

WEST BABYLON UNION FREE SCHOOL DISTRICT
WEST BABYLON, NEW YORK

REGULAR MEETING

BOARD OF EDUCATION
BOARD ROOM - ADMINISTRATION BUILDING

MONDAY – FEBRUARY 13, 2012

AGENDA

The order of business at all regular meetings shall be as follows:

1. Call to order by presiding officer
2. Pledge of Allegiance to The Flag [7:00 P.M. - Meeting Convenes Followed by Student Presentation(s) and/or Executive Session]

West Babylon Senior High School “Poetry Out Loud” Presentation:

Mrs. Carol Varsalona, Director of Language Arts and Testing; Dr. Ellice Vassallo, Senior High School Principal; and Mr. Hans Haugen, Grades 6-12 English Chairperson

2012 Poetry Out Loud Winners:

- 1st Place -- Wasiq Ahmad, 11th Grade, “Candles” by Carl Dennis
- 2nd Place -- Brian Phillips, 11th Grade, “Invictus” by William Ernest Henley
- 3rd Place -- James Moran, 9th Grade, “Shall earth no more inspire thee?” by Emily Jane Bronte

[8:00 P.M. - Public Session Resumes Beginning with Item #3]

3. Approval of minutes of previous meeting(s):
Regular Meeting: January 24, 2012
Special Meeting: January 31, 2012
4. Statement of the Board and/or Superintendent
5. Statement of West Babylon Teachers' Association Representative
6. Statement of School Administrators' Association Representative
7. Statement of C.S.E.A. Representative
8. Statement of Student Association Representative
9. Statement of PTA Council Representative
10. Statement of Residents re: agenda items [15 minutes-limited to 3 minutes per speaker]*

11. Report of the Superintendent and/or Educational Presentation
12. Business Agenda [****Consent Agenda Items**]
 - A. **BOARD OF EDUCATION**
 - ** (R) Notice of Annual Meeting (Res. #BE-1)
 - ** (R) Approval of Uniondale School District to provide Health Services to West Babylon School District Resident Students (Res. #BE-2)
 - ** (R) Approval of Jericho School District to provide Health and Welfare Services to West Babylon School District Resident Students (Res. #BE-3)
 - ** (R) Approval of Massapequa School District to provide Health Services to West Babylon School District Resident Students (Res. #BE-4)
 - ** (R) Approval of Babylon School District to provide Special Education and Related Services to West Babylon School District Resident Students (Res. #BE-5)
 - B. **PERSONNEL**
 - ** (R) 11-P-14 Professional Personnel
 - ** (R) 11-C-14 Civil Service Personnel (Res. #PE-1)
 - C. **FINANCE**
 - ** (R) Acceptance of Donations (Res. #FI-1)
 - ** (R) Acceptance of Grant Award (Res. #FI-2)
 - D. **CURRICULUM**
 - ** (R) Acceptance of Donations (Res. #CU-1)
 - ** (R) Declaration of Obsolete Books and Equipment (Res. #CU-2 through Res. #CU-3)
 - E. **STUDENT SERVICES**
 - ** (R) Approval of Committee on Special Education Recommendations (Res. #SS-1)
 - F. **FACILITIES**
 - ** (R) Acceptance of Donations (Res. #FA-1 through Res. #FA-2)
 - ** (R) Declaration of Obsolete Equipment (Res. #FA-3 through Res. #FA-4)
13. Policy Review:
 - A. Board Review - Open Lunch Policy (Second Time Discussion) (File:5181)
 - B. Board Review - Alcohol and Drug Testing of Bus Drivers (Second Time Discussion) (File:8414.5)
 - C. Board Review - Alcohol and Drug Testing of Bus Drivers-Regulation (Second Time Discussion) (File:8414.5-R)
 - D. Board Review - Staff Complaints and Grievances (Second Time Discussion) (File:9140.1)
 - E. Board Review - Staff Complaints and Grievances-Regulation (Second Time Discussion) (File:9140.1-R)
 - F. Board Review - Conditional Appointment-Student Safety (Second Time Discussion) (File:9260)
 - G. Board Review - Compensation and Benefits (Second Time Discussion) (File:9500)
14. Board of Education Committee Reports
15. Old Business

16. New Business:
Review and Discussion of 2012-2013 Budget Draft No. 3 with Administrative Recommendations:
Mr. Anthony Cacciola, Superintendent of Schools
Ms. Jennifer Buscemi, Executive Director for Finance & Operations
17. Follow-Up to Residents' Statements
18. Statements of Residents re: other district items [15 minutes-limited to 3 minutes per speaker]*
19. Adjournment [This should take place by 11:00 P.M.]

