limited to, the degree to which the teacher has met the expectations set forth in this policy shall be evaluated by the Executive Director or his/her designee pursuant to the School Board's approved performance evaluation timeline, standards and process.

**Revised:** August 14, 2014  
**Approved:** August 11, 2005

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**Legal Ref.:** Code of Virginia, 1950, as amended, §§22.1-295, 22.1-298.1.

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## HUMAN RESOURCES - 536

### **Privacy Policy**

The Governing Board protects the privacy of its employees by restricting personnel data to that needed for business, legal, or contractual purposes, by limiting internal access to personnel records to those with a need to know and by releasing information from the personnel file externally only with the employee's consent or to meet legal or contractual requirements. Each employee may have access to and correct inaccurate information in his or her personnel file.

Approved: August 11, 2005

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Legal Ref.: Code of Virginia, § 2.1-377, et seq.

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## HUMAN RESOURCES – 537

### **Endorsement of Commercial Products by School Personnel**

Employees shall not use their official titles or otherwise indicate endorsement by the Governing Board in the commercial promotion of any product, process or service except with the written permission of the Executive Director.

Approved: August 11, 2005

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## HUMAN RESOURCES - 538

### **Drug and Alcohol-Free Workplace**

The Executive Director is authorized to implement the regulations of the Drug Free Workplace Act and other regulations as required to maintain a drug and alcohol-free workplace for all employees. Regulations for the implementation of this policy are found in Regulation 538.1.

Approved: August 11, 2005

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## **HUMAN RESOURCES DRUG AND ALCOHOL-FREE WORKPLACE**

### **I. PURPOSE**

ARGS has a vital concern for the health and safety of its employees and the students under its supervision. The use of alcohol, anabolic steroids, or illegal drugs is inconsistent with the behavior expected of employees, subjects all employees and students to unacceptable safety risks, and undermines the school's ability to operate effectively and efficiently.

The school will establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and to make them aware of the school's Drug and Alcohol-Free Workplace policy and regulations .

### **II. GUIDELINES**

All Employees are expected to adhere to the following guidelines:

- No employee shall, at any time and in any place, unlawfully manufacture, distribute, dispense, possess, be under the influence of, or use any narcotic drug, hallucinogenic drug, amphetamines, barbiturates, marijuana, anabolic steroids or any other controlled substance as defined in the Drug Control Act of 1988, Chapter 15.1 of Title 54 of the Code of Virginia and as defined in Schedules I through V of 21 U.S.C. 812, or drug paraphernalia as defined in §18.2-265.1 of the Code of Virginia.
- No employee shall manufacture, distribute, dispense, possess, be under the influence of, or use alcohol on school property, while performing school business, during duty hours, or while attending any school-sponsored activity.
- Upon reasonable suspicion that an employee is in violation of this regulation, the Executive Director or his designee, may require the employee to be tested for alcohol by use of a breathalyzer or (equivalent devise) other appropriate tests, or tested for drugs at a designated facility. Reasonable suspicion is defined as a belief based upon objective facts and the rational inferences which may be drawn from such facts or based on direct or reported observations. A factual foundation may include, but is not limited to, observation of the employee's behavior or performance such as bloodshot eyes, dilated pupils, staggering, odor of alcohol, erratic behavior or other behavior uncharacteristic of the person, vehicular or personal injury accidents, agitation, explosiveness, altercations or violence, excessive absenteeism and tardiness patterns, lethargy, or apparent consumption of alcohol or controlled substances. Employees refusing to submit to alcohol or drug testing in such cases may be dismissed.

- Any employee who is convicted of any drug-related criminal offense shall notify the Executive Director, or his designee, within five calendar days of the conviction.

Employees who violate any aspect of this policy may be subject to disciplinary action up to and including termination. At its discretion, the school may require employees who violate this policy to successfully complete a drug abuse assistance or rehabilitation program as a condition of continued employment.

**III. EMPLOYEE ASSISTANCE**

The school recognizes that alcohol and drug dependencies are illnesses and major community health problems. Early recognition and treatment of alcohol and drug abuse are essential to successful rehabilitation. Employees voluntarily seeking assistance for a substance abuse problem through a medical source will not be disciplined as a result of their disclosure of prior drug or alcohol use, and treatment will be handled in confidence.

**IV. SPECIAL REQUIREMENT**

Employees are required to sign a form acknowledging that the employee is aware of the regulation and its requirements. The forms will be maintained by the Executive Director or designee.

