

A REGULAR MEETING of the Board of Education of the West Babylon Union Free School District, of the Town of Babylon, Suffolk County, New York was held on Tuesday, January 24, 2012, in the Board room of the Administration Building adjacent to the High School.

Those present: Trustees James F. Bocca, Wendy DeGaetano, Patrick Farrell, Carmine Galletta, Cathy Gismervik, Kathleen Jennings, Diane Klein, Peter Scarlatos and Diane Thiel

Also present: Mr. Anthony Cacciola, Superintendent of Schools; Dr. Dominick Palma, Assistant Superintendent for Curriculum and Student Services; Mrs. Jennifer Buscemi, Executive Director for Finance and Operations; Mrs. Amy E. Jones, District Clerk; Mr. William C. Morrell, Attorney; and residents.

The President opened the meeting at 7:02 pm and led those present in the Pledge to the Flag.

Trustee Bocca seconded by Trustee Klein made a motion to executive session for personnel and legal matters at 7:04 p.m.

The motion was **CARRIED** by all present

The public portion reconvened at 8:03 p.m.

Trustee Scarlatos seconded by Trustee DeGaetano made a motion to approve the minutes of the regular meeting of January 10, 2012

The motion was **CARRIED** by all present

**Statement of the Superintendent and/or Board of Education:**

Mr. Cacciola said that this evening there will be the Sports Program presentation. He said there are two more presentations in the cycle, the next being the Art & Music Program which had been scheduled for the February 13<sup>th</sup> meeting. The trustees agreed to Mr. Cacciola's proposal to change the Art & Music Program presentation to the February 7<sup>th</sup> special meeting because the administrators' budget recommendations are scheduled for the February 13<sup>th</sup> meeting.

**Statement of West Babylon Teachers Association:**

Mr. Thomas Leonbruno congratulated the teachers and administrators who were recognized this evening for earning tenure. He thanked the Board for the celebration.

**Statement of West Babylon Administrators' Association:**

None

**Statement of CSEA Representative:**

None

**Statement of Student Association Representative:**

None

**Statement of PTA Council Representative:**

Council Vice President Jennifer Longo reminded everyone about the HS PTSA Chinese Auction to be held on February 3<sup>rd</sup>. She also congratulated Board Trustee Diane Thiel who will be receiving PTA Council's Founder's Day award on Friday, February 17<sup>th</sup>.

**Statement of Residents:**

Resident William Hill commented on the number of budget transfers done throughout the year.

Mr. Cacciola explained to resident Diana Doerbecker that the Conditional Appointment Student Safety policy allows the district to make conditional appointments to positions while awaiting fingerprinting clearance from the state. He added that no employee who has a conditional appointment is in contact with students other than to provide instruction and/or other required services.

In response to resident William Smith's question, Mr. Farrell said residents will have a chance to speak regarding the Sports Program presentation during the time reserved for statements of residents.

**Superintendent's Report/Educational Presentation:**

**SPORTS PROGRAM PRESENTATION: - Anthony Spinelli, Director of Athletics, Health and Phys. Ed.**

Mr. Spinelli provided an overview of the program through a PowerPoint presentation. He noted that cheerleading teams are part of the sports program. He noted that even though student enrollment is declining in the district, sports enrollment stays consistent. He discussed the benefits of the sports program which includes emphasizing teamwork and aids in social and emotional learning. Mr. Spinelli explained that Section XI fees are frozen although officials' fees are contractual and are not frozen. In response to trustee Jennings' question, Mr. Spinelli said that of the 1400-1500 students who play sports approximately 900 go on to play in college sports. In response to trustee Thiel's question, Mr. Spinelli said that there is progress in the district's sportsmanship image. He said it is a slow process and the district is moving in the right direction. He also pointed out the misconception that the sports program hasn't faced budget cuts. He said that in 2008 the JH and Varsity sports budget was \$804,000 and this year it is \$637,000. There were discussions about other districts cutting junior high sports programs and the impact that would have on our junior high sports programs. Mr. Spinelli also noted that state championships are being considered for change to Long Island championships to save money on travel expenses. Mr. Spinelli explained the criteria to be a "Scholar Athlete". He said that last year only a few teams missed the criteria and in the fall only two teams

missed the criteria. Mr. Cacciola said that other challenge that districts are facing is that selection classification becomes a bigger issue. There being no other information the trustees needed from Mr. Spinelli, he was thanked for his presentation.