*Per Board Policy 1230: The Board of Education encourages participation of residents at open Board meetings. The President of the Board shall ask for brief statements from residents and set a time limit (three minutes per resident) on such statements. To allow for public participation, a period not to exceed 15 minutes shall be set aside during the first and last part of each Board meeting. The President shall be responsible for the orderly conduct of the meeting and shall rule on such matters as the time to be allowed for public discussion and the appropriateness of the subject being presented. The President shall have the right to discontinue any presentation which violates this policy. Residents wishing to speak should identify themselves, their address, any organization they may be representing at the meeting, and the topic they wish to discuss. Statements during the first part of the meeting will relate to agenda items. Statements during the second part of the meeting will relate to other district matters.

Follow-Up to Residents' Questions

Date	Residents' Questions	Responses
October 25, 2011	Proposal to form a Budget Advisory Committee	1/10/12-A Superintendent's Budget Advisory Committee will be formed.
November 21, 2011	-----	-----
November 29, 2011	-----	-----
December 13, 2011	-----	-----
January 10, 2012	-----	-----
January 24, 2012	Request for Board of Education Trustees to reconsider each grade level being allowed to take one field trip a year.	To be discussed during future budget presentation meetings.

WEST BABYLON UNION FREE SCHOOL DISTRICT
WEST BABYLON, NEW YORK

REGULAR MEETING

BOARD OF EDUCATION

BOARD ROOM - ADMINISTRATION BUILDING

MONDAY – FEBRUARY 13, 2012

RESOLUTIONS

BOARD OF EDUCATION

***BE-1

RESOLVED: that the annual school election of the West Babylon Union Free School District, Town of Babylon, Suffolk County, New York, shall be held on Tuesday, May 15, 2012, from 7:00 A.M. to 9:00 P.M. in the two designated election districts in said school district for the purposes set forth in the Notice of Annual Meeting.

RESOLVED: that the Notice of Annual Meeting be published four times during the seven weeks preceding and beginning 45 days prior to the meeting in the *Babylon Beacon* and *South Bay Newspaper*, two newspapers having general circulation in the district.

RESOLVED: that Patrick M. Farrell is designated as permanent chairperson of election in accordance with Section 2026 of the Education Law.

***BE-2

RESOLVED: that the West Babylon Board of Education approves the following school district to provide health services to West Babylon School District resident students for the 2011-2012 school year:

Uniondale Union Free School District

***BE-3

RESOLVED: that the West Babylon Board of Education approves the following school district to provide health and welfare services to West Babylon School District resident students for the 2011-2012 school year:

Jericho Union Free School District

****#BE-4**

RESOLVED: that the West Babylon Board of Education approves the following school district to provide health services to West Babylon School District resident students for the 2011-2012 school year:

Massapequa Union Free School District

****#BE-5**

RESOLVED: that the West Babylon Board of Education approves the following school district to provide special education and related services to West Babylon School District resident students for the 2010-2011 school year:

Babylon Union Free School District

PERSONNEL

****#PE-1**

RESOLVED: that the following schedules, as attached, are approved:

11-P-14

Professional Personnel

11-C-14

Civil Service Personnel

FINANCE

****#FI-1**

RESOLVED: that the West Babylon Board of Education gratefully accepts a donation, in the amount of \$26.95, from Ohiopyle Print Company. The donation will be deposited into the Senior High School's Trust and Agency account.

****#FI-2**

RESOLVED: that the West Babylon Board of Education gratefully accepts a grant in the amount of \$10,000 from Optimum Lightpath. The grant monies will be used for technology professional development and for the creation of a museum collection, for public viewing, at the Van Bourgondien Farm House Interpretive Center, a local historical landmark.

CURRICULUM

****#CU-1**

RESOLVED: that the West Babylon Board of Education gratefully accepts the following donation of 20th Century artifacts from Mr. Kenneth Powers of “Junk to Gems”:

1930 Bottle

Boy’s Hair Brush

Vintage cowboy pins

These items are from LI Artifacts circa Pre and Post WWII. The donations will be used for the “In Grandma’s Attic” project.

****#CU-2**

RESOLVED: that the West Babylon Board of Education declares 105 library materials, located in the Senior High School library, obsolete. The materials are either damaged or out-of-date.

****#CU-3**

RESOLVED: that the West Babylon Board of Education declares 380 books and a film strip projector, located in the Senior High School Foreign Language Department, obsolete. The materials are out-of-date and the projector is beyond repair.

STUDENT SERVICES

****#SS-1**

RESOLVED: that the West Babylon Board of Education approves the recommendations of the Committee on Special Education.

FACILITIES

****#FA-1**

RESOLVED: that the West Babylon Board of Education gratefully accepts the donation of a bucket of golf balls from Mr. Tom Kelly, a West Babylon resident.

****#FA-2**

RESOLVED: that the West Babylon Board of Education gratefully accepts the following donation from Mrs. Carol Varsalona, Director of Language Arts and Testing:

a Linksys Wireless Router

****#FA-3**

RESOLVED: that the West Babylon Board of Education declares the following equipment obsolete:

Year:	1989
Make:	B&G 30D (Garbage Truck)
Plate:	K50832
VIN #:	1HTLDTVR8KH677976

The vehicle requires expensive repairs and based on its overall condition, repair is not feasible. The truck will be removed from the transportation roster.