**APPOMATTOX REGIONAL GOVERNOR'S SCHOOL**

**ACKNOWLEDGMENT FORM FOR EMPLOYEES  
DRUG AND ALCOHOL-FREE WORKPLACE**

As a condition of my employment with the Appomattox Regional Governor's School, I certify the following:

- A. I am aware of the school's policy and regulation pertaining to an alcohol- and drug-free workplace. I understand that I may be dismissed for any violation of this regulation, even if it is a first offense.
- B. I agree to notify the Executive Director or designee if I am convicted by a federal, state, or local court of an illegal drug-related offense. I will inform the Executive Director or designee within five days of the date of such conviction. I understand that I may be dismissed for any such conviction.

\_\_\_\_\_  
**Employee's Signature**

\_\_\_\_\_  
**Date**



## HUMAN RESOURCES - 539

### Smoking

The Appomattox Regional Governor's School prohibits smoking and the use of tobacco products in all schools, administrative offices, and facilities.

The Executive Director will publish regulations that will ensure compliance with the Virginia Indoor Clean Air Act and the goal of a smoke-free environment.

Approved: August 11, 2005

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### HUMAN RESOURCES SMOKING

#### I. PURPOSE

To establish responsibility and outline procedures for compliance with the Virginia Indoor Clean Air Act. In conjunction with this requirement, the Regional Governing Board has adopted Regional Governing Board Policy 539.

#### II. BACKGROUND

- A. ARGS will accommodate the needs of both smokers and nonsmokers in the workplace by providing regulations that comply with the Virginia Indoor Clean Air Act.
- B. These regulations apply to all facilities and areas owned or operated by the school system. It applies to all Regional Governing Board employees, individuals contracted to provide services to the Regional Governing Board, and visitors within Regional Governing Board controlled facilities and areas.

#### III. DEFINITIONS

- A. Smoking: The carrying or holding of any lighted cigar, pipe, or cigarette of any kind.
- B. Tobacco Product: Snuff, chewing tobacco, snuff packets, or any other tobacco form not specifically designed for smoking.
- C. Employee: Any person temporarily or regularly employed by the Regional Governing Board.
- D. Visitor: Any other person; i.e., parent, visitor, etc., who is on school property.

#### IV. PROCEDURES

- A. Designate and identify specific areas where smoking will be allowed outside the facility or area. These areas must be routinely maintained to avoid accumulation of litter and to prevent fire hazards. It is the building supervisor's responsibility to provide tobacco product receptacles to be located within the designated area(s).

**HUMAN RESOURCES**  
**SMOKING cont.**

- B. Ensure that designated tobacco product use area(s) are a reasonable distance from any entrance or window that would allow smoke to filter back into the building. The area(s) should not be visible (while students are in the building) from the main entrance to the facility; i.e., the entrance customarily used by the public entering the facility.
- C. Be certain that the designated area(s) are separate from stored combustible material receptacles such as dumpsters, fuel tanks; or areas which contain certain flammable liquids, gases, or vapors.
- D. Notify employees of the procedures contained in this policy and regulation. Signs should be posted to advise employees, visitors, and the community of this policy. No tobacco product use will be permitted in front of the main entrance to any facility (as defined in IV., B.).
- E. Implement and enforce this policy and regulation, to the greatest degree possible, without impairing the efficiency of service or disrupting the work environment.
- F. Ensure that areas within the building supervisor's accountability are maintained (tobacco free) and smoke-free.
- G. Designate a monitor to control designated areas and ensure that the "Designated Smoking Area" and "No Smoking Except in Designated Areas" signs are posted at all building entrances and in other appropriate places.
- H. Advise employees of the process for reporting violations to the designated official or to their immediate supervisor. The Executive Director is also authorized to take appropriate action when this policy is violated.
- I. Employees are required to follow the procedures outlined in this regulation.
- J. Smoking Restrictions: Smoking and the use of tobacco products are prohibited in:
  - 1. All schools, administrative offices, and facilities
  - 2. School buses
  - 3. Governing Board vehicles, when transporting students or non-smokers
- K. The contact person for administration of this regulation is the Executive Director or designee.

**HUMAN RESOURCES - 540**  
**Compensation Plan**

It is the goal of the Appomattox Regional Governor's School Governing Board to establish and maintain an internally and externally equitable compensation system within budgetary and other constraints that allows ARGs to attract, motivate, and retain above average employees at all levels of service.