Community Engagement Reminder — West Babylon Main Street Organization Initiatives: Thursday, January 26, 2012 at 7:00 p.m., HS Café B.

Trustee Scarlatos seconded by Trustee DeGaetano made a motion to approve the **Consent Agenda and Addendum #PE-2**

The motion was **CARRIED** by all present

**BOARD OF EDUCATION**

**#BE-1**

**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:

Bay Shore Union Free School District

**PERSONNEL**

**#PE-1**

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

- 11-P-13 Professional Personnel
- 11-C-13 Civil Service Personnel

**SCHEDULE 11-P-13 Professional Personnel Schedule**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Speroni, Michael	Mathematics Tchr.	HS		12/22/11 -	Family Medical Leave
Myers, Kelly	Art Tchr.	HS	1/20/12 -		Family Medical Leave
Homan, Meghan	Elementary Tchr.	SA		Second Semester,	Leave of Absence 2011-2012 [extension]
Coppola, Kathleen	School Nurse Tchr.		Step A-8-13/ \$96,306. (prorate)	Second Semester, 2011-2012	Returning from LOA
Shelor, Lisa	ESL Tchr.	Elem/DW	Step A-8-14/ \$98,928.	1/30/12	Probationary Appt.
Shelor, Lisa	Foreign Language Tchr.	HS		1/30/12 — 6/30/12	Leave of Absence
Tanzman, Krista	Regular Substitute/ Elementary Tchr.	SA	Step A-5-1/ \$57,214. (prorate)	1/30/12-6/30/12, or sooner at district's discretion	
<b>Additional Section:</b>					
Borgo, Danielle	ESL Tchr. (.2)	HS	\$19,261.20 (prorate)	Second Semester, 2011-2012	
<b>Alternative Evening High School:</b>					
Suthakar, Christina	Biology		\$34.59/hr.	2011-2012	
<b>S.A.T. Preparation Course:</b>					
Doyno, Ian			\$1,500./course	2011-2012	9 sessions/tchr. [repl. S. Selvaggi]

**SCHEDULE 11-P-13 Professional Personnel Schedule**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
<b>Guidance Intern:</b>				Spring, 2012	
Lane, Courtney	Guidance	HS			
<b>Psychology Intern:</b>				Spring, 2012	
Barbenell, Danielle	Psychology	JK			
<b>Per Diem Substitutes:</b>				2011-2012	
Granieri, Krista		DW	\$90./day		
Pinola, Jonathan					

**SCHEDULE 11-C-13 Civil Service Personnel Schedule**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Brunjes, Deirdre	Paraprofessional (school monitor)	JK		1/17/12 – 6/30/12	Leave of Absence
Conklin, Richard	School Bus Driver	Trans.		1/20/12	Resignation
Cody, Cathy	Food Service Worker	HS	Step 8/ \$15.11/hr.	1/3/12	Returned from LOA
Valente, Elaine	Paraprofessional (special ed. aide)	HS	Step 1/ \$13.37/hr.	1/25/12	Probationary Appt.
O'Sullivan, Lorraine	Paraprofessional (special ed. aide)	FA	Step 1/ \$13.37/hr.	1/25/12	Probationary Appt.