****#FA-4**

RESOLVED: that the West Babylon Board of Education declares the following equipment obsolete:

Year:	1988
Make:	B&G 90 Dodge Pick Up
Plate:	K50833
VIN #:	1B7KW2456JS682283

The vehicle requires expensive repairs and based on its overall condition, repair is not feasible. The pick up truck will be removed from the transportation roster.

WEST BABYLON UNION FREE SCHOOL DISTRICT

REGULAR MEETING - BOARD OF EDUCATION - MONDAY - FEBRUARY 13, 2012

PERSONNEL

(R) Schedules:

11-P-14

11-C-14

Professional Personnel

Civil Service Personnel

PROFESSIONAL PERSONNEL SCHEDULE

I. Professional Personnel Schedule 11-P-14

- A. S.A.T. Proctors
- B. Spring, 2012 Coaching
- C. Spring, 2012 Student Teachers/Observers
- D. 2011-2012 Per Diem Substitutes

CIVIL SERVICE PERSONNEL SCHEDULE

II. Civil Service Personnel Schedule 11-C-14

- A. Family Medical Leaves
- B. Resignation
- C. Compensated Absences
- D. Clerk Typist Position Established
- E. PEL Recall
- F. Probationary Appointments
- G. 2011-2012 Per Diem Substitute

SCHEDULE 11-P-14 Professional Personnel Schedule
 Date of Meeting: February 13, 2012
 Page 1 of 4 pages.

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NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
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S.A.T. Proctors:

			\$21.97/hr.	1/28/12	
Connors, Lucia					5 hrs.
Borgo, Danielle					6 hrs.
Carson, Jeffrey					6 hrs.
Goodwin, Deborah					6 hrs.
Heaton, Bryan					6 hrs.
Heaton, Elise					6 hrs.
Iaquinto, Christine					6 hrs.
Kohler, Amy					6 hrs.
Kunzig, Christopher					6 hrs.
McArdle, Patrick					6 hrs.
Mendoza, Aimee					6 hrs.
Ruiz, Lawrence					6 hrs.
Shaffer, Donna					6 hrs.
Simone, Linda					6 hrs.
Whitfield, Constance					6 hrs.
O'Leary, Daniel					6.5 hrs.
Powers, Brian					7.5 hrs.
Powers, Daniel					7.5 hrs.
Montalvo, Andrea					9 hrs.
Montalvo, Christina	Test Supervisor				9 hrs.

SCHEDULE 11-P-14 Professional Personnel Schedule
 Date of Meeting: February 13, 2012
 Page 2 of 4 pages.

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
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Coaches:

Spring, 2012

McCabe, James	Varsity Asst.	Lacrosse(G)	\$5,074.		
Kern, James	JV Asst.	Lacrosse(B)	\$4,077.		[resignation]
TBA	JV Asst.	Lacrosse(B)	\$4,077.		
Enriquez, Jonathan	JHS Head	Baseball	\$4,077.		[resignation]
TBA	JHS Head	Baseball	\$4,077.		

Student Teachers/Observers:

Spring, 2012

DellaPorta, Danielle	Elementary/Special Ed	FA			
Napolitano, Cody	Spanish	HS			
Stacy, Erin	Elementary	SB			
Velasquez, Patricia	Social Studies	HS			
Williams, Corita	Mathematics	HS			

Per Diem Substitutes:

DW

\$90./day

2011-2012

Ferretti, Heather
 LaRosa, Nicole

SCHEDULE 11-C-14 Civil Service Personnel Schedule

Date of Meeting: February 13, 2012

Page 3 of 4 pages.

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Goldenbaum, Adrienne	School Lunch Director	B.O.		11/28/11 -	Family Medical Leave
Odwazny, Cheryl	School Bus Driver	Trans.		12/5/11 -	Family Medical Leave
Robertson, Kathleen	Clerk Typist	B.O.		1/9/12 -	Family Medical Leave
Alfredson, Evelyn	School Bus Driver	Trans.		1/19/12 -	Family Medical Leave
Cascio Plezia, Deborah	Paraprofessional (school monitor)	JK		1/27/12	Resignation
Compensated Absences:					
Palinteri, MaryAnn	Senior Clerk Typist	SB	\$8,633.10	2/3/12	[retirement payment for 42 accrued vacation days]

SCHEDULE 11-C-14 Civil Service Personnel Schedule

Date of Meeting: February 13, 2012

Page 4 of 4 pages.

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NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
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The following position is established effective 2/14/12:

[action taken per C.S. audit]

(1.0) 12-month Clerk Typist Transportation Department

The following clerk typist is being recalled from the Preferred Eligibility List:

Niven, Gelsomina Clerk Typist Trans. Step 1/
\$29,637.
(prorate) 2/15/12

Messina, Victoria School Bus Driver Trans. \$19.53/hr. 2/14/12 Probationary Appt.

Ippolito, Kristine Paraprofessional (special ed. aide) TA Step 1/
\$13.37/hr. 2/27/12 Probationary Appt.