Approved: August 11, 2005

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**HUMAN RESOURCES – 541**

**Leave Without Pay for Family and Medical Purposes**  
**(modifications as per the FMLA statute)**

The Executive Director shall promulgate regulations consistent with the Family and Medical Leave Act of 1993 providing for unpaid leave under the circumstances and to the employees covered under that Act. Any other policies or regulations, or provision thereof, of the Governing Board which grants unpaid leave under the circumstances and to the employees covered by the Act are hereby repealed.

**A. Generally**

**The Governing Board recognizes its obligation to provide its eligible employees with unpaid leave pursuant to the Family and Medical Leave Act (FMLA), 29 U.S.C. §§2601 *et seq.* this policy describes the benefits available to eligible employees under the Act.**

**B. Definitions**

**Active duty: The term “active duty” means duty under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).**

**Contingency operation: The term “contingency operation” has the same meaning given such term 10 U.S.C. § 101(a)(13).**

**Covered servicemember: The term “covered servicemember” means a member of the Armed Forces, including a member of the National Guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.**

**Eligible employee: To be eligible for leave under this policy, the employee must have at least twelve (12) months of service with the Governing Board and have worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, in the twelve (12) months preceding the commencement of the leave. Full-tie teachers are deemed to meet the 1250-hour test.**

**Instructional employee:** Employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have their principal function actual teaching or instructing, or auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

**Next of kin:** The term “next of kin” used with respect to an individual, means the nearest blood relative of that individual other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember’s next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember’s only next of kin.

**Outpatient status:** The term “outpatient status”, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to:

1. a military medical treatment facility as an outpatient; or
2. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Serious health condition:** A serious health condition is an illness, injury impairment or condition that involves patient care or continuing treatment by a health care provider.

**Serious injury or illness:** The term “serious injury or illness”, in the case of a member of the Armed Forces, including a member of the National Guard or reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

**Year:** A rolling 12-month period measured backward from the date an employee uses an FMLA leave.

### C. Leave

An employee shall provide 30 calendar days advance notice of the need to take FMLA leave when the need for such leave is foreseeable. When 30 calendar days notice is not possible, the employee must provide notice as soon as is practicable.

- (i) **Any eligible employee is entitled to leave for a combined a total of twelve (12) per year for the following situations:**
- (a) the birth and care **of a newborn child;**
  - (b) the adoption or foster **placement of a child;**
  - (c) to care for **an employee's** spouse, parent, **or child with a** serious health condition;
  - (d) because of a serious health condition that makes the employee unable to perform the **essential** functions of **the employee's job; and**
  - (e) **Because of any qualifying exigency as defined in the Department of Labor regulations, arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.**

**However, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave per year to care for the servicemember. Leave under this paragraph is only available during a single year. During that year the employee is entitled to a combined total of 26 workweeks of leave under this policy.**

**To the extent that an employee is entitled to compensated leave under the Governing Board policies, such paid leave shall be substituted for unpaid FMLA leave. Otherwise, family and medical leave is unpaid. When paid leave is available, the employee must satisfy any procedural requirements of the division's paid leave policy.**

**Employees on FMLA leave must report their status and intention regarding returning to work to the Executive Director at least every four weeks.**

#### **D. Notice to Employees of Their Rights under the FMLA**

##### **1. Posting and General Notice**

**The Governing Board shall post, in conspicuous places, on the premises of the school where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. The document noted in Exhibit 541-E(1) may be used as the notice.**

**A copy of the document noted in Exhibit 541-E(1) will also be given to each employee by including it in the employee handbook or similar document or by distributing it to each new employee upon hiring.**

2. **Eligibility Notice**

When an employee requests FMLA leave, or the Executive Director has knowledge that an employee's leave may be for an FMLA-qualifying reason, the Executive Director should notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least once reason why the employee is not eligible (such as, for example, the number of months the employee has worked for the board.) This notification may be accomplished by providing the employee a copy of Exhibit 541-E(4).

3. **Notice of Rights and Responsibilities**

The school will provide written notice detailing the specific expectations and obligations of the employee and explaining the consequences of the failure to meet those obligations each time the employee is given an Eligibility Notice. The Eligibility Notice will include, as appropriate:

- That the leave may be designated and counted against the employee's annual FMLA leave entitlement and the 12-month period for FMLA entitlement;
- Any requirements for the employee to furnish certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status, and the consequences of failing to provide certification;
- That the school will substitute paid leave for unpaid leave and any conditions related to the substitution and the employee's right to take unpaid FMLA leave if the employee does not meet conditions for paid leave;
- Any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis;
- The employee's rights to maintenance of benefits during the FMLA leave and restoration to the same or an equivalent job upon return from FMLA leave; and
- The employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after FMLA leave.