**FINANCE**

#FI-1

**RESOLVED:** that the West Babylon Board of Education approves the following budget transfers:

ACCOUNT CODE	ACCOUNT CODE DESCRIPTION & TRANSFER EXPLANATION	FROM	TO
A2110.1310	Salary Adjustments & New Hires	\$432,385.00	
A2110.1400	Substitute Teachers		\$250,000.00
A2020.1600	Principals' Clerical Salaries		\$78,515.00
A2270.1300	Reading Teachers 6-12		\$48,870.00
A2250.1601	Aides — Special Education		\$55,000.00
A2110.1200	Teacher Salaries K-6	\$787,636.61	
A2250.1500	Special Education Salaries		\$787,636.61

**#FI-2**

**RESOLVED:** that the West Babylon Board of Education gratefully accepts donations, in the amount of \$700, from the Target Field Trip Grants Program. The donations will be deposited into the Senior High School's Trust and Agency account.

**ADDENDUM:**  
**PERSONNEL**

**#PE-2**

**RESOLVED:** that the attached personnel schedules are approved:  
                                   11-P-13A(a)           Professional Personnel  
                                   11-C-13A(a)           Civil Service Personnel

**SCHEDULE 11-P-13A Professional Personnel Schedule** **ADDENDUM (a)**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Kalinowski, Barbara	Elementary Tchr.	TA		12/19/11 – end of first semester, 2011-12	Leave of Absence
Kalinowski, Barbara	Elementary Tchr.		Step A-9-16/ \$106,794. (prorate)	Second Semester, 2011-2012	Returning from LOA
Billings, Natalia	Regular Substitute/ Foreign Language Tchr. (.8)	HS	Step A-9-12/ \$96,306. (prorate @ 80%)	1/30/12 – 6/30/12, or sooner at district's discretion	

**SCHEDULE 11-C-13A Civil Service Personnel Schedule** **ADDENDUM (a)**

NAME	POSITION	SCHOOL/ AREA	STEP/ SALARY	BEG/END APPT.	COMMENTS
Perrino, Jacqueline	School Bus Driver	Trans.		1/25/12 – 6/30/12	Leave of Absence
Daly, Adair	Registered Nurse	JK/DW	Step 1/ \$34,823. + 500. (BA) (prorate)	1/30/12	Probationary Appt. [from regular sub. post]
<b>Per Diem Substitute:</b> Bowe, Steven		Trans.	\$12./hr.	2011-2012	Bus Driver

**POLICY: The following policies were all on the agenda for First Time Reading**

Trustee Thiel said that the Policy Committee made the following recommendations regarding the policies:

- 5181 Open Lunch Policy – Changed to reflect law. May be an item for further consideration and review by the Board. Trustee DeGaetano said she would like to set a date to discuss the effect on the budget if this policy is revoked. Mr. Cacciola said he will speak with Dr. Vassallo and set a timeline to present.
- 8414.5 Alcohol and Drug Testing of Bus Drivers – Recommended accepting the policy and regulations as written, on advice of counsel
- 8414.5-R Alcohol and Drug Testing of Bus Drivers - Regulation
- 9140.1 Staff Complaints and Grievances - Recommended accepting the policy and regulations as written, on advice of counsel
- 9140.1-R Staff Complaints and Grievances - Regulation
- 9260 Conditional Appointment - Student Safety - Recommended accepting the policy as written, on advice of counsel
- 9500 Compensation and Benefits – Recommended leaving “Board of Ed. President” as written, on advice of counsel

**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 is 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

**8414.5****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:*

**8414.5-R**

### **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 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. Record keeping 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:*

**9140.1**

#### **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:

**9140.1-R**

## **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:*

**9260**

**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)(II); 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:*

**9500**

**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:*

Trustee Jennings seconded by trustee Thiel made a motion to waive reading the policies and moved them to second time discussion.

The motion was **CARRIED** by all present

**COMMITTEES:**

Curriculum - Diane Thiel

Policy - Diane Thiel

Facilities — Kathleen Jennings

The minutes from each of the committees were read and a copy of each was placed on file in the District Clerk's office.