Ryan, Meghan Paraprofessional (special ed. aide) TA Step 1/
\$13.37/hr. 2/14/12 Probationary Appt.

Per Diem Substitute:

Cascio-Plezia, Deborah

DW \$9./hr. 2011-2012

Clerical/Paraprofessional

WEST BABYLON UNION FREE SCHOOL DISTRICT

REGULAR MEETING - BOARD OF EDUCATION - MONDAY - FEBRUARY 13, 2012

POLICY

- A. Board Review - Open Lunch Policy (Second Time Discussion) (File:5181)
- B. Board Review - Alcohol and Drug Testing of Bus Drivers (Second Time Discussion)
(File:8414.5)
- C. Board Review - Alcohol and Drug Testing of Bus Drivers-Regulation (Second Time Discussion)
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- E. Board Review - Staff Complaints and Grievances-Regulation (Second Time Discussion)
(File:9140.1-R)
- F. Board Review - Conditional Appointment-Student Safety (Second Time Discussion)
(File:9260)
- G. Board Review - Compensation and Benefits (Second Time Discussion) (File:9500)

Open Lunch Policy

File: [JEF and JEF-R] 5181

High school students in their senior year, *who are minors* and who are in good standing, may leave school during their lunch period, if it occurs in periods five, six, seven, eight, or nine providing they submit a signed parental permission document. *High School students who are 18 or over are required to complete the document for themselves.*

[The school administration shall establish the criteria to be acceptable as "good standing".] *The Open Lunch Policy is available to students in their senior year who are in good standing. A senior in good standing is one who is on schedule to graduate at the end of the academic year and there are no attendance or disciplinary issues. There will be quarterly reviews of the students who utilize the program to assess whether a student remains in good standing.*

A student who leaves school during school hours without permission shall be considered insubordinate and is subject to suspension from school.

Cross References:

JED - Student Absences and Excuses

JEDA - Truancy

JGD/JGE - Student Suspension/Expulsion

Replaces former policy JEF and JEF-R

Adopted: 09/02/86

Revised: 02/23/98

Revised: 09/22/09

ALCOHOL AND DRUG TESTING OF BUS DRIVERS

The Board of Education recognizes the dangers inherent in alcohol and controlled substance use by employees especially those in safety-sensitive positions. To ensure the safety of its students and to comply with federal regulations, the Board requires alcohol and controlled substance testing of school bus drivers and other covered employees.

The district shall directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to hold a commercial driver's license. Such employees include:

- 1. drivers of buses designed to transport 16 or more passengers, including the driver;*
- 2. drivers of commercial motor vehicles whose manufacturer's rating is 26,001 lbs. or more; or*
- 3. any other employee who may drive a listed vehicle (e.g. a mechanic who performs test drives).*

Controlled substance and alcohol tests will be conducted at the time of employment and randomly throughout the school year. In addition, testing will be conducted when a supervisor has a reasonable suspicion that an employee has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the employee has been found to violate district policy and federal regulations; and after the employee's return to duty.*

In accordance with federal and state law, a bus driver will not be permitted to drive if he or she:

- 1. possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;*
- 2. uses or is under the influence of alcohol or a controlled substance within six hours or less before duty;*
- 3. has an alcohol concentration of 0.02 or higher, or tests positive for a controlled substance; or*
- 4. refuses to take a required alcohol or controlled substance test.*

Also, no driver shall use alcohol after being involved in an accident in which there was a fatality or in which the bus driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until he/she has been tested or 8 hours have passed, whichever occurs first.

Any employee who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, shall be removed from the position until his or her next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee found to have violated this requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, district policy, and/or law.

If a driver has an alcohol concentration of 0.04 or greater, or has engaged in prohibited alcohol or controlled substance use, he or she will be removed from driving duties, and referred to a substance abuse professional. The employee may be required to complete a treatment program and/or be disciplined pursuant to district policy and/or collective bargaining agreement. No driver who has abused controlled substances and/or alcohol may return to duty unless he/she has successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing.

Should the district receive a dilute test result in which the creatinine concentration is greater than 5mg/dL in the case of any pre-employment, return-to-duty, follow-up, reasonable suspicion, or random test, it is the policy of the district that the individual shall be re-tested and that re-test will become the test of record.

The Superintendent of Schools shall ensure that a copy of this policy, the district's policy on misuse of alcohol and use of controlled substances, information on alcohol and drug abuse and treatment resources and any other information prescribed by federal regulations is provided to all school bus drivers and other appropriate personnel prior to the initiation of the testing program and to each driver subsequently hired or transferred to a position subject to testing.