The Notice of Rights and Responsibilities should be accompanied by any required certification form.

The Notice of Rights and Responsibilities will also include notice that employees on FMLA leave must report their status and intention regarding returning to work to the Executive Director at least every four weeks.

If the information provided by the Notice of Rights and Responsibilities changes, the Governing Board will, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, provide written notice referencing the prior notice and setting forth any of the information in the Notice of Rights and Responsibilities that has changed.

#### **4. Designation Notice**

When the Executive Director has enough information to determine whether the leave is being taken for a FMLA-qualifying reason, the Executive Director should give the employee written notice whether the leave will be designated and will be counted as FMLA within five business days. If the Executive Director determines that the leave will not be designated as FMLA-qualifying, the Executive Director must inform the employee of that determination. The Executive Director will also notify the employee that paid leave must be substituted for unpaid FMLA leave or that paid leave taken under an existing leave plan be counted as FMLA leave at the time of designating the FMLA leave.

If the Executive Director will require the employee to present a fitness-for-duty certification to be restored to employment after taking leave for a continuous period of time, the Executive Director will provide notice of the requirement with the Designation Notice. If the Executive Director will require that the fitness-for-duty certification address the employee's ability to perform the essential functions of the employee's position, the Executive Director must so indicate in the Designation Notice and must include a list of the essential functions of the employee's position.

If the Executive Director has reasonable safety concerns regarding the ability of an employee who is returning to work after intermittent or reduced leave schedule to perform his or her duties based on the serious health condition for which the employee took leave, it may require the employee to submit a fitness for duty certification unless one has been submitted within the past 30 days.

If the leave is not designated as FMLA leave because it does not meet the requirements of the FMLA, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

If the information provided by the Executive Director to the employee in the Designation Notice changes, the Executive Director will provide, within five business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change.

The Executive Director will notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave needed is known at the time employer designates the leave as FMLA-qualifying, the Executive Director must notify the employee of the

**number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice, if it is not possible to provide the hours, days, or weeks that will be counted against the employee's FMLA leave entitlement, then the Executive Director must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon request by the employee but no more than once in a 30-day period and only if leave was taken in that period.**

**The Executive Director's decision to designate leave as FMLA-qualifying will be based only on information received from the employee or the employee's spokesperson. If the Executive Director does not have sufficient information about the reason for an employee's use of leave, the Executive Director will inquire further of the employee or the spokesperson to ascertain whether leave is potentially FLMA-qualifying. Once the Executive Director has knowledge that the leave is being taken for an FMLA-qualifying reason, the Executive Director will provide the employee with the notice described in this subsection.**

**E. Leave for the Birth, Adoption or Foster Placement of Child**

**The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at the end of the twelve-month period beginning on the date of birth, adoption or foster placement. Leave taken for birth, adoption or foster placement of a child may be taken intermittently or on a reduced leave schedule if the Executive Director agrees to such an arrangement.**

**If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable based on an expected birth or placement, the employee shall provide the Executive Director with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable. The employee's notice should be sufficient to make the division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.**

**F. Leave Because of a Serious Health Condition of an Employee**

**Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.**

**If the necessity for leave is foreseeable based on planned medical treatment, the employee shall:**

- 1. Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the school; and**
- 2. Provide the Executive Director with at least 30 days notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less**



than 30 days, the employee shall provide such notice as practicable.

The employee's notice should be sufficient to make the Executive Director aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave.

The Governing Board may require that a request for leave because of the employee's own serious health condition be supported by a certification issued by a health care provider of the employee. The Executive Director may exhibit 541-E(2) for this certification. The Executive Director should request that the employee furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The Executive Director may request certification at a later date if he/she has reason to question the appropriateness of the leave or its duration. The employee must provide a complete and sufficient certification within 15 calendar days after the Executive Director's request. When the Executive Director requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states:

1. The name, address, telephone number and fax number of the health care provider and the type of medical practices/specialization;
2. The approximate date on which the serious health condition commenced and its probable duration;
3. A statement or description of appropriate medical facts regarding the employee's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
4. Information sufficient to establish that the employee is unable to perform the essential functions of his or her position, the nature of any other work restrictions, and the likely duration of such inability.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of his or her serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates of which such treatment is expected to be given and the duration of such treatment and any period of recovery.