NYSSBA Law Workshop - Diane Thiel - Information on file in the District Clerk's office

**OLD/NEW BUSINESS: Budget Draft #2 — Superintendent Anthony Cacciola and Executive Director of Finance Jennifer Buscemi**

Mr. Cacciola said that the district received a disappointing state aid package. He said that West Babylon lost \$100,680.00. Mr. Cacciola explained that the 2% tax cap is based on calculations in each district. Mrs. Buscemi explained West Babylon's calculations and said that the district can have a 2.42% tax cap based on these calculations. There was an \$88,891.00 decrease from budget draft #1 to budget draft #2. The district still needs to reduce the budget by an additional 3.6 million dollars. If the budget is defeated twice, there will have to be 5.1 million dollars in cuts. Mr. Cacciola said that on January 31 the Board will begin dissecting the budget. Mr. Cacciola said the Board will discuss budget draft #3 on February 13<sup>th</sup>.

**STATEMENT OF RESIDENTS**

In response to resident Lucy Campasano's question Mr. Cacciola said that the district's current budget has not been frozen, yet. In addition there is no estimated surplus at this time. Mrs. Buscemi added that fund balance projections will be ready towards the end of January beginning of February.

Resident Dawn Conboy asked if since the Board meeting in November, the Board has considered having one field trip per grade.

Resident William Smith expressed his concern with the cuts to the sports program which have included closing the schools on Saturdays. He suggested instituting a relief day (work Friday and Saturday, off Sunday and Monday) instead of paying overtime to custodians. He said that the sports program keeps the kids off the streets and out of trouble. Mr. Smith commented that he comes into the school now and has been to sporting events such as football games and there were "employees intoxicated" at the game. He added that he has attended basketball games at the high school and "it

looks like you are in a bong room". He said that he is not kidding, and that the kids and parents are blamed for the behavior, but, The Board and administrators should "look to the top first before blaming the kids". He said the students need to be disciplined first before there is chaos. He noted a recent incident in which a student threatened one of the coaches and the police were called. He said something needs to be done. Discipline should be the ultimate thing, first, because when they go to college they get drug tested and there are no second chances. Mr. Smith added that the kids are being hurt by not being disciplined.

Resident Janice Nolan expressed concern about student safety in the schools and the lack of security. Mr. Cacciola explained that there has never been guards monitoring in the buildings and the teachers are best equipped to handle situations which may occur. He added that there are 1500 high school students and there are limited incidents.

Resident William Hill addressed his concerns about the cuts to staff last year which he believes has added to the required services at the elementary level not being provided to many students.

In response to resident Lisa DiGeloromo's statement Mr. Cacciola said that it is a myth that teachers are not permitted to touch students during a fight. Dr. Palma added that not only can a teacher restrain a student, they must, if it will protect another student. In addition, school policy does not provide security with the same authority. In response to her question about custodial overtime, Mr. Spinelli explained that the figure was for last year.

Resident Daienna Edmonds said she keeps hearing people saying "keep my programs intact". She said she is asking that the Board, Administrators faculty, bargaining units and parents work together to keep the programs. She said the community should support an increase if needed. She said she hopes somehow everyone can look to see "Eagles that Soar".

Resident William Smith requested more transparency with information being shared with more than just a few people. Mr. Cacciola said that the district has formed a 16 member group who are representatives of the community to serve on a budget advisory committee. He said he would like everything transparent for the community before the vote.

Resident Lucy Campasano said that it is easy to throw stones and that no one knows, nor can they know the negotiations that are happening between the district and the bargaining units. She said some of the ideas may be on the bargaining table. She asked that the community support the Board in their difficult situation.

Trustee Carmine Galletta said that the trustees are all residents of the district and share the community concerns. He said that Board does care about the students and district. He added that the Board does not hide things and that what Mrs. Campasano said is true, the Board members are not permitted to discuss the negotiating process.

Trustee Bocca seconded by Trustee Scarlatos made a motion to adjourn at 9:50 p.m.

The motion was **CARRIED** by all present

Attested to: \_\_\_\_\_  
District Clerk