**The district has the option to require pre-employment alcohol testing as part of district policy. However, pre-employment controlled substance testing and random alcohol and controlled substance tests are mandatory under federal regulations.*

Cross-ref: 8414.1, *Bus Driver Qualifications and Training*
9320, *Drug-Free Workplace*
9610, *Staff Substance Abuse*

Ref: *Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§31136; 31306*
49 U.S.C. §521(b), 49 CFR Part 391
49 CFR Part 382, 49 CFR Part 40
49 CFR §395.2, Vehicle and Traffic Law §§509-1; 1192; 1193
Will v. Frontier CSD Bd. of Educ., 97 N.Y.2d 690 (2002)

Replaces former policy GDPE

Adoption date:

ALCOHOL AND DRUG-TESTING OF BUS DRIVERS REGULATION

Any employee who operates a commercial motor vehicle and is in a safety-sensitive function shall be subject to alcohol and controlled substance testing. An employee having any questions concerning the district's policy or regulation, state law or the federal regulations shall contact the Superintendent of Schools.

Any treatment, rehabilitation program or discipline will be provided in accordance with district policy and/or collective bargaining agreements.

I. Covered Employees

Covered employees include district employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to obtain a commercial driver's license. Such employees include:

- 1. drivers of buses designed to transport 16 or more passengers, including the driver;*
- 2. drivers of commercial motor vehicles whose manufacturer's rating is 26,001 lbs. or more; or*
- 3. any other employee who may drive a listed vehicle (e.g., a mechanic who performs test drives).*

Such employees include, but are not limited to full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed or under lease to an employer or who operate a commercial motor vehicle at the direction or with the consent of the district.

Drivers will be removed from their safety-sensitive functions if they violate the district's policy or federal regulations pertaining to the possession or consumption of alcohol or controlled substances. A driver is performing a safety-sensitive function when:

- 1. waiting to be dispatched, unless the driver has been relieved from duty;*
- 2. inspecting, servicing or conditioning any commercial motor vehicle;*
- 3. driving a commercial motor vehicle;*
- 4. attending a vehicle being loaded or unloaded;*
- 5. performing the driver requirements of the federal regulations pertaining to accidents; and*
- 6. attending to a disabled vehicle.*

Covered employees are required to be in compliance with district policy and regulation:

- when performing any on-duty safety-sensitive functions, including all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility; and*
- during all time spent providing a breath sample, saliva sample or urine specimen and travel time to and from the collection site in order to comply with random, reasonable suspicion, post-accident, return-to-duty or follow-up testing.*

II. Prohibitions and Consequences

The Supervisor of Transportation or his/her designee shall prohibit an employee from driving a school bus or performing other safety-sensitive duty if the employee:

- 1. possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;*
- 2. has consumed or is under the influence of alcohol or a controlled substance within six hours before duty;*
- 3. has an alcohol concentration of 0.02 or higher, or tests positive for controlled substances; or*
- 4. refuses to take a required alcohol or controlled substance test. Refusal to submit shall mean the failure to provide adequate breath or urine without a valid medical explanation or to engage in conduct that clearly obstructs the testing process, such as a failure to arrive for the drug testing or failure to sign the alcohol testing form prior to specimen collection.*

An employee is prohibited from consuming alcohol within eight hours after being involved in an accident, or before undergoing a post-accident test, if such a test is required. Illegal drug use by drivers is prohibited on or off duty.

Any employee who tests 0.02 or greater but less than 0.04 will be removed from driving and other safety-sensitive duties until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

In the event that an employee has a breath alcohol concentration of 0.04 or greater, has tested positive for a controlled substance or has refused to take a test, he or she will, in addition to immediate removal from driving and any other safety-related duties, not be returned to duty until he or she:

- 1. has been evaluated by a substance abuse professional;*
- 2. has complied with any treatment recommendations; and*
- 3. has received a satisfactory result from a return to duty test. Upon return to duty, the employee will be subject to follow-up testing.*

III. Types of Testing

The Superintendent of Schools and the Director of Transportation shall ensure that the following alcohol and drug tests are implemented and that any employee who is required to take an alcohol or controlled substance test shall be notified prior to the test that it is required pursuant to federal regulations or, in the case of pre-employment alcohol testing, district policy.

- 1. Pre-employment: Controlled substance and alcohol* tests will be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. These tests will also be given when employees transfer to a safety-sensitive function.*
- 2. Post-accident: Alcohol and controlled substance tests will be conducted if a driver is involved in an accident in which:
 - a. there has been a fatality; OR*
 - b. the driver has received a citation for a moving violation in connection with the accident AND EITHER*
 - 1. there is an injury treated away from the scene of the accident; or*
 - 2. there is a disabled vehicle towed from the scene.**
- 3. Reasonable Suspicion: Alcohol and controlled substance tests will be conducted if the Transportation Supervisor or other school official who has completed the minimum two hours of training has a reasonable suspicion that the driver has violated district policy and regulation. A "reasonable suspicion" must be based on specific, contemporaneous, coherent observations concerning the driver's behavior, appearance, speech or body odors that are characteristic of controlled substance or alcohol misuse. Alcohol tests can only be done just before, during or just after the employee drives a school bus or performs other safety-sensitive duties. The supervisor who makes the determination of reasonable suspicion cannot do the testing.*
- 4. Random Testing: Random alcohol tests shall be conducted annually at a minimum rate of 25 percent of the average number of positions subject to such testing pursuant to federal regulation. Random alcohol tests must be conducted just before, during or just after the employee drives a bus or performs other safety-sensitive duties.*
- 5. Return-to-Duty Testing: An employee who refused to take a test or has engaged in prohibited alcohol and controlled substance use, except for alcohol concentration of between 0.02 and 0.04, shall be required to take an alcohol or controlled substance test and achieve a satisfactory result before returning to duty in the safety-sensitive position. If removal was due to alcohol use, a satisfactory result will be less than 0.02 alcohol concentration. If removal was due to controlled substance use, a satisfactory result will be one that it is verified as negative. The test will not be administered until the*