If an employee requests leave on an intermittent or reduced schedule because of her or her own serious health condition that may result in unforeseen episodes of incapacity, the certification shall include information sufficient to establish the medical necessity for the intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency and duration of the episodes of incapacity.

If the employee submits a complete and sufficient certification signed by the health care provider, the Executive Director may not request additional information from the health care provider. However, the Executive Director may contact the health care provider for purposes of clarification and authentication

of the medical certification. To make such contact, the Executive Director must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.

If the Executive Director doubts the validity of a certification, it may require, at the Governing Board's expense, that the employee obtain the opinion of a second health care provider designated or approved by the Governing Board concerning any information certified. The health care provider designated or approved by the Governing Board may not be employed by the Governing Board on a regular basis.

If the second opinion differs from the original certification, the Governing Board may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Governing Board and the employee concerning information certified. The opinion of the third health care provider will be binding on both the Governing Board and the employee.

#### **G. Leave Because of a Serious Health Condition of a Child, Spouse, or Parent of Employee**

Family and medical leave shall be provided when the employee is needed to care for his/her spouse, child or parent with a serious health condition, as defined above. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

1. make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of the school; and
2. provide the Executive Director with at least 30 days notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the Executive Director aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The Governing Board may require that a request for leave to care for an employee's spouse, parent, or child with a serious health condition be supported by a certification issued by a health care provider of the family member in need of care. The Executive Director may use Form WH-380-F [Exhibit 541-E(3)] for this medical certification. The Executive Director should ask the employee to furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The Executive Director may request certification at some later date if he/she has reason to question the

**appropriateness of the leave or its duration. The employee must provide the requested certification within 15 calendar days after the Executive Director's request. When the Executive Director requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.**

**Certification will be sufficient if it states:**

- 1. the name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;**
- 2. the appropriate date on which the serious health condition commenced and its probable duration;**
- 3. a statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and**
- 4. information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member.**

**If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of a family member's serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and the duration of such treatments and any periods of recovery.**

**If an employee requests leave on an intermittent reduced leave schedule in order to care for a family member with a serious health condition, the certification shall include a statement that the employee's intermittent leave or leave on a reduced leave schedule is medically necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.**

**If an employee submits a complete and sufficient certification signed by the health care provider, the Executive Director may not request additional information from the health care provider. However, the Executive Director may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the Executive Director must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee's direct supervisor may not contact the employee's health care provider.**

**If the Governing Board doubts the validity of a certification, it may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the Governing Board concerning any information certified. The health care provider designated or approved by the Governing Board may not be employed by the Governing Board on a regular basis.**

If the second opinion differs from original certification, the Governing Board may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Governing Board and the employee concerning information certified. The opinion of the third health care provider will be binding on both the Governing Board and the employee.

#### **H. Leave to Care for a Covered Servicemember**

If the necessity for leave is foreseeable based on planned medical treatment for a serious injury or illness of a covered servicemember, the employee shall

1. Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the school; and
2. Provide the Executive Director with at least 30 days written notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the Executive Director aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The Governing Board may require that a request for leave to care for a covered servicemember with a serious injury or illness be supported by a certification issued by a health care provider of the covered serviceperson. The certification may be completed by a U.S. Department of Defense (DOD) health care provider, a U.S. Department of Veterans Affairs (VA) health care provider, a DOD TRICARE network authorized private health care provider, or a DOD Non-network TRICARE authorized health care provider. The employee shall provide, in a timely manner, a copy of such certification to the Executive Director.

Certification will be sufficient if it states:

1. The name, address, and appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and whether the health care provider is one of the following: a (DOD) health care provider, U.S. Department of Veteran Affairs (VA) health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized health care provider;
2. Whether the covered servicemember's injury or illness was incurred in the line of duty on active duty;
3. The approximate date on which the serious health condition or serious injury or illness commenced and its probably duration;
4. A statement or description of appropriate medical facts regarding the covered servicemember's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and

5. **Information sufficient to establish that the covered servicemember is in need of care and whether the covered servicemember will need care for a single continuous period of time, including any time for treatment and recovery, and an estimate as to the beginning and ending dates for this period of time.**

**If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned medical treatment appointment for the covered servicemember, the certification must state that there is a medical necessity for the covered servicemember to have such periodic care and must contain an estimate of the treatment schedule of such appointments.**

**If an employee requests FMLA leave on an intermittent or reduced schedule basis to care for a covered servicemember other than for planned medical treatment, the certification must contain a statement that there is a medical necessity for the covered servicemember to have such periodic care, and must contain an estimate of the frequency and duration of the periodic care.**

**In addition to the information listed above, the Executive Director may also request that the certification set forth the information on Form WH-385 [Exhibit 541-E(7)].**

**In lieu of Form WH-385, the school will accept invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued to any family member to join an injured or ill servicemember at his or her bedside. AN ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, the employee may take leave to care for the covered servicemember in a continuous block of time or on an intermittent basis.**

**The information on the certification must relate only to the serious injury or illness for which the current need for leave exists. The division may seek authentication or clarification of the certification, ITO, or ITA but may not seek second or third opinions. The Executive Director may require an employee to provide confirmation of covered family relationship to the seriously injured or ill servicemember.**

#### **I. Leave related to a Qualifying Exigency arising from Active Duty or a Call to Active Duty**

**If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on active duty or has been notified of an impending call to active duty is foreseeable, the employee shall give such notice to the Executive Director as is reasonable and practicable. The employee's notice should be sufficient to make the Executive Director aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.**

**The first time an employee requests leave because of a qualifying exigency arising out of the active duty or call to active duty status of a covered military member, the Executive Director may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation and the date of the covered military member's active duty service. A copy of the new active duty orders or other documentation issued by the military shall be provided to the Executive Director if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.**

**A request for leave because of a qualifying exigency must be supported by**

- 1. A statement or description signed by the employee of appropriate facts regarding the qualifying exigency for which FMLA leave is requested. The facts must be sufficient to support the need for leave;**
- 2. The approximate date on which the qualifying exigency commenced or will commence;**
- 3. The beginning and ending dates of absence if the employee requests leave because of a qualifying exigency for a single, continuous period of time;**
- 4. An estimate of the frequency and duration of the qualifying exigency if the employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis;**
- 5. If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting and a brief description of the purpose of the meeting.**

**The Executive Director may use Form WH-384 [Exhibit 541-E(6)] for this certification.**

#### **J. Rules for Intermittent and Reduced Schedule Leave**

**When permitted by the FMLA, intermittent and reduced schedule leave may be used until the aggregate amount of such leave equals twelve weeks or 26 weeks if the leave is taken to care for a covered servicemember in the employee's rolling year. However, when the employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment the Executive Director may temporarily transfer to an**

available alternate position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced schedule leave.

When an eligible employee employed principally in an instructional capacity requests leave to care for a family member with a serious health condition, leave because of the employee's own serious health condition, or leave to care for a covered servicemember and the leave is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave extend, the Executive Director may require the employee to elect either

1. To take leave for periods of a particular duration, not to exceed the duration off the planned medical treatment; or
2. To transfer temporarily to an available alternative position offered by the Governing Board for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the employee's regular employment position.

The Governing Board may require an employee to make such an election when the employee has

1. Made a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the school, subject to the approval of the health care provider; and
2. Has provided the Executive Director with no less than 30 days notice before the date the leave is to begin, of the employee's intention to take leave, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

#### **K. Rules for Husband and Wife Employed by the Governing Board**

A husband and wife who are both eligible for family and medical leave and are employed by the Governing Board shall be granted family and medical leave only for a combined total of twelve weeks per year when the leave is taken for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition.

A husband and wife who are both eligible for family and medical leave and are employed by the Governing Board shall be granted family and medical leave only for a combined total of 26 workweeks per year if the leave

- 1. is taken to care for a covered servicemember; or**
- 2. is taken as a combination of leave to care for a covered servicemember and leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition. However, if the leave taken by the husband and wife includes leave for the birth, foster placement, or adoption of a child or to care for the child after birth, adoption, or foster placement or to care for a parent with a serious health condition, the leave for that reason shall be limited to 12 workweeks per year.**

#### **L. Benefits During Family and Medical Leave**

**Employees on family and medical leave shall receive the group health insurance plan coverage on the same conditions as coverage would have been provided if the employee had been working during the period of leave. Other benefits shall be provided according to the school division policy for paid or unpaid leave, whichever applies.**

**If the employee fails to return to work when the period of leave to which he or she is entitled expires for any reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave, or other circumstances beyond the employee's control, the school division may recover the premium it paid for maintaining the employee's coverage during the period of unpaid leave in accordance with federal law.**

#### **M. Return to Work**

**An employee on family and medical leave shall provide the division at least two work days' notice of the intent to return to work. The employee shall be returned to the same or equivalent position at the end of the family and medical leave unless the division shows that the employee would not otherwise have been employed at the time reinstatement is requested.**

**The following return to work provisions apply to instructional employees:**

- 1.If an instructional employee begins family and medical leave more than five (5) weeks before the end of an academic term, the employee may be required to continue taking leave until the end of the term if the leave is at least three (3) weeks in duration and**



the return to work would occur during the last three (3) weeks of the academic term.