employee has been evaluated by a substance abuse professional and has complied with any treatment recommendations.

6. **Follow-Up Testing:** After an employee who was found to violate the district's policy against alcohol and controlled substance use returns to duty, he or she will be subject to at least six unannounced tests in the first 12 months following the employee's return to duty. Follow-up testing may be extended for up to 60 months from the date of the employee's return to duty. Follow-up alcohol testing may only be conducted before, during or after the driver has performed his or her driving duties.

IV. Testing Procedures

A. Alcohol Testing Procedures

Alcohol testing will be conducted with evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration. An approved non-evidential screening device may be used to perform screening tests but not for confirmation alcohol tests. The employee and the Breath Alcohol Technician conducting the test must complete the alcohol testing form to ensure that the results are properly recorded.

1. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.
2. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.
3. If the confirmation test results indicate an alcohol concentration from 0.02 to 0.03999, the employee will be restricted from duty for at least 24 hours from the time of the test.
4. If the confirmation test results indicate an alcohol concentration equal to or greater than 0.04, the employee will be removed from all safety-sensitive duties and no return to duty will be permitted until the employee has successfully passed required return-to-duty tests. The employee must also be reviewed by a Substance Abuse Professional and comply with his/her recommendations. Follow-up tests will also be required.
5. For post-accident testing, the results of breath or blood tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for alcohol testing and the results are made available to the district.

All testing procedures will conform to the requirements outlined in federal regulations (49 CFR Part 40) for ensuring the accuracy, reliability and confidentiality of test results. These procedures include training and proficiency requirements for Breath Alcohol Technicians, quality assurance plans for the EBT devices including calibration, requirements for suitable test location, and protection of employee test records.

B. Drug Testing Procedures

The employee must provide a urine specimen which will be analyzed at a laboratory certified and monitored by the U.S. Dept. of Health and Human Services.

1. Regulations require that each urine specimen be divided into one "primary" specimen and one "split" specimen.
2. All urine specimens are analyzed for the following drugs:
 - a. Marijuana (THC metabolite)
 - b. Cocaine

- c. *Amphetamines*
 - d. *Opiates (including heroin)*
 - e. *Phencyclidine (PCP)*
3. *If the primary specimen confirms the presence of one or more of these drugs, the employee has 72 hours to request that the split specimen be sent to another certified lab for analysis. [Note: The employee must be removed from driving duties at this time--pursuant to federal regulations, the driver's removal cannot await the result of split sample.]*
 4. *If the screening test has a drug-positive result, a confirmation test will then be performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis.*
 5. *All drug test results will be reviewed and interpreted by a physician (also called a Medical Review Officer) before they are reported to the district.*
 6. *If the laboratory reports a positive result to the Medical Review Officer (MRO), the MRO shall interview the employee to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of a prohibited drug, the drug test result is reported as negative.*
 7. *If the MRO reports a positive drug result, the employee must be evaluated by a substance abuse professional and follow his/her recommendations prior to taking a return-to-duty test. Follow-up testing is also required.*
 8. *For post-accident testing, the results of urine tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for controlled substance testing and the results are made available to the district.*

All controlled substance testing shall comply with the requirements of the federal regulations (49 CFR Part 40) including procedures for the proper identification, security and custody of the sample, use of certified laboratories, gas chromatography/mass spectrometry analysis testing, assurance that all drug test results are reviewed and interpreted by a physician, and ensuring confidentiality of employee test records.

V. Dilute Specimen Testing

If the district receives a drug test result which is negative but dilute and the creatinine concentration is greater than 5mg/dl, the district shall require a re-test to be conducted in each of the following cases:

- *Pre-employment tests*
- *Return-to-duty tests*
- *Follow-up tests*
- *Reasonable suspicion tests*
- *Random tests*

The result of the re-test shall become the test of record. If the employee refuses to take the re-test it will be considered the same as a positive test result.

VI. Training

The Supervisor of Transportation and every other person designated to determine whether reasonable suspicion exists to require an employee to undergo reasonable suspicion testing must receive at least one hour of training on alcohol misuse and at least one additional hour of training on controlled substance use which they will use in making their determinations.

VII. Recordkeeping and Reporting

The Transportation Supervisor shall ensure that alcohol and drug testing records are maintained and are available, if requested, for submission to the federal government or any State or local officials with regulatory authority over the employer or any of its drivers.