2.If an instructional employee begins family and medical leave (a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, (b) to care for a family member with a serious health condition, or (c) to care for a covered servicemember during the five (5) week period before the end of an academic term, the employee may be required to continue taking leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of the academic term.

3. If an instructional employee begins family and medical leave (a) because of the birth, adoption, or foster care placement of a son or daughter of the employee, (b) to care for a family member with a serious health condition, or (c) to care for a covered servicemember during the three (3) week period before the end of an academic term, the employee may be required to continue taking leave until the end of an academic term if the leave is longer than five (5) working days in duration.

If an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be counted against the family and medical leave entitlement. However, the division must continue the group health insurance coverage under the same conditions as if the employee were working.

#### **N. Outside Employment**

An employee who is on family and medical leave may not engage in employment for any other employer or self-employment while on leave. Falsification of records and failure to correct records known to be false are violations of this policy and will result in discipline which may include termination from employment.

**Adopted:**

**Legal Ref.: 29 U.S.C. §§ 207, 825.110, 825.600, 2601 et seq.**

**Revised: August 14, 2014**  
**Approved: August 11, 2005**

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## HUMAN RESOURCES – 542

### **Appeal Process for Suspension Without Pay, Demotion, and Dismissal Procedure for Support Positions**

The purpose of this procedure is to provide an appeal process for all permanent full-time and permanent part-time support personnel who are being recommended for suspension without pay, dismissal, or demotion for disciplinary reasons during the term of their employment. This procedure shall not apply to the non-renewal of the contract of such employees, nor shall this procedure apply to top-level administrative staff (Executive Directors and members of the Executive Director's senior staff), temporary support employees, or to full-time and part-time support employees terminated or demoted during the six-month probationary period of their employment.

#### **Procedure**

1. The reasons for the action and an explanation of supporting facts shall be given to the employee by the Executive Director unless the employee has abandoned the position or is otherwise unavailable. The employee shall be given the opportunity to present his or her reasons why the action should not be taken. All information presented shall be considered by the supervisor in making his/her decision.
2. The employee may appeal the decision by written request to the Steering Committee Chairman or his designee, within five working days of the decision. Failure to request a hearing within the allotted time period will constitute a waiver to the right to a hearing. The Steering Committee Chairman or his designee shall hold a hearing within ten working days of receipt of the employee's request. Notice of the hearing shall be given orally or in writing to the employee at least three calendar days before the hearing.
3. The employee and the Executive Director may be represented by legal counsel at the hearing. The hearing shall be private and the Steering Committee Chairman or his designee shall have full discretion over the conduct of the hearing. However, the employee and the supervisor may make opening statements, may present all material and relevant evidence, including the testimony of witnesses, and may cross-examine all witnesses. Witnesses may be questioned by the Steering Committee Chairman or his designee.
4. The Executive Director or designee shall give a written decision within five working days after the completion of the hearing. The decision shall be based on the evidence relevant to the issues produced at the hearing in the presence of each party.
5. The Governing Board shall hear appeals of employer actions only when such actions are initiated and taken by the Executive Director. In all other cases, the Executive Director or designee shall provide the final appeal hearing.

6. Any employee charged by summons, warrant, information or indictment with a felony, a crime of moral turpitude, or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child may be suspended without pay pending the disposition of such charge and the above procedures shall not apply to such suspensions.

Approved: August 11, 2005

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## **HUMAN RESOURCES 543**

### Omnibus Transportation Employee Testing Act

This policy is required by the Omnibus Transportation Employee Testing Act of 1991 and the regulations promulgated thereto (49 C.F.R., Part 382) (the "federal regulations").

#### I. Applicability

This policy shall apply to every employee who operates a commercial motor vehicle and who is required by federal law to have a commercial driver's license.

#### II. Definitions

- A. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl and isopropyl alcohol.
- B. "Alcohol use" means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- C. "Commercial motor vehicle" means a motor vehicle that has a gross vehicle weight rating of 26,001 or more pounds or is designed to transport 16 or more passengers, including the driver.
- D. "Driver" means any person who operates a commercial motor vehicle, including, but not limited to, full-time, part-time, casual, intermittent and occasional drivers and, for purposes of pre-employment/pre-duty testing, persons applying to be drivers.
- E. "Performing a safety-sensitive function" means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- F. "Safety-sensitive function" means any of those on-duty functions set forth in 49 C. F. R. § 39.5.2 On-Duty time, ¶¶ 1-7, including, but not limited to, waiting to be dispatched; inspecting, servicing or conditioning a commercial motor vehicle; all driving time; all time in or upon any commercial motor vehicle; all time loading and unloading a vehicle; and all time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

#### III. Prohibitions

- A. Alcohol concentration: No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater or while under the influence of or impaired by alcohol.
- B. Alcohol possession: No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
- C. On-duty and pre-duty use: No driver shall use alcohol while performing safety sensitive functions, or perform safety-sensitive functions within four (4) hours after using alcohol.
- D. Refusal to submit to tests: No driver shall refuse to submit to an alcohol or controlled substance test.
- E. Controlled substances use: No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

#### IV. Pre-Employment Testing

- A. Prior to the first time a driver performs safety-sensitive functions for the Governing Board, he/she shall undergo testing for alcohol and controlled substances. No driver will be permitted to perform a safety-sensitive function unless the alcohol test results are 0.04 or less and the controlled substances test is negative. A driver whose alcohol test results are between 0.02 and 0.04 cannot perform safety-sensitive functions until the next regularly scheduled duty period, but in no event less than 24 hours after the test.
- B. Alcohol and controlled substances tests may be waived by the Governing Board for employees who have previously undergone testing as provided in the federal regulations.

#### V. Post-Accident Testing

- A. As soon as practical after an accident, the Governing Board will test for alcohol and controlled substances any driver who (1) receives a ticket arising from the accident, or (2) was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of life.
- B. A driver who is subject to post-accident testing shall remain readily available for such testing and shall not use alcohol for eight (8) hours after the accident or until he/she undergoes the alcohol test, whichever occurs first.

#### VI. Random Testing

All drivers shall be subject to unannounced random alcohol and controlled substances tests. A driver who is notified of selection for random testing must proceed to the test site immediately, unless the driver is performing a safety-sensitive function, in which case the driver shall proceed to the site as soon as possible after ceasing to perform the function.

#### VII. Reasonable Suspicion Testing

A driver shall be subject to alcohol or controlled substances testing when there is reasonable suspicion to believe the driver has violated the prohibitions in paragraphs III.A., C., and E. of this policy.

#### VIII. Return-to-Duty Testing

Before a driver returns to duty requiring the performance of a safety-sensitive function after violating paragraph III of this policy shall undergo an alcohol test with a result indicating an alcohol concentration of less than 0.02 or a controlled substances test with a negative result.

#### IX. Follow-up Testing

A driver who violates paragraph III of this policy and who is determined pursuant to this policy to be in need of assistance in resolving problems associated with alcohol misuse and for use of controlled substances shall be subject to unannounced follow-up alcohol as well as controlled substances testing as directed by a substance abuse professional.

X. Referral, Evaluation and Treatment

- A. A driver who violates paragraph III of this policy shall be advised of the resources available to him/her in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. A driver identified as needing assistance in resolving such problems shall be evaluated by a substance abuse professional to determine that the driver has properly followed any prescribed rehabilitation program. The evaluation and rehabilitation shall be provided by substance abuse professionals approved by the Governing Board and paid for by the driver.
- B. The provisions of this paragraph shall not apply to applicants for driver positions who violate paragraph III of this policy. Such persons shall not be employed.

XI. Miscellaneous

- A. The Executive Director shall promulgate regulations setting forth the procedures for complying with this policy and the federal regulations and shall provide copies of this policy and the regulations to each employee subject to this policy.
- B. Each employee subject to this policy will sign a certificate of acceptance and consent to disclosure form acknowledging receipt of the policy and regulations and consenting to the disclosure by his/her former employer of information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years.
- C. Nothing in this policy shall prohibit the dismissal or other disciplinary action against an employee pursuant to any other policy, regulation, ordinance or law. This policy is intended to supplement, and not supplant, any such other policy, regulation, ordinance or law.

Approved: August 11, 2005