VIII. Required Notification

Every affected employee shall receive information about the signs, symptoms, and effects of alcohol misuse and controlled substance use as well as a copy of the district's policy and procedures, the consequences of testing positive and who to contact within the district to seek further information and/or assistance.

Each covered employee is required to sign a statement certifying that he/she has received this information. The district shall maintain the original signed certification until the employee's employment is discontinued. The district will provide a copy of the certification to the covered employee upon request.

IX. Penalties

Any employer or driver who violates the requirements of the federal regulations of the Omnibus Transportation Employee Testing Act of 1991 may be subject to civil penalties.

In addition, in accordance with New York State law, a bus driver convicted of driving a school bus with one or more student passengers while impaired by the use of drugs or alcohol will have his/her license revoked for one year and is subject to fines ranging from \$500 to \$5,000 and/or imprisonment.

Any bus driver convicted more than once in 10 years for such crimes will have his/her license revoked for three years and is subject to a fine of \$1,000 to \$5,000 and/or imprisonment.

Promulgated:

STAFF COMPLAINTS AND GRIEVANCES

The Board of Education recognizes that staff complaints and grievances regarding work rules arise from time to time. In many instances the complaint process is covered by collective bargaining agreements, and in those instances, the grievance procedure outlined in the agreement shall be used. In order to address staff complaints not covered by bargaining agreements, and/or for those employees not covered by such an agreement, the Board establishes this policy. The Board acknowledges that staff members have the right to present complaints and grievances in accordance with these procedures free from coercion, interference, restraint, discrimination or reprisal.

The district shall implement a multi-stage grievance procedure and an appellate stage for the settlement of grievances pursuant to the General Municipal Law.

This policy and regulation shall be filed with the District Clerk and the State Civil Service Commission within 15 days of adoption and/or amendment, as required by law.

Staff complaints that are not covered under the General Municipal Law, or cannot be resolved under procedures of policies 0100, Equal Opportunity and Non-discrimination or 0110, Sexual Harassment, shall be subject to the discretion of the Board of Education as to the method by which the complaint may be brought.

Replaces former policy GBM

Cross-ref: 0100, Equal Opportunity and Nondiscrimination
 0110, Sexual Harassment

Ref: General Municipal Law, Article 15-c
 Civil Service Law, Article 14
 Matter of Gatje, 24 EDR 191 (1984)

Adoption date:

STAFF COMPLAINTS AND GRIEVANCES REGULATION

It is the Board's intention to work toward resolving complaints at the level closest to their origin and to take reasonable steps to avoid litigation. Generally, the procedure outlined below should be followed.

Definitions

- 1. Grievant shall mean an employee who alleges a grievance.*
- 2. Grievance shall mean any alleged violation of laws, regulations, rules or governing procedures which relates to employee health or safety, physical facilities, materials or equipment furnished. It does not include complaints regarding compensation or benefits.*

This regulation and accompanying policy (9140.1) provide grievance procedures for those employees not covered by collective bargaining agreements or whose negotiated agreements do not include grievance procedures. The resolution of staff complaints shall be dealt with in the following manner:

Stages

A. Stage I--Supervisor

- 1. Within 10 days after the events giving rise to the grievance, the grievant shall present the grievance in writing to their supervisor. The supervisor may informally discuss the grievance with the grievant. He/She shall promptly investigate the complaint. All employees of the school district shall cooperate with the supervisor in such investigation.*
- 2. Within 15 days of written notification of the grievance, the supervisor shall make a finding in writing that there has or has not been a violation of the applicable work rule or other governing procedure. In the event the supervisor finds that there has been a violation, he/she shall propose a resolution of the complaint.*
- 3. If the grievant is not satisfied with the finding of the supervisor, or with the proposed resolution of the grievance, the grievant may, within 5 days after he/she has received the report of the supervisor, file a written request for review by the Superintendent of Schools.*

B. Stage II--Superintendent of Schools

- 1. The Superintendent may request that the grievant, the supervisor, or any member of the school district staff present a written statement to him/her setting forth any information that such person has relative to the grievance and the facts surrounding it.*
- 2. The Superintendent shall notify all parties concerned as to the time and place when an informal hearing will be held where such parties may appear and present oral and written statements supplementing their position in the case. The grievant may be accompanied by representation. Such hearing shall be held within 15 school days of the receipt of the appeal by the Superintendent.*
- 3. Within 15 days of the hearing, the Superintendent shall render his/her determination in writing. Such determination shall include a finding that there has or has not been a violation of the applicable work rule or other governing procedure and a proposal for equitably resolving the complaint.*
- 4. If the grievant is not satisfied with the determination of the Superintendent, the grievant may, within 5 days after its receipt, file with the Clerk of the Board of Education, a written request for review by the Board.*

C. Stage III--Board of Education

- 1. When a request for review by the Board has been made, the Superintendent shall submit all written statements and other materials concerning the case to the President of the Board.*
- 2. The Board shall notify all parties concerned of the time and place when a hearing will be held. Such hearing will be held within 15 school days (or at the discretion of the Board of Education) of the receipt of the request of the grievant. All parties concerned shall have the right to present further statements and testimony at such hearing.*
- 3. The Board shall render a decision in writing within 15 days after the hearing has been concluded. The decision shall be final and binding.*

Promulgated:

CONDITIONAL APPOINTMENT - STUDENT SAFETY

The Board of Education recognizes that there may be instances in which it is necessary, upon recommendation of the Superintendent of Schools, for the Board to conditionally appoint or to make an emergency conditional appointment of a prospective employee. To provide for the safety of students who have contact with an employee holding a conditional appointment or an emergency conditional appointment, the Board adopts the following policy.

No district employee who holds a conditional or emergency conditional appointment shall be in contact with students other than to provide instruction and/or other required services.

No district employee who holds a conditional or emergency conditional appointment shall teach a class or provide services to students with his/her classroom or office door closed unless the Building Principal has provided express prior permission to do otherwise.

The Building Principal or his/her designee shall, at least twice a week, monitor the activities of such employees while on school district property during the period of their conditional or emergency conditional appointment.

In addition, the district will ensure that all personnel, including conditional and emergency conditional appointed employees, are aware of and receive training regarding the prohibition against child abuse in an educational setting and of their responsibility for reporting any such abuse. All conditionally appointed and emergency conditionally appointed employees receive this training at the time of their initial contingency appointment.

For purposes of this policy, the terms "conditionally appointed" and "emergency conditional appointment" shall refer to any employee holding conditional or emergency conditional appointment, as defined in Section 1709 of the Education Law.

Replaces GCDB

Cross-ref: 9620, Child Abuse in an Educational Setting

*Ref: Education Law §§1125-1133; 1604(39); 1709(30); 1804(9); 1950(4)(ll); 2503(18); 2554(25); 2854(3)(a-2) (As extended by L.2001, c. 147; L.2003, c. 100; L.2005, c. 127; L.2007, c. 90)
8 NYCRR §§100.2(hh); Part 87*

Adoption date:

COMPENSATION & BENEFITS

The Board of Education believes that the district's employees should receive fair compensation and benefits for the work they provide in serving the children of our community. To this end, the Superintendent of Schools shall be responsible for establishing and administering the compensation and benefits provided to the district's employees, consistent with collective bargaining agreements.

The Board and the school district will comply with all applicable federal and state laws that require minimum compensation, overtime and benefits be provided to certain employees.

Determination of Employment Status

Before enrolling an individual in the district's compensation and benefits program, the district will determine the individual's employment status. In accordance with regulations issued by the State Comptroller and as set forth by the Internal Revenue Service, the Executive Director for Finance and Operations will determine if the person is an employee and thus entitled to benefits. If the individual is not an employee based on the specified criteria, they will not be enrolled in any of the benefit programs offered by the district or the State. When the district hires an attorney, physician, engineer, architect, accountant or auditor as an employee and not an independent contractor, the Board of Education President must certify to the applicable New York State Retirement System the factors supporting that determination using the form prescribed by the State Comptroller.

The Board of Education President shall be responsible for reporting to the appropriate retirement system those individuals eligible for membership. This reporting shall take place at the time of an individual's employment, and at the intervals required by the appropriate retirement system.

Employees Covered by Collectively Negotiated Agreements

The compensation and benefits (except for State Retirement System benefits) for employees who are represented by recognized or certified employee organizations are established by collectively negotiated agreements between the employee organizations and the district. The district will negotiate in good faith over these issues, as required by law, and will fully comply with the requirements of the Taylor Law and the applicable collectively negotiated agreements.

The Board reserves its right to approve all additional funding required by the provisions of a tentative collectively negotiated agreement, in addition to any right of ratification that is secured by the district's negotiation representative(s).

Employees Not Covered by Collectively Negotiated Agreements

The compensation and benefits for employees who are not represented by recognized or certified employee organizations shall be determined by the Board of Education upon the recommendation of the Superintendent.

Cross-ref: 6741, Contracting for Professional Services/6800, Payroll Procedures/9420, Recruiting and Hiring

*Ref: Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), 42 USC §§ 300bb-1 et seq. (federal law that requires the continuation of health insurance benefits under certain circumstances)
Fair Labor Standards Act (FLSA), 29 USC §§ 200 et seq. (federal law that requires a minimum wage and overtime for non-exempt employees)
Family and Medical Leave Act of 1993 (FMLA), 29 USC §§ 2610 et seq. (federal law that requires an unpaid leave of absence for certain family and medical situations)
Civil Service Law §§ 200 et seq. ("Taylor Law," requires school districts to negotiate with unions)
Education Law § 3005-b (requires a minimum sick leave allotment and accumulation for teachers)
Local Finance Law § 2.00(5)(e) (designates Board of Education President as Chief Fiscal Officer)
2 NYCRR Part 315.2 and 315.3 (criteria for determining employment status)*

Adoption date: