

5.1 Purpose

- A. Policies are defined as the basic rules, which guide administrative action for accomplishing an organization's objectives. Comprehensive and clearly defined policies, consistently and fairly administered, are essential to the success of any organization. The policies set forth and adopted within this manual supersede all previous written and unwritten personnel policies of the Board. This policy manual is a guide to be utilized by management and supervisory personnel to ensure uniformity and nondiscriminatory application of the terms and conditions of employment. Except as permitted by law, in the event there is a conflict between the contents of this manual and any applicable laws, those applicable laws shall prevail.
- B. Questions regarding the interpretation and application of these policies should be directed to your supervisors who will seek clarification through the chain of command. Every effort must be made to ensure that such decisions are made objectively, with the general intent of the policy in mind. Your input about matters addressed in this handbook is welcome and will be considered.
- C. The Board recognizes that a personnel system that recruits and retains competent, dependable personnel is indispensable for the effective delivery of services to individuals of the community who have developmental disabilities. The policies and procedures set forth in this manual are designed to:
1. Promote high morale and foster good working relationships among employees of the Board by providing uniform personnel policies, equal opportunities for advancement, and consideration of employee needs.
 2. Establish a standard of courteous and dependable service to the public and to the consumers enrolled in the programs.
 3. Ensure that all operations and programs are conducted in an ethical and legal manner so as to promote its reputation as an efficient, progressive organization in the community and the state.

5.2.1 General Hiring and Employment Policies

- A. The Board is an Equal Employment Opportunity (EEO) employer. All employees and applicants for employment will be recruited, hired, promoted and transferred, demoted, laid off, terminated, suspended, evaluated, or otherwise dealt with in a fair and equitable manner based upon merit and bona fide occupational qualifications for the position. No personnel decisions shall be based upon race, color, religion, sex, national origin, age, handicap, military status, or other prohibited criteria. Procedures for hiring and employment shall conform with the Americans with Disabilities Act (ADA) and Chapter 4112 of the Ohio Revised Code, including providing reasonable accommodations unless such accommodations cause an undue hardship to the Board.

- B. The Superintendent shall follow all federal, state, and local laws and regulations regarding the employee / applicant selection process.
- C. Appointments to vacant positions shall be made based solely on the applicant's knowledge, skills and abilities, integrity, work history and other job-related qualifications, as ascertained through fair and practical selection methods.

5.2.1.1 Disqualification from Eligibility for Employment

- A. An applicant may be eliminated from consideration if he/she:
 - 1. Does not possess the knowledge, skills, and abilities necessary to effectively perform the duties of the position;
 - 2. Does not possess or is not eligible for appropriate licenses, certification, or degrees required for the position;
 - 3. Has been convicted of or plead guilty to a disqualifying offense as defined by Section 5123.081(A)(4) of the Ohio Revised Code and rule 5123:2-2-02(B)(8) of the Ohio Administrative Code;
 - 4. Has been placed on any of the databases identified in rule 5123:2-2-02(C)(2)(a) – (e) of the Ohio Administrative Code;
 - 5. Has made a false statement of material fact on the application form or supplements thereto;
 - 6. Has committed or attempted to commit a fraudulent act at any state of the selection process; or
 - 7. Is an alien not legally permitted to work.
- B. An applicant may be eliminated from consideration upon other reasonable grounds relating to job requirements. If an applicant is hired and it is subsequently discovered that any of the above disqualifying criteria apply, the employee may be subject to discipline, up to and including termination.

5.2. Minimum Employment Eligibility Requirements

5.2.1.1 Certification/Registration/Licenses

- A. Staff shall meet all certification, registration, or licensing requirements as established by the Ohio Department of Developmental Disabilities, the Ohio Department of Education, the Ohio Department of Health, the Ohio State Highway Patrol, or any other state or federal department that has authority over these requirements for a given individual's position. Each employee's classification specification as adopted by the Board shall include the certification/registration/license requirement(s) for that classification, as necessary. Therefore, an individual who possesses the proper certification/registration/license for the particular position for which he/she is applying shall be deemed eligible for employment consideration.
- B. Certifications/registrations/licenses referred to in Section 5.2.2.1, Paragraph A, shall be current and valid. Proof of related continuing education, professional experiences, and education/training shall be required, if necessary, to determine an applicant's eligibility for employment consideration.
- C. Pursuant to Section 5126.25 of the Ohio Revised Code, an employee cannot be employed and cannot continue to be employed if the required certification, registration, or license is denied, revoked, or not renewed. Therefore, if a required certificate/registration/license is denied, revoked or is not renewed, that person shall be terminated for just cause subject to due process.
- D. Even though the Board may issue certain certification/registration to its employees, employees are responsible for applying for all initial and subsequent renewals of certification/registration/licenses. Employees are responsible for arranging and taking all necessary coursework, classes, training, or continuing educational units necessary to maintain or renew their certification/registration/licenses.

5.2.2.2. Medical Examinations

- A. A medical examination by a qualified MD/OD is required of all new employees upon employment. The examination may include such tests as determined for job-related duties of the position. The examination must be completed within sixty (60) days of the first day of employment; it is understood and agreed upon that the employee's employment status is conditional upon the receipt of a completed medical examination that identifies the employee as fit for the essential functions of the written position description. Fees for medical examinations under this section shall be paid by the Board.
- B. Persons employed as bus drivers shall have annual physical examinations in compliance with the rules established by the Ohio Department of Education, the Ohio

- Department of Transportation, or the United States Department of Transportation. Fees for medical examinations under this section shall be paid by the Board . All physical examinations under this section must be completed prior to August 15th of every year. It is up to the discretion of the Board to require or to not require such physical examinations for van drivers.
- C. The Superintendent may require any employee to submit to a physical examination by a qualified Board-approved physician when that employee is not, as a result of apparent medical problems, performing his/her job in a satisfactory manner. Refusal by the employee to submit to such examination or refusal to release the results of examination constitutes an admission of no physical or medical impairment justifying substandard work. Fees for medical examinations under this section shall be paid by the Board.
- D. If the results of the medical examination indicate the otherwise qualified applicant or employee has a disability as defined by the Americans with Disabilities Act, the Board will make a reasonable accommodation for the individual unless to do so would cause an undue hardship for the Board.
- E. Medical reports are not public records for the purposes of Section 149.43 of the Ohio Revised Code and shall not be made available to any person except as permitted by law. Medical records of an employee will be maintained in a confidential file in the Personnel Office.

5.2.2.3 Non-Discrimination of Individuals with Disabilities

It is the policy of the Board to protect qualified individuals with disabilities from employment discrimination. The Americans with Disabilities Act of 1990 defines a person with a disability as an individual who has a physical or mental impairment that substantially limits a major life activity. All employment practices and decisions will be conducted on a non-discriminatory basis.

All staff shall be able to perform the essential functions of the position as described in the Position Description with or without a reasonable accommodation as outlined in the Americans with Disabilities Act, and in accordance with the Board's calendar for that individual's position. All personnel decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as to equal treatment in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority.

This policy is neither exhaustive nor exclusive. The Board is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the Americans with Disabilities Act and all other applicable federal, state and local laws.

5.2.2.4 Physical Ability to Lift, Carry, and Move Enrollees

All direct care service staff must be physically capable of lifting, carrying, and moving enrollees, including children, adolescents, and adults, in a safe manner, in accordance with the procedures provided to employees during in-service training. All other staff may be requested to lift, carry, and move enrollees, including children, adolescents, and adults, in a safe manner, in accordance with the procedures provided to employees during in-service training. Employees are encouraged to wear clothing that does not hinder their capability to lift, carry, and move enrollees.

5.2.2.5 Drug-Free Workplace and Substance Abuse

- A. The Board shall comply with the Drug Free Workplace Act. This drug-free workplace policy shall apply to all employees and also to all applicants for employment. The Board maintains a drug and alcohol free workplace in order to eliminate the inherent risks and liability to the Board, the affected employee, co-workers and the public.
- B. Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance. The term “controlled substance” means any controlled substance contained in Schedules 1 through V of Section 202 of the Controlled Substance Act (21 U.S.C. §812) or as defined in Section § 3719.01 of the Ohio Revised Code.
- C. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance by any employee which takes place in whole or in part in the workplace is strictly prohibited and will result in criminal prosecution and employee discipline, which may include termination from employment. Employees are also prohibited from using legal substances illegally.
- D. Alcoholism and drug addiction are treatable diseases. Therefore, employees who believe that they may have an alcohol or drug addiction problem are encouraged to seek professional treatment and assistance. No employee who seeks such treatment or assistance prior to detection will have his job security, promotional opportunities, or other job conditions jeopardized by a request for treatment. The individual's right to confidentiality and privacy will be recognized in such cases. The Board will reasonably accommodate a recovering employee's alcohol or drug addiction in accordance with federal and state law.

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- E. Any employee who is convicted of or pleads guilty to any federal or state criminal drug statute must notify the Board of that fact within five (5) calendar days of the conviction or guilty plea. The term “criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance. For purposes of this policy, all definitions will be consonant with Section 3719.01 *et seq.* of the Ohio Revised Code. The term conviction includes any finding of guilt, including a plea of *nolo contendere* (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- F. The mere fact that an employee has provided this notice does not excuse the employee from possible disciplinary sanctions, including termination of employment. Any employee who fails to notify the Superintendent within five (5) calendar days of the conviction will be terminated from employment and liable to the Board for the full extent of federal funds lost by the Board as a result of the employee's failure to notify the Board of the conviction or guilty plea.
- G. Any employee who reports for duty in an altered or impaired condition, entirely or partially due to the employee's illegal use of a controlled substance or intoxicating consumption of alcohol, will be subject to disciplinary action. Any decision to take disciplinary action may be held in abeyance pending the satisfactory completion by the employee of a drug/alcohol rehabilitation program approved by the Board. If the Superintendent decides to hold disciplinary action in abeyance while an employee participates in a drug rehabilitation program, the employee assistance will remain confidential to the extent permitted by law and will not be noted in the employee's personnel file. Employees who are determined to be eligible for participation in a rehabilitation program as an alternative to disciplinary sanction will be eligible only if they sign a release authorizing the employer to verify the employees' treatment and progress in the rehabilitation program. These releases must satisfy all pertinent federal and state confidentiality laws. Employees may also be placed under a “last chance agreement.”
- H. The Board shall give all prospective employees a copy of the Board's Drug-Free Workplace Policy prior to their employment. As a condition of employment, prospective employees must sign both a receipt for this Policy and a written statement regarding the Policy. These documents will become a permanent part of the employee's personnel file. The written statement regarding the Policy will contain the following components:
1. The employee understands and supports the Board's Drug-Free Workplace Policy;
 2. The employee agrees to refrain from violating the Drug-Free Workplace Policy while employed by the Board;

3. The employee acknowledges, in advance, that he/she understands that the penalty for violating the Policy can be termination and agrees that this penalty is appropriate when supported by evidence; and
 4. The employee acknowledges that he/she has been advised that drug testing of some employees will be conducted in accordance with all applicable laws.
- I. All current employees will receive a copy of the Board's Drug-Free Workplace Policy and will be required to sign a receipt for those materials which will become a permanent part of their personnel file. All current employees will be asked to voluntarily sign a statement supporting the strict enforcement of the Drug-Free Workplace Policy. All current employees will be given notice that the Board reserves the right to order employees to submit to reasonable suspicion substance abuse testing.
- J. Substance Abuse Testing. As part of the initial hire medical examination, an applicant shall be required to submit blood or urine samples which may be subjected to tests for illegal drug use, alcohol abuse, or substance abuse. The Board shall discharge any newly-hired employee who fails any of these tests.
- K. All employees who hold a Commercial Driver's License (CDL) as part of their required job function with the Board are subject to random substance abuse testing in accordance with the Federal Omnibus Transportation Workers Testing Act of 1991. Alcohol and chemical use/abuse testing shall be required for those staff whose Position Descriptions identify the transportation of enrollees as a routine part of their duties. Certified school bus drivers and, if deemed appropriate, van drivers, shall receive an annual bus driver examination that includes a test for alcohol and chemical use/abuse. The results of this testing shall not be supplied to any law enforcement agency nor shall the Board initiate a criminal prosecution based upon them. The Board shall pay for fees for medical examinations and testing under this section.
- L. The Board reserves the right to require an employee to submit to a urinalysis, blood, or breath substance abuse test in the event that a supervisor or other management level official has reasonable suspicion that the employee is under the influence of alcohol or a controlled substance at a time when the employee is working for the Board, or is present at his or her Board workplace (regardless of whether the employee is on duty or off-duty). For the purposes of this Manual, "reasonable suspicion" means suspicion based upon specific and articulated facts which, taken together with rationale inferences from those facts, reasonably warrant the substance abuse testing under the circumstances. Examples of facts that give rise to a reasonable suspicion of substance abuse include, but are not limited to, the following: an employee's possession, or close proximity to, alcohol, a controlled substance, or related paraphernalia; the presence of a detectable odor of alcohol or a controlled substance about an employee; observations by

supervisory employees who have received training regarding indicators of substance abuse that the employee appeared to be drug- or alcohol-impaired at work (based upon factors such as increased absences, decreased ability to perform tasks, changes in relationships with supervisors and coworkers, etc.); information provided by reliable informants, including (but not limited to) other employees; involvement in an accident under circumstances suggesting unusual impairment of the employee.

- M. If a supervisor thinks, based on factors described above or other observable behaviors (e.g. an accident, slurred speech, dozing, aggressive behavior, unsteady gait, inappropriate responses, etc.), that an employee is not in condition to perform his/her duties, the supervisor shall relay the concern to the Superintendent or the Superintendent's designee if the Superintendent is not available. Upon review, the Superintendent may choose to require the employee to submit to an alcohol or chemical use/abuse test. If the test results are positive, the employee shall be required to seek rehabilitative counseling and treatment. If the test is positive, the cost of the test and any subsequent rehabilitative counseling and treatment shall be the sole responsibility of the employee and his/her insurance. In the event that the test results are negative, the Board shall pay for the cost of the test. If the employee refuses to agree to the alcohol or chemical use/abuse test, that refusal is grounds for possible termination. At no time shall an employee suspected of alcohol or chemical use/abuse be allowed to drive his/her own vehicle to the test site. Rather, the employee's supervisor or designee will accompany the employee to the test site.
- N. If requested, the employee shall sign a consent form authorizing the clinic to withdraw a specimen of blood or urine and release the test results to the County. Refusal to sign a consent form or to provide a specimen will constitute insubordination and a presumption of impairment and may result in discharge. Any employee who tests positive may request retesting of the original specimen at their own expense.
- O. Employees who test positive on the alcohol/chemical use/abuse examination will be dealt with on an individual basis. An employee with positive test results shall be required to seek assistance of a substance abuse rehabilitation program. Such treatment shall be at the expense of the employee and/or his/her insurance company. Failure to fully participate in or successfully complete such a rehabilitation program may result in disciplinary action. The employee shall not perform duties while attending a rehabilitation program. Sick leave or a leave of absence without pay will be utilized during this period. Upon return to work, the employee will be subject to random testing for a two (2) year period and should continue counseling as appropriate. Employees subject to random drug tests who refuse to participate in the drug/alcohol testing and/or rehabilitation program or who continue to test positive for substance abuse will face additional disciplinary

actions, up to and including removal. The Board shall not terminate an employee for alcohol/chemical use/abuse unless he/she is unable to safely and substantially perform the essential functions of his/her position without undue expense or hardship to the Board. A second positive test shall result in dismissal.

5.2.2.6 Tuberculosis

As a condition of employment, no individual shall have active tuberculosis.

5.2.2.7 Hepatitis B

All employees are entitled to have the Board pay for the Hepatitis Series B shots. Staff shall sign a form that states whether or not they want to have the series of shots.

5.2.2.8 Use of Board property: Cell Phones / Computers, Other Electronic Devices

As a county agency, the Board is responsible for ensuring that its resources, including electronic equipment, are used for appropriate public purposes. To the extent provided to employees by the Board, desktop or laptop computers, network server, facsimile machines, scanners, e-mail, Internet and Intranet access, electronic calendar, voicemail, cellular telephones, and personal digital assistant ("PDA") (collectively, referred to herein as "Electronic Equipment") remain the property of the Board and are to be used for business purposes only except as otherwise authorized by this policy or a supervisor in writing. Pursuant to this policy, employees are hereby advised that they have no reasonable expectation of privacy in their use of the Board's Electronic Equipment, including, but not limited to, personal use of the Board's Electronic Equipment. The use of any passwords to access a particular component of the Board's Electronic Equipment does not create an expectation of privacy. All e-mail and voice mail messages may be subject to the public records laws of the State of Ohio.

Employees are prohibited from using the Board's Electronic Equipment to download, upload, transmit, or store any unprofessional, threatening, defamatory, harassing, pornographic, or discriminatory material, documents, or information. Employees are prohibited from using the Board's Electronic Equipment to send unprofessional, threatening, defamatory, harassing, pornographic or discriminatory material, documents, or information to any person, in or outside of the program and regardless of relationship to the employee. Except as otherwise permitted by this Manual, the Board's Electronic Equipment may not be used to solicit or promote commercial ventures, religious or political causes, outside organizations, or any other non-job-related solicitations.

Violations of this policy include, but are not limited to, the following:

1. Viewing, distributing, storing, or possessing sexually explicit, pornographic, racist, sexist, or material disparaging based on race, origin, sex, sexual orientation, age, disability, military status, religion or political beliefs;
2. Viewing or sending messages intended to harass, intimidate, threaten, embarrass, humiliate or degrade co-workers or third parties, or that contain defamatory references; Conducting illegal activity including, but not limited to, gambling;
3. Using the Board's resources for commercial uses of the employee;
4. Downloading or distributing pirated software or data, entertainment software, music or games;
5. Sending chain letters;
6. Downloading, uploading, or installing viruses, worms, Trojan horses, or the like;
7. Copying, destroying, deleting, distorting, removing, concealing, modifying or encrypting messages or files or other data on any Board computer, network or other communications system without authorization;
8. Attempting to access or accessing another employee's computer, computer account, e-mail or voice mail messages, files or other data without authorization;
9. Using resources for personal use that interferes with the Board's operation, productivity or distracts employees from their responsibilities.

Generally, employees should not use the Board's Electronic Equipment for personal reasons, except in emergency situations and during non-work time. It is reasonable for employees to occasionally use these items for personal business, such as to communicate with family members by cell phone or e-mail or maintain personal events on the employee's electronic calendar. Employees are prohibited from using Electronic Equipment to communicate, call, or text while driving during work time. Although employees will be expected to use their reasonable judgment in this regard, the Board will initially advise, and later discipline if necessary, an employee who abuses this privilege.

The Board reserves the right to monitor, access, retrieve, read and disclose to law enforcement officials or other third parties all messages created, sent, received, or stored on the Board's Electronic Equipment without prior notice to employees who originated or received such messages. The Board may monitor the use of Electronic Equipment by employees to determine whether there have been any violations of law, breaches of confidentiality, communications harmful to the interests of the Board, or any violations of this policy or any other Board policy. Use of the Board's Electronic Equipment is considered consent by the employee to have such use monitored by the Board at its sole discretion, with or without prior notice to the employee.

The Board is the owner of all work product developed by an employee while working for the Board, including, but not limited to, all property, programs, systems, devices, patents, applications, hardware, products, and all other things tangible or intangible which are created, made, enhanced, modified, or improved by employees during employment with the Board. Employees may not transfer, sell, lease, license, patent, use, franchise, or gift such work product and shall not permit any other party to obtain the beneficial use of such work product without the expressed and written permission of the Board.

Employees who violate this policy will be subject to discipline, up to and including termination.

5.3 Promotion

A. There are two types of promotions :

1. Position Upgrade: This type of promotion elevates a currently existing position to a level of increased responsibility, and is at the discretion of the Superintendent. A Position Upgrade does not involve replacement or hiring of any additional personnel. No application process occurs with this type of promotion.
2. Vacant position: This type of promotion involves filling a position available with an employee previously listed on a lower position classification of responsibility on the Table of Organization. Employees interested in this promotion must apply with a letter of intent to and information requested by the Superintendent.

B. Substitute staff shall be given every consideration when a permanent position becomes available, but are not guaranteed any positions due to substitute seniority or position preference.

C. Factors to be evaluated when considering a current employee for promotion include an employee's completion of required probationary period, disciplinary history, required training courses, attendance, performance evaluations, and certification/registration/license requirements.

5.4 Equal Employment Opportunity

- A. The Superintendent shall appoint a person(s) to be responsible for formulating, implementing, coordinating and monitoring all efforts in the area of equal employment opportunity. While overall authority for administering this policy shall be delegated to such person(s), supervisors and division heads shall also maintain responsibility for their actions in regard to allowing equal opportunity to each employee or applicant.
- B. The Board shall maintain an Affirmative Action Plan describing its goals and methods for the provision of equal employment opportunities for all persons under its authority. A copy of this plan shall be available in each facility where employees are assigned to work.
- C. Any employee or applicant who feels that he/she has been the victim of discrimination may contact the Equal Employment Opportunity Coordinator(s) to obtain information concerning complaint procedures.

5.5 Anti- Harassment

- A. The purpose of this policy is to maintain a healthy work environment and to provide procedures for reporting, investigation and resolution of complaints of harassment, sexual or otherwise. The Board does not condone and will not tolerate any harassment. Therefore, the Superintendent shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, sexual or otherwise.
- B. No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person. Employees shall not make offensive or derogatory comments based on race, color, sex, religion, military status, or national origin either directly or indirectly to another person. Harassment based upon these characteristic is a prohibited form of discrimination under state and federal employment law and is also considered misconduct subject to disciplinary action by the Board.
- C. No employee or vendor providing a service or product to the Board shall sexually harass any other Board employee or client. "Sexual Harassment" includes unwelcome sexual advances, request for sexual favors, and all other verbal or physical conduct with sexual overtones where any of the following conditions are present or implied:
 - 1. Submission by an employee is required, either explicitly or implicitly, as a condition of employment;
 - 2. Submission or rejection by an employee is the basis for an employment related decision;

3. The conduct interferes with an employee's work performance or the program's purpose;
4. The conduct creates an intimidating, hostile, or offensive work environment interfering with job performance.
 - i. Such prohibited conduct includes but is not limited to:
 1. Unwanted physical contact or conduct of any kind;
 2. Sexual flirtations, touching, advances or propositions;
 3. Verbal harassment of a sexual nature, such as lewd comments and sexual jokes;
 4. Demeaning, insulting, intimidating or sexually suggestive comments about an individual's personal appearance;
 5. Using sexually degrading words to describe an individual;
 6. Possessing demeaning, insulting, intimidating or sexually suggestive objects or pictures, including nude photographs;
 7. Possessing demeaning, insulting, intimidating or sexually suggestive written, recorded or electronically transmitted message.

D. Each employee of the Board is responsible for assisting in the prevention of

harassment through the following acts:

- Refraining from participation in, or encouragement of, actions that could be perceived as harassment;
- Reporting acts of harassment to a supervisor in writing on the appropriate form; and
- Encouraging any employee, who confides that he or she is being harassed, to report these acts to a supervisor or Superintendent.

Supervisors shall be responsible for assisting in preventing acts of harassment. This responsibility includes:

- Monitoring the work environment on a daily basis for signs that harassment may be occurring;
- Counseling all employees on the types of behavior prohibited and the Board procedures for reporting and resolving complaints of harassment.
- Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are under their direct supervision.
- Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment pending investigation.

All supervisors have the responsibility to assist any employee who comes to that supervisor with a complaint of harassment in the documenting and filing a complaint.

- Failure to take action to stop known harassment shall be grounds for termination.
- E. Employees encountering harassment shall tell the person engaging in the conduct that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
 - F. Any employee who believes that he or she is being harassed shall report the incident to his or her supervisor in writing, as soon as possible so that steps may be taken to protect the employee from further harassment and appropriate investigative measures may be initiated. Alternatively, any employee, applicant, or client who feels that he/she has been the victim of harassment shall contact the EEO Coordinator or Superintendent for information concerning complaint procedures and/or refer to the Board Policy for filing a complaint/grievance. An employee may also contact the Board President or Fayette County Prosecuting Attorney.
 - G. The EEO Coordinator to whom a complaint is given shall meet with the employee and document the incident(s) surrounding the complaint, the person(s) performing or participating in the harassment, and the dates on which it occurred. The EEO Coordinator taking the complaint shall expeditiously deliver the complaint to the Superintendent. The Superintendent shall be responsible for initiating the investigation of any complaint alleging harassment.
 - H. There shall be no retaliation against any employee who in good faith, files a harassment complaint, or assists, testifies or participates in the investigation of such a complaint. Employees knowingly filing a false claim of harassment may be subject to disciplinary action.
 - I. Violations of this policy will not be tolerated. Any employee guilty of unlawful harassment will be disciplined in accordance with policies outlined in this manual.
 - J. Employees have the right to file a charge with the Ohio Civil Rights Commission under Chapter 4112 of the Ohio Revised Code or the United States Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964 (as amended).

5.5.1 Nondiscriminatory Contracts

Any individual, agency, or service provider entering into contract with the Board is expected to act in a nondiscriminatory manner and to act without regard to the race, color, national origin, religion, gender, age, military status, or disability of an employee of the Board or a program enrollee. If an employee witnesses any act of discrimination on the part of any individual, agency, or service provider contracting with the Board, the employee shall report such act to his/her immediate supervisor or the Superintendent immediately.

5.6 Nepotism

Members of the immediate families of Board members of County Commissioners may not be hired to work for the Board. No person shall occupy any position in which he/she could directly supervise or use his/her position to secure raises, promotions, job advancements, overtime pay or assignments, a favorable performance evaluation, or any other things of value related to employment for a member of his/her immediate family. If two employees who work at the same job site marry, the Superintendent may reassign either one to a different site. No employee shall be reassigned if reassignment would result in reduction in pay or position, require assignment to a new or different classification, or in any other way, affect the reassigned employee's civil service status.

5.7 Staff/Enrollee Relationship

- A. Each enrollee has the right to be treated equally as citizens under the law. Therefore, all staff shall comply with Section 5123.62 of the Ohio Revised Code – The Rights of Persons with DD. All enrollees have the right to be treated at all time by staff members with courtesy and respect, and with full recognition of their dignity and individuality. All enrollees have the right of access to opportunities that enable them to develop their full human potential.
- B. Employees may choose to socialize during their free time with individuals with disabilities who are served by the Board. Employees are free to choose to socialize with enrollees and the Board neither encourages nor discourages such activity. At no time shall a staff member betray the trust relationship that exists between the staff and the enrollee. In particular, relationships outside program time require caution due to social contacts, financial dealings, or any other activities that would/could take advantage or appear to take advantage of the trust the enrollee has in the staff member.
- C. If an employee chooses to socialize with an enrollee, the employee is hereby advised:

1. Employees choosing to socialize with consumers during off-clock hours will not be compensated for such activities. This is employee free time and is not work time.
 2. The Board has a policy forbidding any sexual interaction with individuals served by the Board. Such prohibition is effective during work and non-work hours. Any infraction will be cause for disciplinary action, up to and including termination.
 3. If staff has any reason to believe that an enrollee, legal guardian/parent/family member, friend or caregiver of an enrollee considers voluntary socializing as an activity in any way sponsored or overseen by the Board, staff should immediately clear up such misunderstanding and explain in understandable terms that it is not. That conversation shall be documented in the enrollee's central file.
 4. Employees are not to be identified as natural supports in individual plans either by name or by use of the term "FCBDD employee", unless the employee is a family member of the enrollee and such relationship is disclosed to the Board during the preparation of the individual service plan.
 5. Any improper actions by an employee with respect to an enrollee may result in discipline, up to and including termination.
- D. If staff at any time, during work or non-work hours, becomes aware of a threat to the health or safety of an individual served by the Board, it is the staff member's responsibility to follow Board-adopted policies and procedures for reporting abuse, neglect, exploitation, and misappropriation of funds. Failure to follow these reporting procedures may be cause for disciplinary action, up to and including termination.

5.9.3 Probation-Classified Employees

The probationary period for employees of the Board is one hundred eighty (180) calendar days. . The probationary period shall begin from the date of original appointment to the position. Time spent on non-paid status approved leaves of absence shall not be counted as part of the probationary period. A probationary employee may be dismissed, without right of appeal, any time during their probationary period if the employee's service is unsatisfactory.

5.9.3.1 Probationary Evaluations

- A. Supervisors shall use the probationary period to closely observe and evaluate the employee's performance and aptitude for the job. The employee is encouraged to

- bring problems to the supervisor for resolution in order to enhance his/her performance. Supervisors have a responsibility to recommend retention of only those employees who meet acceptable work standards during the probationary period.
- B. Probationary employees will be evaluated at the midpoint of the probationary period and within approximately thirty (30) calendar days prior to the end of their probationary period. Full and appropriate records will be maintained. Although the primary purpose of the probationary evaluation is to rate an employee's job performance uniformly and objectively, the evaluation shall also serve as:
1. Communication between the employee and the supervisor, revealing conditions which are contributing to poor morale or low productivity;
 2. An opportunity to identify and correct specific performance concerns of which the employee may not have been aware; and/or
 3. A means of determining job efficiency and effectiveness for probationary removal or retention.
- C. The employee shall sign any evaluation as an acknowledgement that he/she has seen and discussed the document with the supervisor. Employees should always be made aware that the signature does not signify agreement with the evaluation, but is only an acknowledgement that it has been seen and discussed. Any points of disagreement should be expressed in writing by the employee in the space reserved for employee comments. No change in the rating is to be made after the form is signed by the employee. If the employee refuses to sign the evaluation, the supervisor must record the reasons and the employee's refusal should be verified in writing by a witness. If an employee has not been on the job for some time and is, therefore, not available for signature, the supervisor must clearly indicate this absence on the evaluation form. While the employee signs the evaluation after the supervisor's rating, he/she must receive a copy of the rating in its final form after all other reviewers have made their comments.
- D. When making the final probationary evaluation, the supervisor shall indicate on the evaluation a recommendation as to whether the employee should be retained as an employee. This recommendation is to be confirmed by the department director. If a recommendation is approved for retention, the assumption will be made that the probationary period has been satisfactorily completed.
- E. Regardless of the evaluation process, an employee may be removed at any time during the probationary period if the employee's service is unsatisfactory.

5.9.3.2 Employee Changes During Probationary Period

- A. Original Probationary Period: An employee may not be promoted during his/her original new hire probationary period. If an employee desires a position in a different, lateral classification during the original probationary period, the employee must resign the current position in order to accept the new position and must serve an original probationary period in the new classification.
- B. Demotion: No probationary period is required following a demotion.
- C. Lateral Transfer during Probationary Period: No lateral transfer of an employee may occur during his/her probationary period.
- D. Promotion: If an employee's service is found to be unsatisfactory during the probationary period following promotion, a reduction is made to the classification held prior to the promotion; a probationary removal may not be given in this case, but merely a return to the employee's former position. However, an order of removal may be issued in accordance with the provisions of Section 124.34 of the Ohio Revised Code if actions by the employee during the probationary period qualify under that law.
- E. Resignation during Probation: An employee who resigns during a probationary period is not eligible for reinstatement. The employee may be considered for a new appointment. A new probationary period must be served if the person is rehired.
- F. Transferred Employee: The employee will serve a probationary period, but will not be removed if his/her job performance in the new position is found to be unsatisfactory. The employee, however, will be demoted to the former classification.

5.10 Personnel Records

5.10.1 Access, Duplication, Dissemination and Destruction

- A. Access, duplication, dissemination and destruction of personnel records procedures will comply with state and federal rules and regulations. All staff having any responsibility for maintaining personnel information will be informed of these procedures.
- B. The Superintendent shall develop a written procedure that outlines the contents of personnel files.
- C. An employee shall have a right of reasonable inspection of his/her official personnel file. All personnel files are permanently retained by the FCBDD. An employee who

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- wishes to review his/her personnel file may do so by contacting the Personnel Office for an appointment.
- D. Employees must advise the Personnel Office of any change in name, address, marital status, telephone number, number of withholding allowances claimed for tax purposes, citizenship, or emergency contact.
 - E. In order to perform daily business transactions for the Board, the following positions shall have access to the personnel files: Superintendent, Fiscal Manager, and Administrative Assistant to the Fiscal Manager.
 - F. Personnel files shall be maintained in a locked file cabinet in the Personnel Office.

5.10.2 Public Access to Personnel Records

- A. Ohio law requires that all public records shall be prepared and made available for inspection upon the request of any member of the public during regular business hours. Records shall be reviewed in the confines of the Personnel Office. Upon request, the person(s) responsible for public records shall make copies available at cost and within a reasonable period of time.
- B. The public shall have access to all records in the employee's personnel file with the following exceptions: social security number; medical records; records pertaining to adoption, probation or parole proceedings; BCI records; home address and telephone numbers; beneficiary information, and other records the release of which is prohibited by state or federal law.

5.11 Performance Evaluation and Merit Pay Policy

5.11.1 Purpose of Performance Evaluation

- A. The Performance Evaluation Program is intended to be a system of communication between the supervisor and the employee on one hand, and between supervisory personnel and the Superintendent on the other. Written performance evaluations provide supervisors with an effective mechanism to measure and communicate levels of job performance to their employees. If conscientiously applied, a performance evaluation program provides the employee with documented, constructive feedback concerning current job performance. Documented performance evaluation serves as a basis for important management decisions regarding training needs, job assignments, promotion and retention of employees. The work performance of each employee shall be evaluated in accordance with procedures established in his policy.
- B. The employee will be evaluated with reference to the requirements of the job as defined in basic form on the Position Description. The employee will be able to tell

- in what respect his/her work is most in need of improvement or is worthy of praise and recognition. It will also enable the supervisor to find gaps or limitations in division/department procedures. An evaluation may also be helpful in suggesting needs for types of training to be provided in in-service programs. The evaluation ratings in themselves may be useful in considering potential candidates for promotion and may be used in the process of determining the sequence of employees to be laid off when such action is necessary.
- C. Apart from evaluations performed during an employee's probationary period, evaluations will be done midyear and annually. The evaluation will contain a self-review by the employee. Evaluations will be completed by the employee's immediate supervisor.
- D. Materials for the evaluations may consist of the Position Description, documentation of disciplinary actions, program objectives, personal career plans, commendations, written records kept by the employee and the supervisor, and any other material from competent sources that seem pertinent.
- E. The employee shall have the opportunity to review and discuss the evaluation with his/her supervisor, and the opportunity to make written comments regarding the evaluation. When an evaluation is completed, the employee's performance rating will be reviewed and discussed by the supervisor with the employee. The employee will be asked to sign the evaluation form thus verifying that he/she has reviewed it with the supervisor. The employee's signature does not imply concurrence with the evaluation, only that the employee has seen the evaluation. The employee has the right to submit a statement of explanation or rebuttal that is to be attached to the evaluation form. If the employee refuses to sign the evaluation form, the supervisor will call in a witness to verify that the interview was held and to note that the employee refused to sign. Refusal to sign the evaluation shall constitute a waiver of the employee's right to a review of the evaluation.
- F. If the employee feels the evaluation is not a true reflection of job performance, he/she may request a review of the evaluation by submitting a written request for review of the evaluation to the next higher person in the chain of command for his/her department provided the employee has signed his/her evaluation form. The written request must specify which part(s) of the evaluation the employee is requesting be reviewed and must include specifics related to job performance upon which the request is based. The supervisor responsible for reviewing the evaluation must meet with the employee within ten (10) days and present the findings to the employee. The employee, if still not satisfied after the initial review conference, may request further review by the Superintendent, whose decision will be final.

- G. At the discretion of the Superintendent, evaluations may be conducted to document outstanding performance, to document close supervision following an unsatisfactory evaluation, at the request of the employee, or upon employee resignation.
- H. For permanent employees, evaluations will be used in conjunction with the Board's merit pay policy.

Incentive: Merit Pay Policy/Procedure

Recognizing and rewarding high performance is a key for driving excellence at the Board. Merit pay is a compensation program where merit pay is determined by individual performance (as opposed to across the board increases). Using merit pay criteria and having a plan are good ways for the Board to reward high performance, an effort that is especially crucial as the Board strives for excellence.

Merit pay is used to reward successful performance and is based on the amount of funds available by the Board. Increases are not granted to employees whose performance has been rated unsatisfactory overall. Rather, the Board's performance evaluations guidelines will be the basis for the merit pay.

Employee performance will be formally reviewed twice each year. The focus of the review is to determine at what level the employee met the planned performance and standards of their position. To be eligible for the merit pay the employee must be in a continuous active pay status for at least six (6) months prior to the merit pay award date.

Procedure:

Each year, the Superintendent and Business Director determine the pool of merit pay funds available. The objectives of the compensation program and financial resources available are considered in the decision making process.

Merit Pay requires two levels of review, immediate supervisor and director. Employees are to be notified in writing of their final merit pay as soon as possible once all merit pay for the year has been determined.

The following factors are the basis for awarding merit pay to employees.

1. The performance as reported in the annual performance review.
2. The appropriate pay level within the range considering the performance and performance of others in the range.
3. Pay merit funds available.
4. Recommendations of supervisors, approved by Management.

5.12 Training

5.12.1 Purpose of Training

- A. All personnel employed by the Board are encouraged to participate in staff development activities such as formal coursework, workshops, clinics, local area meetings, professional association training and observations of other programs.
- B. Records of in-service participation shall be maintained in the personnel file of each staff member. When such in-service is not provided by the Board, it is the staff member's responsibility to submit such records to the Personnel Office in a timely manner.
- C. Although an employee may be fully certified/registered/licensed for his/her position, the Board may request or require additional training or coursework be obtained in order to remain abreast of current information, improve upon weaknesses which appear in an employee's performance evaluation, and/or assist the employee in keeping up with changes within his/her profession.
- D. Regularly scheduled staff meetings will be scheduled within each division. Attendance is required for all employees within the division.

5.12.2 Authorization of Board Funds for Additional Training

- A. The Board may authorize the Superintendent to expend Board funds for staff development beyond the annual staff training and other required in-services or conferences. Staff may be asked to participate in training to develop personal and professional skills that relate to specific job performance objectives, to leadership, to strategic planning/budgeting, to community relations, and to other areas deemed necessary for improved service delivery to consumers and their families.
- B. Staff members selected for this additional personal or professional development must:
 - 1) represent the agency in a professional manner;
 - 2) demonstrate the desire to learn;
 - 3) be willing to actively contribute in the learning activity; and
 - 4) agree to present written or oral information to staff regarding what he/she has learned.

5.12.3 Staff Orientation Program

The Superintendent shall develop a Staff Orientation Program that is to be held with each newly hired permanent staff member within his/her first ninety (90) days of employment with the Board, which shall include those subjects required by various administrative rules adopted by the Ohio Department of Developmental Disabilities, including, but not limited to, rule 5123:2-2-01 of the Ohio Administrative Code and those rules contained in Chapter 5123:2-9 of the Ohio Administrative Code. The Orientation Program shall consist of a minimum of thirty (30) hours of training to include all areas of training required by state or federal law.

5.12.4 Annual Staff Training

- A. Formal training shall occur on a minimum of an annual basis via staff meetings, in-services, seminars, conferences and educational opportunities. Other training is more informal through sharing of literature, Internet information, and information from the Ohio Department of Developmental Disabilities or other state agencies.
- B. All staff members shall be required to complete training and professional growth activities necessary for maintenance of his/her required registration/certification/license.
- C. The Superintendent shall develop and update the minimum required annual training as required by state and federal law.
- D. Board staff shall receive annual instruction (or as certificates/licenses expire) in the following as prescribed by their Position Descriptions:
 - 1. Incidents that Adversely Affect Health and Safety (MUI Training)
 - 2. Abuse and Neglect Reporting
 - 3. Individual rights under Section 5123.62 of the Ohio Revised Code
 - 4. Individual Right to Privacy (HIPAA and FERPA)
 - 5. Behavior Support/Human Rights/Techniques of Intervention
 - 6. Body Mechanics (lifting, carrying, moving)
 - 7. Fire Suppression (3 staff per facility; all drivers trained)
 - 8. First Aid/CPR taught by a qualified provider
 - 9. Universal Precautions/Bloodborne Pathogens
 - 10. Drug Free Workplace Act
 - 11. Sexual Harassment
 - 12. Whistleblower Act
 - 13. New Health and Safety Procedures for that Year
 - 14. Certification/Registration/Licensing Requirements
 - 15. Changes/Additions/Deletions to Board Policy
 - 16. Update on Table of Organization

17. Other training as required by law or rule

5.12.5 Specialized Training

A. Employees may be required to attend, or the Board may provide, specialized training in order to promote quality services and programming or to satisfy funding requirements.

Adopted by the FCBDD: April 16, 2008

5.13 Outside Employment

A. Under no circumstances shall an employee have other employment that conflicts with the policies, objectives and operations of the Board. Employment “conflicts” under this policy are defined as impairment of the employee’s ability to perform the duties of his/her position with the Board. Two common employment conflicts are:

1. Time Conflict: Defined as when the working hours required of a secondary job directly conflict with the scheduled working hours of an employee’s job with the Board; or when the demands of a secondary job prohibit adequate rest, thereby adversely affecting the quality of the employee’s job performance with the Board; or
2. Interest Conflict: Defined as when an employee engages in outside employment which tends to compromise his/her judgment, actions, and/or job performance with the Board or that impairs the Board’s reputation in the community.

B. Full-time employment with the Board is considered to be the employee’s primary occupation, taking precedence over all other occupations. “Outside moonlighting” shall be a concern to the Superintendent only if it adversely affects the job performance of the employee’s duties with the Board or constitutes a conflict of interest. Should the Superintendent feel that an employee’s outside employment is adversely affecting the employee’s job performance, the Superintendent may request that the employee refrain from such activity. Any conflict, policy infraction, or other specific offense that is the direct result of an employee’s participation in outside employment may result in discipline in accordance with this policy manual.

C. Unless otherwise permitted by Section 5126.033 of the Ohio Revised Code, employees of the Board are prohibited from being any of the following:

1. An employee of an agency contracting with the Board;
2. An immediate family member of an employee of an agency contracting with the Board unless the Board adopts a resolution authorizing the immediate family

member's employment with the Board or the employment is consistent with a policy adopted by the Board establishing parameters for such employment and the policy is consistent with Chapter 102. and Sections 2921.42 , 2921.421 , and 2921.43 of the Revised Code;

3. An individual with an immediate family member who serves as a county commissioner of the county served by the Board unless the individual was an employee of the Board before October 31, 1980;

4. An individual who is employed by, has an ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services, regardless of whether the entity contracts with the Board to provide specialized services.

D. All employees must report to the Superintendent any employment outside of the Board.

5.14 Employee Schedules

A. The workweek for each employee is designated on the Position Description.

Employees are expected to be responsive to the individual needs of the enrollees and their families, so, from time to time, some employees may work flexible schedules.

B. Employee Lunchtime: Each division of the Board shall establish their respective schedules with regard to employee lunch. Since direct care employee work schedules are dictated by enrollee attendance, direct care employees are entitled to a one-half hour paid lunch. Direct care employees may be required to eat with enrollees in order to make maximum use of this period as a training resource. Direct care employees who have days where they do not serve enrollees and all other Board employees have the right to choose: 1) one-half hour of paid lunchtime on site; or 2) up to one hour of unpaid lunchtime on or off site. Only the Superintendent or designee may make exceptions to this policy on a case-by-case basis.

C. Breaks: Division heads shall establish a break schedule. Each employee is entitled to one ten (10) minute paid break per day on site. Employees on break shall be responsive to enrollee needs. In accordance with the provisions of federal law, a reasonable break shall be provided for a female employee to express breast milk for her nursing child for one (1) year after the child's birth each time such employee has the need to express the milk. The Board shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk, as needed.

- D. Staff on paid lunchtime shall be responsive to enrollee needs. Staff who leave the site for lunch shall notify the office of their expected time of return and a method of emergency contact.

- E. In response to increased demands by either state or federal documentation rules and statutes, it may be more efficient for selected staff to work from their homes. Therefore, the Superintendent may design work schedules that include temporary or permanent completion of work from employees' homes. Employees may choose to participate or to not participate in such a program. At all times the employee must abide by all applicable policies including, but not limited to HIPAA, FERPA, recordkeeping, etc. At no time shall a home-based work assignment create an additional cost to the Board unless the financial benefit of such a work schedule overrides any cost (e.g. increases billable hours). The Superintendent may require an employee to return to work at the Board's offices at any time in his/her discretion.

Adopted by the FCBDD: August 16, 2006

5.14.1 Flexible Schedules

- A. In order to better serve enrollees and their families who require a Board service during non-traditional business hours and in accordance with their individual plan, the Superintendent may authorize flexible schedules for employee Position Descriptions in order to accomplish this purpose. Once developed, division managers are required to enforce the use of flex time and to monitor the activities of those employees who utilize it.

- B. Employees are to follow the prescribed methodology and procedures for recording the accumulation and subsequent use of hours that generally would be considered "flex time". Overtime-eligible employees are entitled to compensatory time for hours worked in excess of forty (40) hours per week. Overtime-exempt employees must also track their use of flex time, and must also have their division supervisor's/Superintendent's authorization to flex time.

- C. Division supervisors shall maintain copies of the weekly work schedules, and shall be responsible for recordkeeping, submitting necessary reports to the Business Office for employee payroll records.

- D. Employees cannot accumulate worked hours before they are worked. Therefore, if circumstances warrant an employee not performing job duties at a scheduled time, then the employee must apply for vacation time/personal time to cover for those hours. Of course, employees are encouraged to have other duties planned in order to cover for cancellations and other such circumstances.

- E. The Superintendent shall ensure that employees who work non-traditional hours receive consideration under Board practices, e.g. Calamity Days, Request for Leave, etc. as non-traditional employee schedules may create questions as to the administration of those practices. Otherwise, employees are to be assured that they are entitled to the rights and responsibilities of all Board policies and benefits.
- F. Other conditions may warrant employees requesting the use of flex time, e.g. college classes, regularly scheduled home matters, etc. These will be reviewed by the division supervisor and Superintendent on a case-by-case basis.
- G. Any matters regarding flex time for the Superintendent must be authorized by the Board, and may be incorporated into the Superintendent's employment contract.

Adopted by the Board: February 15, 2006

5.15 Employee Ethics

- A. All employees are expected to maintain the highest possible ethical and moral standards and to perform their duties in compliance with the laws of the State of Ohio and other rules and regulations as may be set forth by the Board.
- B. It is essential that the public maintain confidence in the employees of the Board. For this reason, it is important that the Board employees refrain from any action that involves using his/her public employment for private gain or giving preferential treatment to any individual, group, or entity.
- C. Employees shall at all times adhere to the following standards of conduct. Employees shall:
 - 1. Not engage in outside employment that results in a conflict of interest with their duties as Board employees;
 - 2. Not solicit anything of value from any individual or entity engaged in business dealings or seeking to engage in business dealings with the Board;
 - 3. Not use Board property for other than proper activities;
 - 4. Report to their immediate supervisor all gifts totaling an economic value of \$25.00 or greater received during the program year from outside vendors, providers, individuals, or families;
 - 5. Not hire program enrollees for private work; and
 - 6. Not date program enrollees.

- D. Employees should report any apparent violation of this policy to the Superintendent who shall investigate and, if the circumstances warrant, pursue further investigation and/or take corrective action.

5.16 Protection of “Whistleblowers”

Definitions

- A. Act Purposely: acts with specific intention to cause a certain result.
- B. Act Knowingly: acts with awareness that the conduct will probably cause a certain result or be of a certain nature and has knowledge of the underlying circumstances.
- C. Act Recklessly: with heedless indifference to consequences, disregards a known risk that the conduct is likely to cause a certain result or is likely to be of a certain nature.
- D. Privacy Violation: use or disclosure of individually identifiable health information in content or format other than that prescribed by Board policy and procedure.
- E. Retaliatory Action: includes, but is not limited to, removing or suspending employee from work; withholding salary increases or employee benefits to which employee is otherwise entitled; denying an employee a promotion that would otherwise have been received; transferring or reassigning an employee that otherwise would not have occurred; reducing the employee in pay or position.
- F. Appropriate ethics commission means the Ohio Ethics Commission.

Procedures

A. Reports to be made

An employee of the Board who learns of the following shall make a report as required by Section B of this policy:

1. a violation of local, state or federal statutes, including, but not limited to, Medicaid fraud per the Deficit Reduction Act of 2005, which the Board could correct, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution;
2. a violation by a fellow employee of any state or federal statute, any ordinance or regulation of a political subdivision, or any work rule or

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- company policy of the Board, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety , a felony, or an improper solicitation for a contribution;
3. a violation of Ohio Revised Code Chapters 3704. (Air Pollution Control Act), 3734. (Solid and Hazardous Wastes Act), 6109. (Safe Drinking Water Act), or 6111. (Water Pollution Control) that is a criminal offense;
 4. a violation of state or federal statutes, rules, or regulations that the employee reasonably believes is not a criminal offense, which his/her supervisor or the Superintendent could correct;
 5. the misuse of public resources, which his/her supervisor or the Superintendent could correct; or
 6. a violation of state or federal statutes, rules, or regulations or misuse of public resources that is also a violation of Ohio Revised Code Chapter 102., section 2921.42, or section 2921.43.

B. Reporting Procedures

1. For reports to be made under **A.(1)** and **(2)** above, the employee orally shall notify the employee's supervisor, Department Director, or the Superintendent of the violation and subsequently shall file with the supervisor, Department Director, or the Superintendent a written report that provides sufficient detail to identify and describe the violation. The employee is to submit the written report in a timely manner (no later than the end of the next working day). Failure to report within 24 hours will not prohibit the Board from taking action. If the issue to be reported falls within the definition of MUI/UI reporting, the employee must follow those guidelines set forth in Ohio law and Board policy.
2. For reports made under **A.(4)** and **(5)** above, the employee shall file a written report identifying the violation or misuse with the employee's supervisor, Department Director, or the Superintendent. In addition to or instead of filing a written report with the employee's supervisor, Department Director, or the Superintendent, the employee may file a complaint with the Auditor of State's fraud-reporting system under Ohio Revised Code Section 117.103. **The Auditor of the State has an established fraud reporting-system to be used for reporting fraud, including misuse of public money by any public official or office. Employees are able to make anonymous complaints via the fraud hotline (866-372-8364), the Auditor of the State's website**

(www.ohioauditor.gov) or through the United States mail (Special Investigations Unit, 88 East Broad Street, Columbus, OH 45215).

Moreover, if the employee believes the violation or misuse is a criminal offense, in addition to or instead of filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report it to the Fayette County Prosecuting Attorney or a peace officer, such as the Fayette County Sheriff or a municipal police officer.

3. For reports made under A.(3) above, the employee directly may notify, either orally or in writing, any appropriate public official or agency that has regulatory authority over the Board.
4. For reports made under A.(6) above, in addition to filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report the violation or misuse to the appropriate ethics commission.
5. Supervisory staff receiving initial reports (oral or in writing) are to immediately relay this information to the Superintendent/designee. If the issue involves a privacy violation under HIPAA, the Privacy Officer shall also be notified by the supervisory staff receiving the initial report. Reports of Medicaid fraud shall also be reported to the Superintendent/designee by the supervisory staff receiving the initial report. The Superintendent will inform the Board President of the allegation and begin an investigation into the matter. Should the matter appear to be criminal in nature, the appropriate authorities shall be informed.

C. Employee Responsibilities

It is the employee's responsibility to make a reasonable and good faith effort to accurately report the alleged impropriety to the appropriate authority. There are consequences for purposely, knowingly or recklessly reporting false information. Those consequences may include discipline, up to and including termination. Failure to report may also result in disciplinary action, up to and including termination, subject to due process.

Reports made in good faith are encouraged and expected. A false complaint is not the same as an unsubstantiated complaint. Employees who file reports in good faith shall not be subject to retaliatory action from supervisors or co-workers. If retaliation occurs, the employee should immediately notify the Superintendent/designee.

D. Board Responsibilities

1. After an employee submits a report, the Superintendent/designee is to notify the employee, in writing, of any effort the Board has taken to correct the alleged violation, hazard, or misuse, or the absence of the alleged violation, hazard, or misuse. The Board is to notify the reporting employee of its efforts/findings within 24 hours after the oral notification was made or the report was received, or by 4:30 p.m. on the next regular business day (M-F) following the day on which the oral notification was made or the report was received, whichever is later.
2. If the Superintendent does not correct the violation or make a reasonable and good faith effort to correct the violation within twenty-four (24) hours after the oral notification or the receipt of the report, whichever is earlier, the employee may file a written report that provides sufficient detail to identify and describe the violation with the Fayette County Prosecuting Attorney, a peace officer, such as the Fayette County Sheriff or a municipal police officer, or any appropriate public official or agency that has regulatory authority over the Board.
3. Neither the Board nor any employee of the Board shall take any disciplinary or retaliatory action against an employee for making any report under this procedure or as a result of the employee having made any inquiry or taken any other action to ensure the accuracy of any information reported under this procedure.

E. Employee Appeal Rights

1. If the Board takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under (A).(1), (2), or (3) of this procedure, the employee may file a civil action for appropriate injunctive relief, or for reinstatement to the same position that the employee held at the time of the disciplinary or retaliatory action and at the same site of employment or to a comparable position at that site, the payment of back wages, full reinstatement of fringe benefits and seniority rights, or any combination of these remedies, within one hundred eighty (180) days after the date the disciplinary or retaliatory action was taken, in a court of common pleas in accordance with the Ohio Rules of Civil Procedure.
2. If the Board takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under (A).(4), (5), or (6), the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the State Personnel Board of Review within thirty (30) days after receiving actual notice of the disciplinary or retaliatory action.

F. Effect of Policy

This procedure does not supersede any rights of any employee under a collective bargaining agreement or permit disclosures that would diminish or impair the rights of any person to the continued protection of confidentiality of communications, if a statute or common law provides such protection.

5.17 Disciplinary Process

5.17.1 Unclassified Employees

- A. As used in this section and in the accompanying procedures, “unclassified employee” refers to a management employee or Superintendent of the Board .
- B. An unclassified employee may be removed, suspended, or demoted in accordance with this section with evidence of “just cause” for violation(s) of written rules set forth by the Board or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or other acts of misfeasance, malfeasance, or nonfeasance.
- C. Prior to the removal, suspension, or demotion of an unclassified employee pursuant to this policy, the unclassified employee shall be notified in writing of the charges against the unclassified employee. Not later than thirty (30) days after receiving such notification, a predisciplinary conference shall be held to provide the unclassified employee an opportunity to refute the charges against the unclassified employee. At least seventy-two (72) hours prior to the conference, the unclassified employee shall be given a copy of the charges against the unclassified employee.
- D. If the removal, suspension, or demotion action is directed against a management employee, the conference shall be held by the Superintendent or a person the Superintendent designates, and the Superintendent shall notify the management employee within fifteen (15) days after the conference of the decision made with respect to the charges. If the removal, suspension, or demotion action is directed against the Superintendent, the conference shall be held by the members of the Board or their designees, and the Board shall notify the Superintendent within fifteen (15) days after the conference of its decision with respect to the charges.
- E. Within fifteen (15) days after receiving notification of the results of the predisciplinary conference, an unclassified employee may file with the Board a written demand for a hearing before the Board or before a referee. If the a hearing before the Board is requested, the Board shall set a time for the hearing, which shall be within thirty (30) days from the date of receipt of the written demand, and the Board shall give the unclassified employee at least twenty (20) days notice in writing of the time and place of the hearing.

- F. If the unclassified employee requests a hearing before a referee, the parties shall comply with the procedures for selecting a referee as set forth in Section 5126.23 of the Ohio Revised Code, who shall conduct a hearing in accordance with Section 5126.23 of the Ohio Revised Code.

5.17.2 Classified Employees

- A. The Board has adopted this progressive discipline policy as a guide for the uniform administration of discipline for classified employees. It is not, however, to be construed as a delegation of, or a limitation upon, the statutory rights of the Board as set forth in the Ohio Revised Code.
- B. Rules of progressive discipline shall not diminish the authority of the Superintendent to terminate a classified employee at any time during the employee's probationary period.
- C. The Board believes that certain basic principles, set forth below, must consistently be applied in order to effectively and fairly correct unsatisfactory job performance or conduct.
1. Classified employees shall be advised of job expectations, the types of conduct that the Board has determined to be unacceptable, and the penalties for unacceptable job performance or conduct;
 2. Immediate attention shall be given to policy infractions;
 3. Discipline shall be applied uniformly and consistently;
 4. Each offense shall be dealt with as objectively as possible;
 5. Discipline shall usually be progressive, but depending upon the severity of the offense, may proceed immediately to termination; and
 6. A classified employee's immediate supervisor and the Superintendent shall be responsible for administering discipline.

5.17.2.1 Disciplinary Action of Classified Employees

- A. It will be the responsibility of all supervisors to recognize the need for disciplinary action, and to take the appropriate action. If there are doubts about the appropriateness or procedure for disciplinary action, the supervisor(s) shall not hesitate to consult with the Superintendent. Disciplinary actions will be taken with a classified employee in accordance with Section 124.34 of the Ohio Revised Code, which permits discipline of a classified employee for incompetency, inefficiency,

dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the Board, violation of Chapter 124 of the Ohio Revised Code or the rules adopted thereunder, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony.

- B. Publications and pamphlets prepared by the Ohio Department of Administrative Services detailing rights of classified employees in the case of disciplinary action are available for review in the Personnel Office, in the Office of the Superintendent, or by contacting a Board EEO Coordinator.

5.17.2.1.1 Removal of Classified Employees

Removal (termination) is the most severe form of disciplinary action; it is permanent separation from county service. Grounds for removal include those listed in this chapter of this Manual, along with other violations as listed in this Manual, state codes or statutes, or federal laws. Appeal rights available to the classified employee shall be outlined in the Order of Removal that is the official notice to the classified employee.

5.17.2.1.2 Suspension of a Classified Employee

Suspensions are usually given as a less severe form of disciplinary action. Appeal rights shall be outlined in the Order of Suspension. Placement of an employee on administrative leave with or without pay in accordance with the provisions of Section 124.388 of the Ohio Revised Code is not a suspension.

5.17.2.1.3 Reduction/Demotion of a Classified Employee

Reductions/demotions are most generally used after a promotion to replace the employee into their previous position as a result of not successfully completing a probationary period after promotion. Reduction is a change to a classification including a reduction of duties with a lower base pay range, a change to a lower step within a salary range or a given classification, or the foregoing of an automatic step increase to which an employee would have been otherwise entitled. Disciplinary reductions may be appealed as outlined in the Order of Reduction.

5.17.2.1.4 Reprimands of a Classified Employee

- A. Oral or written reprimands are the least severe form of disciplinary action. The immediate supervisor shall be responsible for the reprimands and shall inform the Superintendent when a reprimand is issued.
- B. Written reprimands are to remain in the classified employee's personnel file for a minimum of one (1) year. At the end of one (1) year, the classified employee may

request that the Superintendent review the reprimand to determine if it may be removed from the employee's personnel file. If the Superintendent does not agree to remove the written reprimand, then the classified employee may request a meeting with the Personnel Committee of the Board to make the request; the decision of the Personnel Committee shall be final. Written reprimands are not automatically removed from the files without prior review.

5.17.2.1.5 Pre-Disciplinary Conference for a Classified Employee

- A. Whenever the Superintendent or designee determines that a classified employee may be reduced in pay or position, suspended or removed, a pre-disciplinary conference will be scheduled to give the classified employee an opportunity to explain his/her conduct.
- B. Pre-disciplinary conferences will be conducted by a hearing officer who will be selected by the Superintendent from those persons not directly in the chain of command of the classified employee. Although, ideally, the hearing officer will be another department supervisor, an employee under the jurisdiction of the Board need not be used.
- C. Not less than twenty-four (24) hours prior to the scheduled starting time of the conference, the Superintendent will provide to the classified employee a written outline of the charges that may be the basis for disciplinary action. The classified employee must choose to:
 - 1. Appear at the conference to present an oral or written statement in his/her defense;
 - 2. Appear at the conference and have a chosen representative present an oral or written statement in defense of the classified employee; or,
 - 3. Elect in writing to waive the opportunity to have a pre-disciplinary conference.
- D. At the pre-disciplinary conference, the hearing officer will ask the classified employee or his/her representative to respond to the allegations of misconduct that were outlined to the employee. Classified employees are not required to respond. Classified employees may be disciplined if they lie at the pre-disciplinary conference.
- E. At the conference, the classified employee may present any testimony, witnesses, or documents that explain whether or not the alleged conduct occurred. The classified employee may be represented by any person he/she chooses. The classified employee shall provide a list of witnesses to the hearing officer as far in advance as possible, but not later than one (1) hour prior to the pre-disciplinary conference. It is the classified employee's responsibility to notify witnesses that their attendance is desired.

- F. The classified employee or his/her representative will be permitted to confront and cross-examine witnesses. The conference shall be informal and the rules of evidence shall not apply. The hearing officer will prepare a written conclusion as to whether or not the alleged conduct occurred. The Superintendent will decide what discipline, if any, is appropriate, and notify the classified employee in writing. A copy of the hearing officer's report will be provided to the classified employee within five (5) working days following its preparation.

5.17.2.2 Progressive Discipline Policy-Classified Employee

- A. The Superintendent and supervisors will follow an established system of progressive discipline when correcting unacceptable job performance or conduct. The Board has adopted this discipline policy as a guide for the uniform administration of discipline. It is not, however, to be construed as a delegation of, or a limitation upon, the statutory rights of the Superintendent and the Board as set forth in the Ohio Revised Code.
- B. This discipline policy provides standard penalties for specific offenses; however, the examples of specific offenses given in any grouping are not all-inclusive and merely serve as a guide. Thus, the standard penalties provided in this policy and its related procedures do not preclude the application of a more or less severe penalty for a given infraction when specific circumstances warrant such penalties.
- C. All multiple offenses that are unrelated are progressively disciplined in the groups in which the offenses are classified. Multiple offenses that are related are progressively disciplined, regardless of the groups in which the offenses are classified and regardless of the order in which the offenses occurred. It is imperative that discipline for multiple offenses be consistently and uniformly applied.
- D. Since it is imperative that discipline for multiple offenses be consistently and uniformly applied, examples clarifying the application of the progressive discipline policy are as follows:
1. If a classified employee, as a first offense, is found to have violated a Group I Offense, he/she would receive verbal reprimand and cautioning. If that classified employee committed no other related offense in the next months, upon the classified employee's written request, the disciplinary action will have no further force or effect. **(Physical removal from the classified employee's personnel file is subject to the Board's record retention schedule)**. Then, if the classified employee subsequently committed the same offense, absent special circumstances, he/she would still just receive the verbal reprimand and cautioning.

2. If a classified employee is found to have committed a Group I Offense where there are no special circumstances, he/she would receive verbal reprimand and cautioning. If, two (2) months later, the classified employee is found to have committed another unrelated Group I Offense, he/she would, absent special circumstances, receive a written reprimand. If, three (3) months later, the classified employee is found to have committed still another unrelated Group I Offense, barring special circumstances, he/she would receive a three (3) working day suspension without pay.
3. If a classified employee is found to have committed a Group I Offense for which he/she received verbal reprimand and then commits an unrelated Group II Offense, his/her discipline, absent special circumstances, would be a written reprimand and/or three (3) day suspension without pay.
4. If a classified employee, as a first offense, is found to have violated a Group I Offense, (i.e., failure to use reasonable care of Board property or equipment) he/she would receive a verbal reprimand. If the same employee subsequently was found to have violated a related Group II Offense (i.e., unauthorized use of Board property or equipment), he/she would receive a ten (10) day suspension without pay.
5. If a classified employee has been found to have committed a Group II Offense (i.e., willful disregard of Board rules) which results in a three day suspension without pay and then was found to have committed a related Group I Offense (i.e., failure to observe Board rules), he/she would receive a ten day suspension without pay.
6. If a classified employee had been found to have committed a Group II Offense for which he/she received a three working day suspension without pay, and then was found to have committed an unrelated Group I Offense, he/she would receive a verbal reprimand.

E. GROUPS FOR DISCIPLINARY ACTION AND PENALTIES. The following examples are not to be construed as all-inclusive. The examples of Group I, II, and III Offenses, set forth below are characteristic of those offenses that the State Personnel Board of Review has historically judged to be of such a nature to warrant those penalties established for the group.

1. In general, Group I Offenses may be defined as those infractions that are of a relatively minor nature and that cause only a minimal disruption to the organization in terms of slight, yet significant, decrease in organizational productivity, efficiency, and/or morale.

Group I Offenses, if left undisciplined by the proper authority, will usually cause only a temporary impact against the agency unless such acts are compounded over time.

2. Group II Offenses may be defined as those infractions that are of a more serious nature than the Group I Offenses and which, in turn, cause a more serious and longer lasting disruption to the organization in terms of decreased organizational productivity, efficiency, and/or morale. Group II Offenses, if left undisciplined by the proper authority, can cause a serious and longer lasting impact against the agency than the Group I Offenses.

5.17.2.2 Progressive Discipline Policy-Classified Employee (Continued)

3. Group III Offenses may be defined as those infractions that are of a very serious or possibly a criminal nature, and which cause critical disruption to the agency in terms of decreased organizational productivity, efficiency, and/or morale. Group III Offenses, if left undisciplined by proper authority, may have a long lasting and serious impact on the agency.

F. Group I Offenses.

First Offense	Instruction and cautioning (verbal reprimand);
Second Offense	Written reprimand;
Third Offense	One (1) to three (3) day suspension without pay;
Fourth Offense	Four (4) or more day suspension up to thirty (30) day suspension without pay; potential reduction in pay or position; or last chance agreement;
Fifth Offense	Termination.

1. Discourteous treatment of the public.
2. Failing to provide proper notification of his/her absence within 1 or 1 and ½ hours prior to his/her scheduled starting time unless emergency conditions exist.
3. Making preparations to leave the work site before the scheduled quitting time.
4. Taking a scheduled break or lunch period before the specified authorized time.
5. Failing to report back to the work area on time after a scheduled break, lunch period or scheduled recess periods.
6. Failing to commence duties at the beginning of the work day or work periods as scheduled.

7. Creating or contributing to unsanitary or unsafe conditions or poor housekeeping.
8. Distracting the attention of others. unnecessary shouting demonstration or otherwise causing disruption on the job.
9. Malicious mischief, horseplay, wrestling or other undesirable conduct, including use of profane or abusive language.
10. Threatening, intimidating, coercing or interfering with subordinates, other employees, clients or students.
11. Failure to cooperate with other employees as required by job duties.
12. Failure to use reasonable care of County property or equipment.
13. Use or possession of another employee's working equipment without authorization.
14. Neglect or carelessness in observance of official safety rules or disregard of common safety practices.
15. Failure to observe program rules.
16. Obligating the County for any expenses, service or performance without authorization.
17. Failure to report accidents, injury or equipment damage.
18. Disregarding job duties by neglect or work or reading for pleasure during working hours.
19. Unsatisfactory work or failure to maintain required standard of performance.
20. Discussing or commenting on student or client in their presence.
21. Failure to arrive at the program at the proper time without a legitimate excuse.
22. Leaving the bus or worksite unattended at any time while enrollees are on the bus or in worksite.
23. Failure to account for all enrollees scheduled on a bus route to ensure everyone is off/on the bus.
24. Failure to notify the Superintendent of a bus problem before 7:00 A. M.
25. Any other minor offense as determined by the Board.

G. Group II Offenses.

First Offense: Instruction and two (2) or three (3) day suspension without pay

Second Offense: Four (4) or more day suspension up to a thirty (30) day suspension without pay; reduction in pay or position; or last chance agreement

Third Offense Termination

1. Failing to report to work without any notification. The employee shall also not be paid for such time. An employee who fails to report to work without any notification for three (3) consecutive days shall be subject to immediate termination.
2. Reporting for work or working while unfit for duty.

3. Sleeping during working hours.
4. Being in possession of or drinking alcoholic beverages on the job (first offense).
5. Leaving the work site without proper authorization and notification before the scheduled work hours. Additionally, the employee shall not be paid for such time.
6. Unauthorized use of County property or equipment.
7. Performing private work on County time.
8. Willful failures to make required reports, in a timely fashion.
9. Solicitation on County premises without authorization.
10. The making or publishing of false, vicious or malicious statements concerning employees, supervisors, the County or its operations.
11. Refusing to provide testimony in court, before the State Personnel Board of Review, during an accident investigation, or any type of public hearing.
12. Giving false testimony during a complaint or grievance investigation or hearing.
13. Unauthorized posting or removal of notices or signs from bulletin boards.
14. Distributing or posting written or printed matter of any description on County premises unless authorized.
15. Unauthorized presence on County property.
16. Willful disregard of department rules.
17. Use of abusive or threatening language toward supervisors or other employees, vendors or contractors.
18. Unauthorized political activity.
19. Breach of Confidentiality.
20. Neglect or carelessness of observance of official Department of DD Transportation Safety Rules or disregard of common safety practices.
21. Guilty of a substantiated MUI or UI.
22. Receiving a traffic citation other than DUI, OMVI or DWI during working hours.

H. Group III Offenses.

First Offense: Ten (10) day or suspension without pay; reduction in pay or position; or Ten (10) day or more suspension without pay; reduction in pay or position; or a last chance agreement. Second Offense: Termination.

1. Willful neglect in the performance of assigned duties or in the care, use or custody of any County property or equipment. Abuse or deliberate destruction in any manner of County records, property, tools, equipment or the property of employees.
2. Falsifying testimony when accidents are being investigated, falsifying or assisting in falsifying or destroying any County records, including work performance reports, or giving false information or withholding pertinent information called for in making application for employment.

3. Making false claims or misrepresentation in an attempt to obtain any County benefit (sick leave, leave of absence).
 4. Gambling during working hours.
 5. Stealing or similar conduct, including destroying, damaging or concealment of any property of the County or of other employees.
 6. The use of narcotics or the sale of narcotics (first offense).
 7. Carrying or possession of firearms on County property at any time without proper authorization.
 8. Knowingly concealing a communicable disease such as TB which may endanger other employees.
 9. Misuse or removal of County records or information without prior authorization.
 10. Investigating, leading or participating in any unlawful walkout, strike, sit-down, stand-in, refusal to return to work at scheduled time for the scheduled shift or other concentrated curtailment, restriction or interference with work in or about the County's work stations.
 11. Unlawful harassment, such as sexual harassment.
 12. Dishonesty or any dishonest action. Some examples of what is meant by "dishonesty" or "dishonest action" are : theft, pilfering, opening desks assigned to other employees without authorization; theft and pilfering through lunch boxes, tool kits or other property of the County or other employees without authorization; inserting slugs in vending machines without paying the proper change therein; making a false statement to secure an excused absence or to justify an absence or tardiness; making or causing to be made, inaccurate or false reports concerning any absence from work. The foregoing are examples only and do not limit the terms "dishonesty" or "dishonest action".
 13. Insubordination by refusing to perform assigned work or to comply with written or verbal instruction of the supervisors.
 14. Receiving a traffic citation while on duty for DUI, DWI or OMVI.
- I. Suspensions of any prescribed length of time (not to exceed ten (10) working days) may be taken with pay while the employee continues to work at the job; this is called a “working suspension”, and shall have the same effect as if the suspension had been served without pay.

5.17.3 Order of Removal, Suspension or Reduction of Classified Employee

In case of a reduction, a suspension of forty (40) or more work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of twenty-four (24) or more work hours in the case of an employee required to be paid overtime compensation, a fine of forty (40) or more hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of twenty-four (24) or more hours'

pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the Superintendent shall provide the employee with Form ADM-4055, or shall use a letter that complies in all respects with Form ADM-4055.

5.17.4 Appeals of Disciplinary Actions Against Classified Employees

- A. Personnel actions affecting classified employees such as non-probationary removal, suspension, demotions, and layoffs may be appealed by affected employees to the State Personnel Board of Review (SPBR). Suspensions of less than forty (40) work hours in the case of an employee exempt from the payment of overtime compensation or less than twenty-four (24) work hours in the case of an employee eligible for overtime compensation is not appealable to the SPBR.

5.18 Grievance Procedure Policy for Classified Employees

5.18.1 Purpose Statement

- A. It is important for employees - management and classified - to have the means by which grievances may be aired in an atmosphere without fear that the submission of such a grievance will be held against the employee. To accomplish this, the Board has adopted this Grievance Procedure Policy. The purpose of the related procedures is to secure equitable resolution of problems at the lowest possible level of administration. The Grievance Procedure is only to be used when normal communications between the supervisor and the employee breaks down and the employee feels that a proper solution has not been reached.
- B. Nothing in this policy or its related procedures is intended to deny employees any rights available by law to have redress to their legal rights, including the right to appeal to the State Personnel Board of Review (SPBR) where that body has jurisdiction, the Ohio Civil Rights Commission (OCRC), the Equal Employment Opportunity Commission (EEOC), or any court of competent jurisdiction. However, if the employee elects to file a complaint on a matter over which a court of other administrative body has jurisdiction, it is the employee's responsibility to meet the criteria for filing with that court or administrative body. Further, if an employee chooses to file an appeal, charge, or complaint with a state or federal court or administrative body, this grievance process is foreclosed to the employee.
- C. All employees shall sign a statement that they have seen and have knowledge of the Grievance Procedure.

5.18.2 Grievance Definitions

- A. A grievance is a complaint by an employee alleging that the rules, regulations, or policies of the Board were violated, misapplied, and/or misinterpreted or that civil service, state or federal laws may have been violated to the detriment of the employee. Neither probationary removals nor any other personnel actions taken in matters in which employees have been afforded the opportunity for a pre-disciplinary conference described within this policy manual may be appealed through this grievance procedure.
- B. For the purpose of this policy and its related procedure, a “day” is a day the Board is open (work day), excluding weekends, holidays, and other non-working days. Days shall include days set aside for conferences, in-services, or other trainings if those days are paid days for the employee.
- C. Where a grievance cites issues of law that the individual hearing the grievance cannot address, the grievance shall be forwarded to the Prosecuting Attorney’s Office for an opinion before proceeding. All time limits set forth in the Grievance Procedure shall be held in abeyance until a response from the Prosecutor is received.
- D. Where a group of employees desires to file a grievance involving a situation affecting each employee in the same manner, one employee selected by such group will process the grievance.

5.18.3 Grievance Policy and Procedure Requirements

All grievances filed under this policy shall be in writing on any form provided for that purpose, and shall state the nature of the complaint/grievance, the expected resolution, and the facts that affect the condition of the grievance. The employee must proceed through all steps of the Grievance Procedure in proper order and within the prescribed time limits, except as otherwise noted.

5.18.4 Right to Representation

The individual filing the grievance may have a representative (employee or non-employee) of his/her choosing present at any step of the procedure except the step that involves the employee with his/her direct supervisor unless the direct supervisor is the Superintendent. Employees and employee representatives shall not lose pay or benefits during normal working hours for time spent in grievance hearings. The expense of any legal representation shall be borne by the party utilizing it. Either or both parties may call witnesses. Management maintains the right to schedule witnesses for hearings so as not to conflict with the daily operation of the agency. Grievance hearings shall not be conducted beyond normal working hours without the consent of both parties. Compensation of pay and benefits shall not be extended beyond the normal working hours for parties involved.

5.18.5 Grievance Procedure and Decisions

- A. The grievance procedure is based on petition by and review of an employee grievance at ascending levels of authority up to the Superintendent. The purpose of these procedures is to secure, at the lowest level possible, equitable solutions to grievances. Time limits are included for the protection of the employee as well as management. The purpose of time limits is to provide for expedient resolution of the grievance. If a decision on a grievance is not appealed within the time limits specified at any step of the procedure, the grievance shall be deemed settled on the basis of the disposition at that step and further appeal shall be barred. Failure at any step of these procedures by management to communicate a decision on a grievance within the specified time limits shall automatically entitle the grievant to proceed to the next level. Time limits may only be extended by mutual written agreement of the parties.
- B. **Step One – Immediate Supervisor.** In order for a grievance to receive consideration under this procedure, the grievant must identify the grievance to his or her department supervisor within two (2) working days of the occurrence of the situation causing the grievance. It shall be the responsibility of the department supervisor to investigate and provide a solution or written explanation normally within seven (7) working days following the day on which the supervisor was presented the grievance.
- C. **Step Two – Human Resource Director.** If the Employee is not satisfied with the reply received at Step One, he or she may submit the grievance in writing to the Human Resources Director within two (2) working days after receipt of the Step One reply. The Human Resources Director will arrange a meeting with the aggrieved employee(s) within seven (7) working days after receipt of the grievance. The Human Resources Director will issue a written decision within seven (7) working days of the meeting.

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- D. **Step Three – Superintendent.** If the grievance is not resolved at the Step Two decision, the employee must, within four (4) working days after receipt of the Step Two decision, submit the written grievance including all pertinent data from previous steps to the Superintendent. The Superintendent will schedule a hearing within seven (7) working days following the date of receipt of the grievance. The employee may be accompanied by a representative of his/her choosing, but if an employee representative is chosen, the employee must notify the employee representative's supervisor in advance of the hearing so that the employee representative may be relieved of duty to attend the hearing. The employee and the Human Resources Director shall attend the hearing. The Superintendent will render his/her decision in writing to the employee within seven (7) working days following the Step Three hearing. Copies of the decision shall be provided to all parties involved. The decision of the Superintendent is final and binding on the parties. There are no further appeals.
- E. Decisions regarding grievances are to be in writing and should have supporting documentation attached.
- F. There are three possible resolutions regarding any grievance. They are:
1. Find in the employee's favor. The decision is to grant the remedy requested; or
 2. Find against the employee. The decision is that the findings of fact do not support the allegation(s) and, therefore, the grievance and remedy requested is denied; or
 3. Compromise. The employee has a legitimate grievance, but the remedy requested is improper. Prior to a compromise decision, the person responsible for hearing the grievance should call the grievant in and ask if he/she will accept a proposed compromise as a remedy. If not, the person responsible for hearing the grievance may nevertheless implement the proposed compromise, or may choose to find against the employee.

5.18.6 Termination of Grievance by Employee

The employee may terminate the grievance at any point by submitting a written statement to that effect. The written statement shall be submitted to the immediate supervisor or to the individual who is scheduled to perform the hearing. If the latter individual is chosen, that individual shall notify all parties of the termination of the grievance.

5.19 EEO Complaint Policy

5.19.1 Purpose

Any employee or applicant having complaint of discrimination on basis of race, color, religion, gender, national origin, military status, handicap, or age (40 and over) may file a written discrimination complaint with the Equal Employment Opportunity Coordinator(s). The name(s) of the Equal Employment Opportunity Coordinator (s) shall be posted in a conspicuous location in every facility. Alternatively, the employee may file a complaint with the Superintendent, Board President, or the Fayette County Prosecutor.

5.19.2 Filing Requirements

- A. A complaint form is available for this purpose, and can be obtained from the EEO Coordinator(s). The complaint must be filed within thirty (30) days of the alleged discriminatory action, except that this time limit may be extended if the complainant can show that s/he did not have notice of the time limit, or was prevented by circumstances beyond her/his control from submitting the complaint within the time limit, or for other reasons considered sufficient by the EEO Coordinator(s).
- B. A complaint shall be deemed filed on the date it is received, or on the date postmarked if mailed. The EEO Coordinator(s) shall provide written acknowledgement of receipt of the complaint to the complainant. This written acknowledgement shall contain a copy of the complaint procedure and a statement of the complainant's right to file with the United States Equal Employment Opportunity Commission and the Ohio Civil Rights Commission, including the address and telephone number for each agency.

5.19.3 Complainant's Right to Representation

At any time during the course of the proceedings, the complainant shall have the right to be accompanied, represented, and advised by a representative of her/his choosing. If the complainant is an employee and has designated another employee as her/his representative, both the representative and the complainant shall be given a reasonable amount of time off work during normal working hours to present the complaint. Time spent during non-working hours to prepare the complaint will not be considered compensable work under this policy.

5.19.4 Rejection of Complaint

- A. The EEO Coordinator (s) may reject a complaint that was not filed in a timely manner in accordance with this policy, or where information supplied by the complainant is deemed insufficient for the purpose of conducting an investigation. The EEO Coordinator(s) shall reject those complaints which do not allege discrimination on the basis of race, color, religion, gender, national origin, handicap, military status, age (40

- and over), or which are identical to a previous complaint filed by the same complainant which is pending or has been decided under this policy.
- B. The decision to reject a complaint, and the reason(s) for the decision, shall be communicated in writing to the complainant within ten (10) days of the filing of the complaint.

5.19.5 Investigation and Resolution of Complaint

- A. Upon receipt of the complaint, the EEO Coordinator(s) shall have twenty-one (21) days in which to investigate and attempt to resolve the complaint informally.
- B. If a complainant has refused the Informal Resolution of Complaint process or the Informal Resolution of Complaint process has failed to bring closure to a complaint, then EEO Coordinator shall conduct an investigation of the complaint.
- C. Except as provided above, the EEO Coordinator shall investigate the merits of each complaint filed by an employee under this policy. The EEO Coordinator shall meet with the employee and document the incident(s) surrounding the complaint, the person(s) performing or participating in the inappropriate conduct, and the dates on which it occurred. The EEO Coordinator will interview all material witnesses identified or otherwise involved. The EEO Coordinator shall prepare a written report for the Superintendent regarding the findings of the investigation.
- D. The Superintendent shall share the findings of the investigation with the complaining employee. If the employee is dissatisfied with the findings, he/she may request a hearing.

5.19.6 EEO Hearing

- A. The Personnel Committee of the Board shall conduct all EEO Hearings. The decision of the Personnel Committee shall be final; however, the Personnel Committee may refer the matter to the Board. The Personnel Committee shall have the authority to 1) regulate the course of the hearing; 2) exclude irrelevant or unduly repetitious evidence; 3) limit the number of witnesses; and 4) exclude any person from the hearing for misconduct during the hearing.
- B. The EEO Hearing shall be conducted in accordance with due process laws, including 1) adequate notice to parties of hearing time, place, and procedures; 2) reasonable timing; 3) right of each party to representation; 4) right of each party to present evidence; 5) right of each party to question evidence of the other; and 6) the decision made solely on the basis of recorded evidence.
- C. The rules of evidence applicable to civil proceedings need not be followed.

5.19.7 Freedom from Reprisal

Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal during all stages and following the completion of the complaint procedure.

5.20.2.2 Administrative/Management Staff

- A. Management employees shall be provided the opportunity to meet with the Superintendent upon initial employment and annually thereafter to review individual contract terms including pay increases, benefits, and other conditions of employment. Any agreement stemming from such discussions must be consistent with established policy and Board directives.
- B. The management staff shall be eligible for either 1) a one-year contract to be signed by the staff member and the Superintendent; or 2) a multi-year contract not to exceed five (5) years to be signed by the staff member and the Superintendent when approved by the Board.
- C. The Superintendent shall be eligible for a contract not to exceed five (5) years signed by the Superintendent and by the Board.

5.20.2.4 Employee Attendance

- A. The regular attendance of each staff member is vital to the effectiveness of the agency. Direct care and support services are most effective when performed with the continuity provided by regular staff members as opposed to substitutes. To that end, the Superintendent has the authority to authorize or to deny absences, and to set the number of staff that may prearrange absences so as to limit the number of substitutes hired for any particular time.
- B. Sick leave is available to employees. Absences when reasons are not verifiable as medical are not acceptable. The use of sick leave in a pattern showing many Monday, Friday, and/or pre/post holiday use may be investigated for abuse of sick leave. Absence for a medically verified reason is not held against an employee.
- C. An unpaid absence is as detrimental to programs as excessive use of sick leave. It should not be requested or used except in emergency situations that must be explained to the satisfaction of the Superintendent, who may grant the leave request in his/her discretion.

- D. Employees are encouraged to make routine medical/dental appointments during non-working hours or early morning/late afternoon. Employees are expected to do personal business during non-working hours.

5.20.2.5 Attendance Incentive Program

The Superintendent shall implement an annual Attendance Incentive Program that is designed to encourage attendance.

5.20.2.6 Employee Longevity Incentive Program

The Superintendent shall implement a program for eligible employees that rewards individuals who have served the Board for 20 or more years. This program shall be established to exceed state minimums for payment of accrued but unused sick leave time upon retirement. Employees must forfeit all accrued but unused sick leave upon retirement, i.e. it cannot be converted to any other form of income and cannot be transferred or converted to any other employee. This program shall be implemented as resources are available.

5.20.2.7 Employee Sick Leave Donation Program

- A. The Board chooses to participate in a Sick Leave Donation Program for Board employees. Board employees may not share this program with any other county employees.
- B. Eligibility for the Employee Sick Leave Donation Program is for employees with an accumulated sick leave of 400 hours.
- C. The Superintendent shall develop procedures for the Employee Sick Leave Donation Program.

Adopted by FCBDD: May 19, 1999

Revised by FCBDD: April 19, 2000

5.20.3 Payroll

The Board complies with the Fair Labor Standards Act (FLSA) in the establishment and maintenance of all pay-related issues for classified, unclassified, exempt and non-exempt staff.

5.20.3.1 Pay Periods

All employees are to be paid every two (2) weeks under a one (1) week delayed system. Paychecks will be issued in accordance with the schedule established by the Fayette

County Auditor's Office. Pay advances of any kind are not permitted. Paychecks will be released to the employee only unless the employee provides written permission for another person to be given the paycheck. Paychecks may also reflect income earned from one or more of the various employee incentive/conversion programs.

5.20.3.2

5.20.3.2 Payroll Deductions

Certain deductions are made from an employee's paycheck as required by law, in accordance with employee benefit plans, and/or as requested by the employee. Deductions include: 1) OPERS/STRS – Ohio Public Employees Retirement System or State Teachers Retirement System rather than Social Security; 2) Income Taxes – federal, state, and city in accordance with the laws and ordinances that govern these deductions; 3) Medicare Tax – a 1.45% deduction for those employees hired after April 1, 1986; and/or 4) Miscellaneous – examples include garnishments, supplemental insurance, deferred compensation, child support, United Way, etc. The Board may refuse to make deductions not required by law, which are below certain prescribed minimum amounts, or at irregular intervals, or for other causes, which the employer deems not in the best interest of the Board.

5.20.3.3 Overtime Pay

- A. Overtime refers to actual time worked in excess of forty (40) hours in any one (1) work week. Time worked or spent on a holiday, administrative leave day, sick leave, vacation time, personal leave, or during a calamity day is not considered as time worked when calculating overtime eligibility.
- B. Overtime eligible employees are also eligible for compensatory time off. Overtime exempt employees are exempt from earning overtime and compensatory time.
- C. Overtime pay is compensated at the rate of one and one-half hours for every hour worked over forty (40) hours in one (1) work week.
- D. Scheduled overtime that is subsequently cancelled for any reason shall not entitle the employee to overtime compensation.
- E. Overtime eligible employees may choose to be paid in the form of compensatory time.

5.20.3.4 Compensatory Time

- A. The Board recognizes that full-time staff who are eligible for overtime under the Fair Labor Standards Act (FLSA) are entitled to additional pay based upon the fact that sometimes they work in excess of forty (40) hours in one (1) work week. In accordance with federal law, the Board will compensate eligible personnel with

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- additional hours of compensatory time in lieu of cash payment. This policy is in keeping with other governmental agencies of Fayette County.
- B. An employee desiring to use compensatory time shall schedule such time off with his/her supervisor. Requests for compensatory time will be granted within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the Board's operations.
- C. At no time shall compensatory time accrue for a period of greater than 180 days. If the employee does not request use of compensatory time within the 180 day period, then all accrued and unused compensatory time shall be paid with the first paycheck of July and the first paycheck of December, both in the same calendar year, at the employee's current rate of pay. Therefore, no staff may accrue additional compensatory time following the December payout in order to clear the books for the calendar year, unless otherwise approved by special written permission of the Superintendent.

5.20.4 Fringe Benefits

Employees whose regular hours of service are equal to or exceed thirty (30) hours per work week shall be eligible for benefits, personal leave and paid holidays. Mandatory benefits include Ohio Public Employees Retirement System (OPERS), State Teachers Retirement System (STRS), and Worker's Compensation. All other fringe benefits are subject to annual approval by the Board.

5.20.4.1 Medical Insurance Opt-Out Program

- A. The Board believes it is important for every employee to have the opportunity to choose medical insurance as a benefit of working for the Board. However, and only when resources are available, the Board may choose to provide an annual payment in an amount to be determined by the Board to employees who "opt-out" of the Board-sponsored medical insurance.
- B. The Opt-Out Program is intended to reduce the Board's overall cost for employee medical coverage; conversely, the Opt-Out Program is not the Board's attempt to persuade employees to discontinue this important benefit without careful and planned consideration. Therefore, and only after an employee can demonstrate that s/he has medical coverage from another source, during the "window month" the Board will offer employees the opportunity to opt out of medical coverage sponsored by the Board. Of course, should an employee experience a qualifying event (as defined by the insurance carrier), the Board is obligated to permit the employee return to the pool of insured employees.

- C. At such time should the Opt-Out Program cause financial hardship for the Board, then the Board may decide to cancel the Program or may decide to delay payments to employees until such time as finances permit. Employees shall be given as much notice as possible should such financial hardship arise.
- D. The Superintendent shall develop administrative procedures and shall train all employees and newly hired employees.

5.20.5 Mandatory and Elective Benefit Information

Information shall be available in both Administrative Offices concerning the benefits of the Ohio Public Employees Retirement System and the State Teachers Retirement System regarding benefits for retirement, disability, survivor benefits, and health insurance for retirees. Also, information on supplemental insurance will be made available.

5.20.6 Worker’s Compensation

State law provides that every Board employee is eligible for Worker’s Compensation for injuries arising out of, or in the course of, her/his employment. All Board employees must report their injuries on the Staff Accident Form, and must receive their Worker’s Compensation form from the Personnel Office.

5.20.7 Expense Reimbursement

Employees will be reimbursed for expenses incurred during the performance of Board-related, pre-authorized activities in the areas of mileage/parking/tolls, overnight expenses, meals, and registration fees. The Board shall set applicable rates.

The following rate were adopted on January 14, 2015:

<i>Mileage</i>	<i>\$0.34 per mile</i>
<i>Parking</i>	<i>\$7.00 per day</i>
<i>Tolls</i>	<i>\$5.00 per day</i>
<i>Hotel / Motel</i>	<i>Authorized by Administration Before Encumbered</i>
<i>Meals</i>	<i>Breakfast: \$6.50 when travel begins before 7:00 AM Lunch: \$8.50 out-of-county “noon” meetings only Dinner: \$13.00 when travel ends after 7:00 PM</i>
<i>Registration/Conference Fees</i>	<i>Authorized by Administration Before Encumbered</i>

5.20.8 Holidays

- A. Full-time, twelve-month employees are entitled to the following legal holidays with pay: New Years Day, Martin Luther King Day, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day,

and Christmas Day. Some of these holidays may be moved to accommodate staff schedules, but only with the full knowledge of the staff. Also included are any other days as so designated by an act of the President of the United States, Governor of Ohio or the Board (e.g. the Board entitles the staff to have Good Friday as a paid holiday).

- B. If a holiday occurs while an employee is on a vacation or sick leave, such vacation day or sick leave day will not be charged against his/her accrued vacation or sick leave.

5.20.9 Vacation

- A. In accordance with Section 325.19 of the Ohio Revised Code, all twelve-month, full-time (30 or more hours per week) non-management employees can earn annual vacation leave according to their number of years of service with the State of Ohio and political subdivisions of the State and at a rate proportionate to the regular number of hours in the employee's bi-weekly schedule as follows:

Completed Years of Service	Maximum Rate Per Pay Period	Formula Per Hours of Service
1 – 7	3.1 hours	.03875
8 – 14	4.6 hours	.05750
15 – 24	6.2 hours	.07750
25 +	7.7 hours	.09625

- B. Management employees are not entitled to vacation leave pursuant to Section 325.19 of the Ohio Revised Code; however, pursuant to Section 5126.21 of the Ohio Revised Code, management employees are entitled to those benefits established by the Board. Therefore, while vacation leave may be negotiated into the management contracts, it is the Board's practice to apply this policy regarding accrual, usage, and conversion of vacation leave to management employees..
- C. Employees are entitled to credit for all prior public service with the State of Ohio or any political subdivision of the State.
- D. Completion of a total of one (1) year of public service as a full-time employee as defined in Section 325.19 of the Ohio Revised Code is required before eligibility for any vacation leave is established, although such service need not be continuous with the Board. Once a full-time employee has attained the first year of employment, vacation leave may be used as it is accrued, with approval of the Superintendent and consistent with the other sections of the Board Policy Manual pertinent to vacation.

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- E. Vacation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of employment, provided the Superintendent may, in special and meritorious cases, permit such employee to accumulate and carry over his/her vacation leave to the following year. No vacation leave shall be carried over for more than three (3) years. The request to carry over vacation leave shall be made to and approved by the Superintendent in writing.

5.20.9 Vacation (Continued)

- F. Days designated for holidays or emergency days declared by the Governor of Ohio are not charged vacation leave regardless of the day of the week on which they occur.
- G. Vacation leave is earned during the time the employee is on active pay status. Vacation leave is not earned on unpaid leave of absence.

5.20.9.1 Vacation Leave Payment Upon Employment Separation

- A. Upon separation from county service, an employee is entitled to compensation at his/her current calculated hourly rate for any earned but unused vacation leave credit at the time of separation. However, no payment will be made to employees having less than one (1) year of public service.
- B. In case of the death of an employee, any earned but unused vacation leave shall be paid to the date of death in accordance with Section 2113.04 of the Ohio Revised Code to the deceased employee's estate.

5.20.9.2 Request and Approval

All requests for use of vacation leave must be made in accordance with established procedures. Vacation leave will be granted on a first request basis and must conform to program operation schedules.

5.20.10 Sick Leave

5.20.10.1 Definitions

- A. For purposes of this policy, the "immediate family" is defined as: employee's spouse or significant other ("significant other" as used in hit definition means one who stands in place of a spouse and who resides with the employee), parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-inlaw- mother-in-law, father-in-law, step-parents, step-children, step siblings, or a legal guardian or other person who stands in place of a parent. Mother, father, brother, sister, child, spouse, grandparent, grandchild, grandchildren, brother-in-law, sister-in-

law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings legal guardian or other person who stands in place of parent.

5.20.10.2 Accrual and Uses

- A. Sick leave for classified employees is administered in accordance with Section 124.38 of the Ohio Revised Code for classified employees. Management employees are not entitled to sick leave pursuant to Section 124.38 of the Ohio Revised Code; however, pursuant to Section 5126.21 of the Ohio Revised Code, management employees are entitled to those benefits established by the Board. Therefore, while sick leave may be negotiated into the management contracts, it is the Board's practice to apply this policy regarding accrual, usage, and conversion of sick leave to management employees.
- B. For employees, sick leave credit shall be earned at the rate of four point six (4.6) hours for each eighty (80) hours of service in active pay status, including paid vacation and sick leave, but not during a nonpaid leave of absence or layoff. Unused sick leave shall accumulate without limit. For the purposes of this section, active pay status is defined as hours worked, hours on paid vacation, hours on holiday leave, hours on paid sick leave and hours on paid compensatory time.
- C. Intermittent/substitute/part-time employees accrue sick leave on a proportionate basis to the hours worked in each pay period.
- D. An employee may request sick leave for absences resulting from illness as described below provided the employee notifies the Board. Sick leave may be requested for the following reasons: 1) illness or injury or conditions of the employee or member of the employee's immediate family; 2) exposure of employee or member of the employee's immediate family to a contagious disease that would have the potential of jeopardizing the health of the employee or the health of others; 3) death of a member of the employee's immediate family; 4) medical, dental, or optical examinations or treatment of employee or member of employee's immediate family; or 5) pregnancy, childbirth and/or related medical conditions.
- E. Sick leave shall be charged in minimum units of one-quarter (1/4) hour. An employee shall be charged for sick leave only for days upon which he would otherwise have been scheduled to work. Sick leave payment shall not exceed the normal scheduled work day or work week earnings.
- F. Employees who request sick leave and have no available balance may have their request disapproved. An employee fraudulently obtaining sick leave, or anyone found falsifying sick leave records, shall be subject to immediate disciplinary action, up to and including termination.

5.20.10.3 Notification Requirements

- A. Employees must follow the prescribed written format for requesting sick leave either before (if possible) or after the need for leave. In any case, the employee is responsible for notifying the Division Head or designee whenever sick leave is about to be used.
- B. The Superintendent may require an employee to furnish a standard written, signed statement explaining the nature of the illness to justify the use of sick leave. A form for this purpose can be obtained in the Administrative Office and must be submitted to the Superintendent. Any employee failing to comply with sick leave rules and regulations will not be entitled to sick leave pay. The Superintendent has the sole discretion to approve or disapprove sick leave payment.
- C. Where sick leave is requested to care for a member of the immediate family, the Superintendent may require a physician's certificate to the effect that the presence of the employee is necessary to care for the ill family member.
- D. Employees may be required to document sick leave and other absences in accordance with the Family and Medical Leave Act and Board policy.

5.20.10.4 Physician's Permission to Return to Work

- A. After three (3) days, the Superintendent may require proof of physician's permission for the employee to return to work following an illness/injury. When institutionalization or hospitalization is required, the employee shall be responsible for notifying the employee's immediate supervisor or the Superintendent upon admission and discharge from such institution or hospital, unless emergency conditions prevent such notification. When convalescence at home is required, the employee shall be responsible for notifying the employee's supervisor or the Superintendent with the expected length and the termination of such period of convalescence. These actions help to ensure the health and safety of the employee and the enrollees.
- B. Employees having an approved sick leave granted are prohibited from being on Board property or in Board vehicles without authorization granted by the Superintendent.
- C. Altering a physician's certificate or falsification of a written, signed statement shall be cause for immediate disciplinary action, up to and including termination.

5.20.10.6 Payment of Sick Leave Pay; Retirement

- A. Employees on sick leave shall be paid at the same basic hourly rate as when they are working.
- B. Upon retirement after ten (10) or more years with the State of Ohio or any of its political subdivisions, the employee may elect to have sick leave converted to cash at the employee's current hourly rate under the following conditions pursuant to Section 124.39 of the Ohio Revised Code: a maximum of one fourth (1/4) of the employees remaining accrued but unused sick leave not to exceed thirty (30) days. However, employees with 20 or more years of service with the Board may be eligible for additional cash conversion of sick leave. Conversion of sick leave on retirement shall be made based upon the employee's rate of pay at the time of retirement. Conversion of sick leave upon retirement exhausts the employee's entire sick leave balance. Sick leave conversion does not apply to any termination or separation other than retirement.

5.20.11 Bereavement Leave

An eligible employee may be granted use of sick leave, upon approval of the Superintendent, for a maximum of five (5) working days in the event of death of an immediate family member. For the purposes of this policy, "immediate family" is defined in the same manner as the Sick Leave Policy. (Also see definitions)

- A. The Board provides up to 3 days of paid Bereavement Leave to employees, with the approval of the Superintendent or Designee, in the event of a death in the employee's immediate family. Bereavement leave may be used to attend the funeral, make funeral arrangements, or attend to any other matter related to the funeral.
1. Three (3) successive workdays beginning with the date of death, for the death of employee's: spouse, parents, mother-in-law, father-in-law, son, daughter, son-in-law, daughter-in-law, step-parents, step-children, sister, brother, sister-in-law, brother-in-law, grandchildren, grandparents, legal guardian, or other person who stands in place of parent.
- B. In the event the death of a near relative occurs while an employee is on vacation, the bereavement leave will immediately commence and the employee will be allowed to take equivalent vacation time off at a mutually agreeable future date providing the employee returns to attend services.
- C. With the Superintendent or Designee's approval, an employee may request to use his/her accrued, but unused vacation leave to attend the funeral of a friend or any other persons not specified in this policy.

5.20.12 Military Leave

A. An employee who is drafted or is called up for service in the in the “uniformed services” generally shall (in accordance with federal and Ohio law) be entitled to re-employment upon discharge from the uniformed services. In all cases, the Board will comply with the provisions of Section 5903.02 of the Ohio Revised Code and the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), 38 U.S.C.A. 4303. For purposes of this paragraph of the policy, the term “uniformed services” shall have the same meaning as found in the USERRA. “Uniformed services” means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. “Services in the uniformed services” includes the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. “Service in the uniformed services” includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty.

An employee is eligible for reemployment by meeting the following criteria:

- (1) The employer had advance notice of the employee's service;
- (2) The employee has five (5) years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employer;
- (3) The employee timely returns to work or applies for reemployment; and,
- (4) The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

An employee in need of military leave should inform the Board at least thirty (30) days prior to departure for uniformed service when it is feasible to do so, and as much advance notice as possible unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.

An employee's right to reemployment is terminated if the employee is:

1. Separated from uniformed service with a dishonorable or bad conduct discharge;
2. Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
3. A commissioned officer dismissed by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
4. A commissioned officer dropped from the rolls due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

An employee must timely reapply to the Board, and, in accordance with the law, provide appropriate documentation establishing eligibility for reemployment. Upon completing service in the uniformed services, the employee must notify the Board of his/her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:

1. Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than thirty-one (31) days, or the employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the employee must report back to the employer not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence. If it is impossible or unreasonable for the employee to report within such time period through no fault of his/her own, he or she must report to the employer as soon as possible after the expiration of the eight-hour period.

2. Period of service more than 30 days but less than 181 days. If the employee's period of service in the uniformed services was for more than thirty (30) days but less than one hundred eighty-one

(181) days, he/she must submit an application for reemployment (written or verbal) with the employer not later than fourteen (14) days after completing service. If it is impossible or unreasonable for the employee to apply within fourteen (14) days through no fault of his/her own, he/she must submit the application not later than the next full calendar day after it becomes possible to do so.

3. Period of service more than 180 days. If the employee's period of service in the uniformed services was for more than one hundred eighty (180) days, he/she must submit an application for reemployment (written or verbal) not later than ninety (90) days after completing service.

If the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he/she must report to or submit an application for reemployment to the Board at the end of the period necessary for recovering from the illness or injury. This period may not exceed two (2) years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the employee's control that make reporting within the period impossible or unreasonable.

Upon timely application, the employee will be promptly reemployed. Generally, the employee will be reemployed in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. The reemployment position will be determined in accordance with USERRA.

Even if the employee makes a timely application, reemployment may be denied when the Board demonstrates:

1. its circumstances have so changed as to make reemployment impossible or unreasonable, such as an intervening reduction in force that would have included the employee.
2. Assisting the employee in becoming qualified for reemployment would impose an undue hardship on the Board; or,
3. The employment position vacated by the employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

B. Section 5923.05 of the Ohio Revised Code requires that members of the Ohio National Guard, Ohio Naval Militia, Ohio military reserve, and all U.S. Armed Forces

reserve components, who are permanent public employees, be granted a leave of absence without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services. For purposes of this paragraph, “one month” means twenty-two (22) eight (8) hour work days or one hundred seventy-six (176) hours within one calendar year. An employee shall submit to the Board the published order authorizing the call or order to the uniformed services or a written statement from the appropriate military commander authorizing that service.

C. Any employee who is entitled to the leave provided by Section 5923.05 of the Ohio Revised Code, and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the President of the United States, because of an act of Congress, or because of an order to perform duty issued by the Governor is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the lesser of the following:

1. The difference between the permanent public employee’s gross monthly wage or salary as a permanent public employee and the sum of the permanent public employee’s gross uniformed pay and allowances received that month;
2. Five hundred dollars.

No employee is entitled to receive this payment benefit if the amount of gross military pay and benefits exceed the employee’s gross wages from the Board for that period.

Employees requesting such leave will be required to submit the necessary documentation and complete the necessary leave papers in advance of the leave.

5.20.13 Personal Day with Pay

Three (3) personal days per year are available for use by each full-time, 12-month employee and two (2) personal days per year are available for use by each full-time, 9-month employee. While the use of Personal Days requires Division Head approval and Superintendent authorization, staff are not required to provide a stated reason for their request for the use of Personal Days. Whenever possible, staff should give 24 hours notice of the request for the use of a Personal Day.

Personal leave with pay may not be accumulated and may only be used during the program year in which it is granted. If not used during the year, personal days are forfeited. Personal leave time is considered non-work time for purposes of calculating overtime or compensatory time accrual.

5.20.14 Professional Leave

As resources are available and as programming needs can be met in the absence of a given employee, each employee may be granted professional leave to attend meetings, conferences, workshops, etc. or to attend classes for higher education. Professional leave is intended to allow employees to receive specialized training and information without loss of pay and to stimulate and support their professional growth. Prior authorization by the Superintendent shall be required. Whenever possible, employees must provide documentation of attendance to be kept in their personnel file.

5.20.15 Tuition Reimbursement

- A. Based upon the availability of funds, the Board may grant limited financial assistance for college/university/technical school tuition reimbursement for those employees who pass accredited coursework in a subject matter related to their current employment position or for a position they later desire to achieve. The amount provided toward an associate or bachelor degree shall be Seven Hundred Dollars (\$700) per employee per year for any calendar year. The amount provided toward a master's degree shall be One Thousand Five Hundred (\$1,500) per employee per year for any calendar year.
- B. In order to qualify, the Superintendent must pre-authorize the coursework; if the employee is studying toward the completion of a degree (Associate, Bachelor, Master, Doctoral, or other technical degree), then the Superintendent must also approve the degree in order for the employee to receive reimbursement for all coursework taken within that degree. The employee must also provide written proof of successful completion of the course, which shall be maintained in the employee's personnel file.
- C. Costs for registration, textbooks, lab fees, meals, lodging, and/or transportation shall not be reimbursable. (This provision may not apply if the coursework is taken for department certification, registration, or professional licensing; this decision shall be made by the Superintendent.)
- D. Tuition reimbursement may only be granted in the maximum amounts approved on an annual basis within the calendar year. An employee must apply for tuition reimbursement on the appropriate form and receive prior written approval by the Superintendent. The employee is personally responsible for all costs incurred for coursework attendance of the above nature if prior approval is not obtained. Requests for approval should be submitted as soon as possible and no later than thirty (30) days prior to attendance, when possible. Requests for approval must include the cost of such coursework and a course description to assure the coursework has a direct bearing on the quality of services provided by the Board. Reimbursement will be

approved contingent upon the employee obtaining and submission of proof substantiating a grade of at least a “C” or passing in a pass/fail course.

Reimbursement requests must include the original receipts and documentation, which includes proof of a grade of at least a “C” or passing in a pass/fail course.

- E. Tuition reimbursement shall be refunded to the Board by the employee should the employee who received the reimbursement voluntarily terminate employment from the Board within one (1) year of completing such approved coursework for tuition reimbursement. When an employee initially requests to be eligible for tuition reimbursement under this policy, the employee must sign a statement authorizing the Board to deduct the appropriate amount to be refunded to the Board from his/her final paycheck.

5.20.16 Commercial Driver License (CDL) Training

- A. Based upon availability of funds, employees required to obtain and to maintain a Commercial Drivers License and/or School Bus Endorsement may be granted limited reimbursement for class-related or medical-related costs related to obtaining and/or to maintaining the CDL.
- B. In order to qualify, the Superintendent must pre-authorize the coursework. The employee must also provide written proof of successful completion of the course, which shall be maintained in the employee’s personnel file.
- C. Costs for registration, textbooks, lab fees, meals, lodging, and/or transportation shall not be reimbursable.
- D. Reimbursement shall be refunded to the Board by the employee should the employee who received the reimbursement voluntarily terminate employment from the Board within one (1) year of receiving reimbursement for class-related or medical-related costs related to obtaining and/or to maintaining the CDL. When an employee initially requests to be eligible for such reimbursement under this policy, the employee must sign a statement authorizing the Board to deduct the appropriate amount to be refunded to the Board from his/her final paycheck.

5.20.17 Leave of Absence with Pay

Employees may be granted a leave of absence with pay for purposes directly related to the function of the Board or to the function of the employee’s position. Such leave may only be granted by the Superintendent.

5.20.17.1 Flexible Payroll during Extended Leaves of Absence

- A. For the purpose of this policy, an “extended leave of absence” is defined as when an employee who – upon taking a leave of absence for Family and Medical Leave Act, for a professional leave, or other board-approved long-term leaves – exhausts all applicable and accrued sick, vacation, or personal leave.
- B. The intent of this policy is to offer employees uninterrupted payroll during their extended leave of absence, whenever possible. This policy also permits the Business Office to continue standard deductions and special deductions to the employee’s payroll with no interruption.
- C. An employee may request that the Business Office review his/her accrued sick/vacation/personal leave time for the purpose of applying for flexible averaging of his/her payroll during an extended leave of absence. However, in no case shall the Board permit the issuance of payroll checks in amounts lower than one hundred dollars (\$100.00) unless it is the final payroll check for the employee.
- D. Employees covered under this policy may make no more than one request per calendar year; requests shall create no more than a minimum of administrative work. As such, the Superintendent or designee shall have final approval rights for employee requests made under this policy.
- E. The Superintendent shall develop appropriate administrative procedures for this policy.

Approved by the Fayette County Board of Developmental Disabilities on March 17, 2010.

5.20.18 Court Leave

- A. Court leave with pay shall be granted to employees summoned for jury duty during normal working hours by a Federal, State or any other court of competent jurisdiction. In cases where the employee’s absence will create a hardship on the agency or jeopardizes safety of students or clients, the employee will request to be excused from jury duty, although the Board understand such request is subject to the discretion of the tribunal.
- B. Court leave with pay shall be granted to employees subpoenaed to appear before any court or other body authorized by law to require attendance of witnesses during normal working hours where the employee is not a party to the action.
- C. An employee who is the appellant in an action before the State Personnel Board of Review or the claimant before the Bureau of Worker’s Compensation for a Board-

related claim, and who is in active pay status at the time of the scheduled hearing or examination, shall be granted leave with pay for purposes of attending such hearing or examination during a normally scheduled work day.

- D. Any compensation or reimbursement received related to jury duty or for court attendance compelled by subpoena must be remitted to the Personnel Department when such duty was performed during normal working hours.
- E. An employee who is appearing before a court or other authorized body in which he/she is a party to the action, except as noted under paragraph C above, may request vacation time, personal day or leave without pay. Such instances would include, but not be limited to, criminal or civil cases, traffic court, divorce proceedings, custody or appearing as directed as a parent or guardian of juveniles.

5.20.19 Leave of Absence Without Pay

- A. The Superintendent may grant a leave of absence without pay to any employee for a maximum of six (6) months for any personal reason of the employee; such leave may not be renewed or extended beyond the six (6) months. Leave may be granted for a maximum period of one (1) year for the purpose of education, training, or specialized experience that would be of benefit to the Board by improved performance at any level. The authorization for a leave of absence without pay is a matter of Superintendent discretion.
- B. Upon completion of a leave of absence without pay, the employee is to return to the position formerly occupied, or to a similar position if the employee's former position no longer exists. Upon the reinstatement of the employee from leave, any replacement employee in the position while an employee is on leave will be terminated subject to established layoff procedures. The terminated employee will be considered for other vacancies, if available.
- C. With two (2) weeks prior notification, an employee may return to work before the scheduled expiration of leave if requested by the employee and approved by the Superintendent. An employee who fails to return to work within three (3) working days of the completion or a valid cancellation of a leave of absence without pay without explanation to and approval from the Superintendent may be removed from her/his position.

5.20.20 FAMILY AND MEDICAL LEAVE

The Board will comply with Public Law 103-3, *Public Law 110-181*, Family and Medical Leave Act of 1993, to provide family and medical leave as specified in the legislation. Eligible employees will be provided up to 12 weeks of unpaid leave in connection with specific qualifying events. Eligible employees may take up to 26 weeks of unpaid leave to care for a covered servicemember. Generally, employees will be provided employment in an equivalent position with equivalent conditions of employment upon return from family or medical leave. The Board will maintain records of utilization of family or medical leave per the requirements of the Department of Labor.

A. Qualifying Events for Basic Leave Entitlement.

In order to be entitled to take the appropriate amount of family and medical leave, one of the following "qualifying events" must occur:

1. Incapacity due to pregnancy, prenatal medical care or child birth;
2. Care for the employee's child after birth, or placement for adoption or foster care;
3. Care for the employee's spouse, son, daughter or parent, who has a serious health condition;
4. For a serious health condition that makes the employee unable to perform the employee's job

The term "spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

- (1) Was entered into in a State that recognizes such marriages; or
- (2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

The term "parent" means a biological, adoptive, step, or foster father or mother, the spouse of any such person, or any other person who stood in loco parentis to the employee when the employee was a child as defined in this section. This term does not include "parents in law."

The term "son or daughter," for purposes of FMLA leave taken for birth or adoption or to care for a family member with a serious health condition, means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

B. Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on "covered active duty" or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies.

The term "spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

- (1) Was entered into in a State that recognizes such marriages; or
- (2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

The term "parent" means a covered servicemember's biological, adoptive, step or foster father or mother, the spouse of any such individual, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents "in law."

The term "son or daughter," for purposes of military family leave, means a covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.

An employee's spouse, son, daughter, or parent is on "covered active duty" when he or she is either a) on duty as a member of a regular component of the Armed Forces and deployed with the Armed Forces to a foreign country under a call or order to active duty, or b) on duty as a member of a reserve component of the Armed Forces and deployed to a foreign country under a call or order to active duty in support of a contingency operation. Qualifying exigencies to manage the servicemember's affairs are described on the Department of Labor form [Certification of Qualifying Exigency for Military Family Leave](#) and include: 1) Short notice deployment; 2) Military events and related activities; 3) Childcare and school activities; 4) care of the military member's parent who is incapable of self-care; 5) Financial and legal arrangements; 6) Counseling; 7) Rest and recuperation; 8) Post-deployment activities; and 9) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

A qualified eligible employee may take leave to care for a covered servicemember who has suffered a serious injury or illness in the line of active duty or who has had an existing condition aggravated by military service ("military caregiver leave"). A covered servicemember means (1) a current member of the Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness incurred in the line of duty; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. The injury or illness for which the covered servicemember requires military caregiver assistance may manifest itself before or after the member officially became a "veteran." Military caregiver leave also applies to pre-existing medical conditions that were aggravated by the servicemember's active duty service in the military. **The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

An employee who has a qualified family relationship with a covered servicemember may take up to 26 weeks of leave during a single 12-month period. A qualified family relationship is a spouse, parent, son or daughter, or next of kin. The leave entitlement described in this paragraph applies on a per-covered servicemember, per-injury basis, such that an eligible employee may be entitled to take more than one leave if the leave is to care for a different covered servicemember or to care for the same servicemember with a subsequent serious illness or injury, but the employee is limited to a total of 26 weeks of military caregiver leave in any single 12-month period. No more than 26 weeks total of FMLA leave may be taken within any single 12-month period to

care for a covered servicemember. Spouses who are employed by the same covered employer may be limited to a combined total of 26 workweeks of leave during the single 12-month period for military caregiver leave.

An employee may take FMLA leave for up to 12 weeks for a Qualifying Event in the same 12-month period in which an FMLA leave is taken to care for a covered servicemember.

The Board will provide the employee with a copy of the Department of Labor Form [Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave](#) or [Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#) to be completed by the employee and an authorized military health care provider of the covered servicemember. The employee may present certain military certifications such as “Invitational Travel Orders” or “Invitational Travel Authorizations” for purposes of certification that must be accepted by the Board.

If the certification is incomplete or unclear, the employee is to be given seven (7) additional calendar days to provide more complete information. Recertifications and second or third opinions are not permitted in connection with respect to leave to care for a covered servicemember.

The Superintendent or a person designated by the Superintendent may contact the covered servicemember’s health care provider for clarification and/or authentication of the medical certification. Under no circumstances may an employee’s direct supervisor contact the health care provider. Attempts to clarify or authenticate a medical certification shall not result in obtaining additional medical information.

C. Certification and restrictions on leave.

The Board may require that an employee’s leave to care for the employee’s covered family member with a serious health condition, or due to the employee’s own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee’s position, be supported by a certification issued by the health care provider of the employee or the employee’s family member. The Board may also require that an employee’s leave because of a qualifying exigency or to care for a covered servicemember with a serious injury or illness be supported by a certification. An employer must give notice of a requirement for certification each time a certification is required; written notice must be provided whenever the Board is required to determine eligibility for FMLA leave. An oral request by the Board to an employee to furnish any subsequent certification is sufficient.

The employee must provide the requested certification to the Board within 15 calendar days after the Board's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts or the Board provides more than 15 calendar days to return the requested certification. The employee must provide a complete and sufficient certification to the Board. The Board shall advise an employee whenever it finds a certification incomplete or insufficient, and shall state in writing what additional information is necessary to make the certification complete and sufficient. A certification is considered incomplete if the Board receives a certification, but one or more of the applicable entries have not been completed. A certification is considered insufficient if the Board receives a complete certification, but the information provided is vague, ambiguous, or non-responsive. The Board must provide the employee with 7 calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure any such deficiency. If the deficiencies specified by the Board are not cured in the resubmitted certification, the Board may deny the taking of FMLA leave. A certification that is not returned to the Board is not considered incomplete or insufficient, but constitutes a failure to provide certification.

The Superintendent or a person designated by the Superintendent may contact an employee's health care provider for clarification and/or authentication of the medical certification. Under no circumstances may an employee's direct supervisor contact the health care provider. Attempts to clarify or authenticate a medical certification shall not result in obtaining additional medical information.

At the time the Board requests certification, it must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. If the employee fails to provide the Board with a complete and sufficient certification, despite the opportunity to cure the certification, or fails to provide any certification, the Board may deny the taking of FMLA leave. In all instances when certification is requested, it is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to the Board to support the employee's FMLA request.

An eligible employee may take up to 12 weeks of unpaid leave to care for the employee's son or daughter with a serious health condition. For purposes of the FMLA, the terms "son" or "daughter" mean a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. "Incapable of self care" requires active assistance or supervision to provide daily self care in three or more "activities of daily living." For purposes of this policy, a spouse does not need to establish an "*in loco parentis*" relationship with a child to exercise their rights. In the absence of a marriage,

as recognized under this policy, an employee may exercise his/her rights pursuant to the FMLA to care for a child when that employee stands *in loco parentis* to that child. Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for or financially support a child. A biological or legal relationship is not necessary.

In the absence of a biological or legal relationship and/or for purposes of confirmation of family relationship, the Board may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, etc. The Board is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

Entitlement for child care ends at the end of the 12-month period beginning on the date of birth. Entitlement for child care ends at the end of the 12-month period beginning on the date of placement. The child care entitlement applies to parents in a marriage, as recognized under this policy, and unmarried individuals acting "*in loco parentis*."

When the Board employs both spouses, the total amount of Family and Medical Leave shall be twelve (12) weeks combined, when the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition. Leave taken for other qualifying events shall not be subject to this restriction.

D. Qualified Employee.

A Board employee must meet the following criteria to be a "qualified employee" eligible for family and medical leave:

1. An employee must be employed by the Board for more than 12 months of active service, which need not be 12-consecutive months.
2. An employee must have worked more than 1,250 hours in the 12 months prior to the commencement of FMLA leave.
3. An employee must be employed at a worksite where 50 or more employees are employed within 75 miles of that worksite.

Service Member Time in the military service covered under the Uniformed Services Employment and Reemployment Rights Act (USERRA) will count towards fulfilling the length of employment and hours of work requirements to be eligible for an FMLA leave.

E. Use of Paid Leave.

If an employee does not elect to use accrued paid leave, he/she will be required to use all accrued, unused paid vacation, personal, sick, compensatory time, and/or PTO as a substitute for unpaid Family and Medical Leave. Such paid leave will run concurrently with and be counted toward the 12 workweeks of leave. Once all paid leave is exhausted, any remainder of the Family and Medical Leave shall be unpaid.

F. Coverage Period; Intermittent Leave.

A qualified employee is entitled to take up to a total of twelve (12) weeks of a combination of paid and unpaid leave per year (as defined by the Board) for a qualifying event.

Leave under qualifying events 1 or 2 will not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the Board agree otherwise. Leave taken under qualifying events 3, 4, and Section B may be taken intermittently or on a reduced leave schedule when medically necessary. If an employee requests intermittent leave or leave on a reduced leave schedule, the Board may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis. Upon return to work from such leave, the employee will be returned to his/her former position, or an equivalent position.

G. Benefits.

Qualified employees who take family or medical leave under this provision are entitled to the continuation of health and dental care benefits during the period of family or medical leave or military caregiver leave. The Board will continue to pay the Board's share of the health and dental insurance premiums during any family or medical leave or military caregiver leave. If the employee should exhaust all paid leave during the Family and Medical Leave, the employee shall make arrangements with the Board to pay the employee's share of health insurance costs prior to the beginning of the unpaid Family and Medical Leave. The Board is entitled to recover the premium paid by the Board for maintaining insurance coverage for the employee if the employee fails to return after the expiration of the family or medical leave to which the employee is entitled under this act for a reason other than (1) the continuation, recurrence, or onset of either a serious health condition of the employee (Qualifying Event 3) or the employee's family member (Qualifying Event 4), or a serious injury or illness of a covered servicemember; or (2) other circumstances beyond the control of the employee.

Qualified employees do not accrue seniority or benefits, other than health and dental care benefits during the time of family or medical leave unless they are in active pay status using sick leave or vacation leave. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

H. Designation of Leave.

It is the responsibility of the Board, through the Superintendent or designee, to designate employee absences as FMLA leave or not FMLA leave. This is the case whether or not an employee wishes to have absences designated as FMLA leave, and whether or not the employee has requested FMLA leave. The Board may request from the employee, and the employee will provide to the Board, such information as is reasonably necessary for the Board to determine whether an employee absence qualifies for FMLA leave. The Board will act reasonably in determining whether an absence qualifies for and/or is designated FMLA leave.

The Board shall inform an employee requesting leave whether he/she is eligible under the FMLA. If the employee is eligible, the Board will provide the employee with all appropriate forms and notices required or authorized by the FMLA including the employee's rights and responsibilities. The Board will notify the employee that the leave will be designated as FMLA-protected leave and the amount of leave counted against the employee's entitlement. If the employee is not eligible for FMLA leave, the Board will provide the employee as to the reason for ineligibility. If the Board determines that the leave is not FMLA-qualifying, the Board will notify the employee.

I. Notifications and Timeframes.

The qualified employee will give the Board at least 30 days notice of the date family or medical leave when the need is foreseeable. Otherwise, the employee shall provide notice as soon as practicable under the facts and circumstances, and generally must comply with the Board's normal call-in procedures. Employees must comply with established procedures for requesting leave, including paid leave.

Employees must provide sufficient information for the Board to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Board if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees will be required to provide a certification and periodic recertification supporting the need for leave.

The qualified employee will provide the Board certified information from the health care provider (licensed doctor of medicine or osteopathy) of the employee, employee's spouse or immediate family member upon requesting utilization of family or medical leave. Such certification will include:

1. The date the condition began;
2. The anticipated duration of the condition;
3. The necessity of the leave;
4. The inability of the employee to perform job functions.

The Board may, at its expense, request a second or third opinion from a health care provider. When certification is requested for FMLA approval, it is the employee's responsibility to provide the employer with timely, complete, and sufficient certification and failure to do so may result in delay or denial of FMLA leave. If the certification is incomplete or unclear, the employee is to be given seven (7) additional calendar days to provide more complete information.

Before being permitted to return to work from a leave for the employee's own serious health condition, the employee shall be required to provide certification from his or her health care provider that the employee is able to resume work and perform the essential functions of the employee's job. If state or local law requires that a public health official examine an employee as a condition for returning to work, the employee must fulfill this obligation.

In cases where an FMLA leave is for a qualifying exigency, the Board shall provide the employee with a copy of the Department of Labor form [Certification of Qualifying Exigency for Military Family Leave](#) to be completed by the employee. The completed form along with the documentation that the employee provides will be used to determine if the leave request qualifies and the length of the leave.

J. Reinstatement after leave.

Upon return from leave under this policy, the employee shall be restored to his/her former position or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, to the extent required by law. However, no employee is entitled under this policy to any right, benefit, or position other than that to which the employee would have been entitled had he/she not taken leave. The FMLA contains a limited exception to the restoration provision for certain highly compensated employees (“key employees”) under certain conditions. Employees determined to be key employees and to whom the Board intends to deny restoration will be notified in writing at the time the employee gives notice of the need for FMLA leave or as soon thereafter as the Board makes such determination.

K. Definition of “Year”.

For purposes of the Board’s Family and Medical Leave Act policy, a “year” means a “rolling twelve month period measured backward from the date an employee uses any FMLA leave”. This rolling 12-month period means that each time an employee takes FMLA leave, the remaining leave balance would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 2008, four weeks beginning June 1, 2008, and four weeks beginning December 1, 2008, the employee would not be entitled to any additional leave until February 1, 2009. However, beginning on February 1, 2009, the employee would again be eligible to take FMLA leave, recouping the right to take the leave in the same manner and amounts in which it was used in the previous year. Thus, the employee would recoup (and be entitled to use) one additional day of FMLA leave each day for four weeks, commencing February 1, 2009. The employee would also begin to recoup additional days beginning on June 1, 2009, and additional days beginning on December 1, 2009.

L. Unlawful Acts.

The FMLA makes it unlawful for the Board to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

M. Enforcement.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

5.20.20 Calamity Days

- A. One of the Board's highest priorities is the health and safety of its enrollees and staff. To that end, the Board has adopted this policy to protect a person's right to safety and health within the facilities and the Board's transportation system.
- B. A "calamity day" is defined as any delay or cancellation of enrollee services or staff work time due to weather conditions that makes travel unsafe or due to conditions within one or both facilities that make attendance unsafe or unhealthy. In all cases, the Superintendent or designee shall decide when and in what capacity the Board is to cancel or delay service delivery. The Superintendent or designee shall develop a system of notifying enrollees and staff at the earliest possible time for any delay or cancellation.
- C. A one-hour delay does not irreparably affect the Board. Therefore, when the condition(s) appear(s) to be short-lived, a one-hour delay may be called. However, in the event of a one-hour delay, staff shall report on time and all programming will be delayed by that same hour. In the event transportation is cancelled due to weather conditions, all programs may remain open in order to ensure program and services offered. In such cases, enrollees / families / legal guardians are to provide transportation to and from buildings. Otherwise families, individuals, community providers, or paid providers as identified in the enrollee's individual plan may provide transportation. The FCBDD shall not reimburse families or individuals for this transportation unless otherwise specified in the enrollee's individual plan. In the event the condition(s) dictate(s) the occupancy of one or both of the facilities to be unsafe, the section of the Board affected will be closed.

- D. Generally speaking, all staff are to report to their work stations on time during calamity days that are declared for transportation only; however, the Superintendent or designee is authorized to cancel all services and programs for any inclement weather conditions. The Superintendent or designee shall cancel all programming, however, in the event of a Level III Emergency as declared by the Fayette County Sheriff's Department. Staff who live in other counties shall be given an excused absence if their respective counties call a Level III Emergency.
- E. Pursuant to State regulations and in accordance with State-Identified minimum days of program operation affecting eligible enrollees, the Board shall establish the number of allowable calamity days so as not to interrupt the individual right to programming. Staff shall be compensated for the number of allowable calamity days. In order to compensate staff beyond the number of allowable calamity days, staff shall utilize accrued vacation time, compensatory time or personal days.
- F. Substitute staff shall not be paid for a full calamity day, unless a substitute staff has been pre-scheduled and a calamity day is declared. In that situation, the Board shall compensate the substitute staff with the greater of the actual amount of time worked or two (2) hours of pay.

Adopted by the FCBDD: April 16, 2003

Revised by the FCBDD: October 15, 2008

5.20.22 Religious Holiday

- A. In an effort to be flexible and fair, it is the policy of the Board to permit and to assist employees to observe religious holidays that have not been granted by law. While granting of leave for such holidays may not always be possible, efforts will be made to accommodate the needs of the employee. Employees observing religious holidays on days other than those approved holidays may apply for a leave of absence with pay for the observance of a maximum of two (2) religious holidays per program year.

- B. The time granted for a leave of absence with pay for religious holidays is to be made up by being assigned to work within the agency when the employee would not normally be scheduled to work. The Superintendent must approve selection of time to work as make-up in writing. If any of those days granted are not made up by the end of the employee's program year, the employee will have a deduction made in that amount from her/his last pay for the program year or from the final pay if he/she should resign during the year.

5.21 Resignation

Voluntary separation from employment by management employees shall require at least thirty (30) days written notice before its effective date.

Employees who plan to voluntarily resign shall notify their immediate supervisor in writing on the appropriate form. Staff other than management staff shall give at least two (2) weeks' notice.

Any employee who resigns is encouraged to give his/her reasons for resigning and to discuss with his/her supervisor any working conditions that he/she feels are noteworthy.

Failure to give proper notification may result in ineligibility for reinstatement.

5.21.1 Disability Separation

- A. This policy outlines the conditions under which a disability separation may be granted or imposed and procedures for administering its use. Employees who are protected under The Americans with Disabilities Act of 1990 are guaranteed their rights by the Board.

- B. **Voluntary Reduction:** When an employee becomes physically unable to perform the duties of his/her position, but is still able to perform the duties of a vacant, lower level position, he/she may voluntarily request reduction to the lower level position. Such request shall be made in writing through the proper channels stating the reason for the request.

- C. **Personal Leave:** A physically incapacitated employee, who has exhausted his/her accumulated sick leave and vacation leave and for whom voluntary reduction is not practicable, may request up to six (6) months of personal leave without pay only if he/she can present evidence as to the probable date on which he/she will be able to return to the same or similar position within a six (6) month period. Such request must be submitted in writing to the Superintendent through the immediate supervisor with a copy of a physician's statement attached. Whenever the probable date of return is unknown or longer than six (6) months, the employee shall be placed on Disability Separation, up to the maximum of two (2) years. An employee who fails to return to work within three (3) working days of the completion or valid cancellation of a leave of absence without pay without explanation to and approval from the Superintendent/designee may be removed from his/her position.
- D. **Disability Separation Conditions:** A disability separation may be granted or imposed when an employee is unable to perform the essential job duties of the position due to a disabling illness, injury or condition.
- E. The employee may request a voluntary disability separation. The Board may implement an involuntary disability separation when the Superintendent has received substantial credible medical evidence of the employee's disability and determines that the employee is incapable of performing the essential job duties of the employee's assigned position due to the disabling illness, injury or condition.
- F. The Superintendent shall request that an employee submit to a medical or psychological examination, conducted in accordance with rule [123:1-30-03](#) of the Ohio Administrative Code, prior to involuntary disability separating the employee unless:
1. The employee is hospitalized at the time such action is taken, or
 2. Substantial credible medical evidence already exists that documents the employee's inability to perform the essential job duties
- G. If the Superintendent determines as a result of the examination that the employee is incapable of performing the essential functions of the employee's job due to a disabling injury, illness, or condition, the Superintendent shall, in the case of an involuntary disability separation, institute pre-separation proceedings pursuant to rule 123:1-30-01 of the Ohio Administrative Code, or shall, in the case of a request for a voluntary disability separation, grant the employee's request in accordance with rule 123:1-30-02 of the Ohio Administrative Code.
- H. If a pre-separation hearing is required, the employee shall be provided written notice at least seventy-two (72) hours in advance of the hearing. If the employee does not waive the right to the hearing, then at the hearing the employee has the right to examine

the appointing authority's evidence of disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.

I. If the Superintendent determines, after weighing the testimony presented and evidence admitted at the pre-separation hearing, that the employee is capable of performing his or her essential job duties, then the involuntary disability process shall cease and the employee shall be considered fit to perform his or her essential job duties. If the Superintendent determines, after weighing the testimony presented and the evidence admitted at the pre-separation hearing, that the employee is unable to perform his or her essential job duties, then the Superintendent shall issue an involuntary disability separation order utilizing Form ADM 4055, filing a copy with the State Personnel Board of Review.

J. If an employee is involuntarily disability separated, he/she may file an appeal with the State Personnel Board of Review within ten (10) days following the date the Superintendent's order is served upon the employee.

K. At the time the Superintendent provides the involuntary separation order to the employee, the Superintendent shall notify the employee of the required procedures to apply for reinstatement, which are set forth in rule 123:1-30-04 of the Ohio Administrative Code. The effective date of separation, for purposes of reinstatement, shall be based on the date in which the employee was no longer performing in active work status due to the disabling illness, injury or condition. The total time of absence due to the disabling illness, injury or condition shall not exceed two (2) years from the date of separation.

L. An appointment made to a position vacant by a disability Separation will be on a temporary basis, and such employee must be made fully aware of its temporary nature with written documentation of same. A replacement in the position while an employee is on leave will be terminated or transferred to another position, if available, upon the reinstatement of the employee from disability separation.

5.21.3.1 Benefit Severance Program

A. Each year and prior to the determination of the Annual Preliminary Budget for the Following year, the Superintendent shall make a recommendation to the Board as to the need for revenue to be transferred from the General Fund to the Benefit Severance Fund that, with existing revenue in the Benefit Severance Fund are sufficient to cover anticipated employee severance expenses for the following three (3) fiscal years.

B. This recommendation for transfer shall consider and – where funds are available – shall include, but not be limited to, revenue for:

1. Early Retirement Buy-Out in accordance with Board Policy;

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2. Pay Out of Accrued but Unused Sick Leave per Ohio Revised Code and per Board policy, including any Board-adopted employee incentives for long term service;
 3. Pay Out of Accrued but Unused Vacation Time per Ohio Revised Code and per Board policy, including any Board-adopted employee incentives for long-term service;
 4. Outstanding request for FCBDD Personnel Policy-approved reimbursements that are encumbered at the time of retirement announcement; and
 5. Any other monies due to the staff member in accordance with the Ohio Revised Code and FCBDD personnel policies.

C. The Personnel Office shall survey staff annually to ensure that employees are adequately informed of all FCBDD-sponsored retirement programs before them, including the Retirement Enhancement Program (Policy # 5.20.2.10) and the Employee Longevity Incentive Program (Policy # 5.20.2.11).

Adopted by the Fayette County Board of DD on July 14, 2010.

5.22 Layoffs

5.22.1 Layoff-Classified Employees

- A. Employees in the classified civil service may be laid off whenever a reduction in force is necessary due to lack of available funds, lack of work, or the abolishment of positions.
- B. Layoffs shall be conducted with the following considerations:
 1. If it becomes necessary for the Board to reduce its work force, the Superintendent shall lay off employees in accordance with Sections 124.321 to 124.327 of the Ohio Revised Code and in accordance with all applicable rules contained in Ohio Administrative Code 123:1-41.
 2. If the Board abolishes positions in the civil service, the abolishment of positions and any resulting displacement of employees shall be made in accordance with Sections 124.321 to 124.327 of the Ohio Revised Code and applicable rules contained in Ohio Administrative Code 123:1-41.
- C. Employees desiring a copy of the applicable codes and rules may request a copy from the Superintendent or the Personnel Office.

5.22.2 Layoff-Unclassified Employees (Management Staff)

- A. When the Board determines a reduction in force is necessary, it may lay off unclassified employees. The provisions of Chapter 124 of the Ohio Revised Code do not apply to reductions in force of unclassified employees.
- B. The Board, at its sole discretion, shall determine the job titles in which a reduction in force shall occur. Within each job title, the order of layoff shall be as follows:
1. All employees holding limited contracts for that title shall be laid off before any employee holding a continuing contract for that title is laid off;
 2. Within each category of contract, part-time employees shall be laid off before full-time employees; and
 3. Layoffs shall proceed in inverse order of seniority. [Note: For this section of the policy manual, “seniority” is defined as the total number of quarters of employment completed by an employee with the Board at the time of reduction in force.]
- C. Unclassified employees may not “bump” into other job titles for which they hold certification.
- D. Employees retain the right to be reinstated to the job title from which they were laid off for one (1) calendar year following the layoff. When a vacancy occurs in a job title from which employees have been laid off, the employee eligible for reinstatement shall be notified, in writing of the vacancy. Notice shall be mailed, certified U.S. mail, return receipt requested, to the employee's last known address. Laid off employees are responsible for notifying the Board, in writing, of any change of address.
- E. Laid off employees shall accept or decline the offer of reinstatement within five (5) days after it is received. Offers of reinstatement are deemed received on the earlier of ten (10) days after mailing to the correct address or actual receipt. Failure to respond to an offer of reemployment within the time limits imposed by this division constitutes refusal of that offer.

5.23 Activities on County Property

5.23.1 Solicitation

Solicitation is the act of requesting an individual to purchase goods, materials or services, sign anything or plea for financial contribution or support of any other kind. Solicitation by an employee to another employee is only permitted while the employee doing the soliciting and the employee being solicited are on their non-work time (before and after scheduled work time as identified on the Position Description) in a non-work area (conference rooms only).

This policy does not apply to solicitations sanctioned by the Fayette County Board of DD or the Fayette County Commissioners (e.g. United Way, supplemental insurance companies, providers, vendors). Employees are not permitted to enter a Board facility when they are not scheduled to work, including, but not limited to, vacation, sick, personal leave days, for the purpose of solicitation or distribution. This policy also applies to agencies or individuals that have a lease agreement with the Board.

5.23.2 Distribution

Distribution is the act of distributing goods, materials, and/or written information. Distribution by an employee to another employee is only permitted while the employee doing the distributing and the employee being distributed are on their non-work time (before and after scheduled work time as identified on the Position Description) in a non-work area (conference rooms only). Employees are not permitted to enter a Board facility when they are not scheduled to work, including, but not limited to, vacation, sick, personal leave days, for the purpose of distribution. This policy also applies to agencies or individuals that have a lease agreement with the Board.

5.23.3 No Trespass Rule

Unless otherwise noted in this policy, solicitation and/or distribution of literature and/or trespassing by non-employees are prohibited. The only exception to this policy is the regular business activities of Board-approved parent groups, booster clubs, etc. or those activities from other county boards of DD or state departments as approved by the Superintendent. This policy also applies to agencies or individuals that have a lease agreement with the Board.

5.24 Bulletin Boards

- A. It is the policy of the Board to maintain all facility bulletin boards as a means of communicating information to employees and consumers/families. All material that is to appear on bulletin boards shall be posted and removed by Administration or facility designee.
- B. All agency, federal and state required notices, and other legally required notices shall be posted in an area visible to all employees and, where applicable, job applicants. Information of a general public interest may be posted by the Administration or facility designee if the information does not contain the following:
 - 1. Personal attacks upon any employee, Board member, or public official;
 - 2. Scandalous, scurrilous or derogatory attacks on the Board, administration, management or other personnel of the agency;

3. Comments regarding candidates for public office.
- C. The Superintendent shall establish procedures for posting information on bulletin boards. Any material posted in violation of this policy or the written administrative procedures shall be removed by Administration or the facility designee. Violators of this policy or the written administrative procedures shall be subject to disciplinary action as specified in the Board's discipline policy.

5.25 Political Activity

5.25.1 Political Activity – Classified Employees

- A. Employees in the classified service are prohibited by Section 124.57 of the Ohio Revised Code from engaging in political activity. "Political activity" and "politics" refer to partisan activities, campaigns, and elections involving primaries, partisan ballots or partisan candidates. An employee in the classified service who engages in any prohibited activities is subject to termination from his/her position in the classified service. This policy lists the specific political activities legally permitted and prohibited to all classified employees, including classified employees on authorized leave of absence from their positions. Employees are encouraged to exercise their constitutional right to vote.
- B. Activities Permitted to Classified Employees:** Registration and voting; expressing opinions, either orally or in writing; voluntary financial contributions to political candidates or organizations; circulating petitions on legislation relating to their employment; attendance at political rallies that are open to the general public; signing petitions in support of individuals; display of political signs in/on their homes/yards; and/or display of political stickers on private automobiles, wearing political badges/buttons (that do not interfere with job safety), or serving as a precinct election official under section 3501.22 of the Ohio Revised Code.
- C. Activities Prohibited to Classified Employees:** Participating in a partisan election as a candidate for office; declaring candidacy for an elected office that is filled by partisan election; circulating official nominating petitions for any candidate; holding an elected or appointed office in any political organization; accepting appointment to any office normally filled by partisan election; campaigning by writing for publications, by distributing material or by making speeches on behalf of a candidate for elective office; soliciting directly or indirectly any assessment, contribution, or subscription for any party or candidate; soliciting the sale of or selling political party tickets, materials or other political matter; engaging in partisan activities at the political polls, such as soliciting votes; acting as recorder, checker, watcher, or challenger for any party or faction; participating in a political action committee which supports partisan activity; and/or engaging in political caucuses.

5.25.2 Political Activity – Unclassified Employees

Unclassified employees are subject to the federal Hatch Act and the Ohio Ethics Law. Before engaging in any political activity, an unclassified employee shall confer with the Superintendent about the impact of the federal Hatch Act with respect to such political activity.

5.26 Health and Safety Guidelines

- A. Work health and safety is a primary concern for the Board. The safe and healthful performance of all work assignments is the responsibility of both supervisory and non-supervisory personnel. It is the responsibility of each employee to ensure that all health and safety procedures and practices are observed. The Board shall offer the appropriate number of staff proper First Aid (or its equivalent) training and CPR certification.
- B. All employees are to report existence of hazardous conditions or practices in the workplace, including all areas where enrollees are located. Any accident, whether or not injuries were incurred, occurring during working hours shall be reported according to accident reporting procedures.
- C. Any employee assigned to work directly with an enrollee who has special medical/behavioral needs shall receive appropriate training in regard to management of the medical/behavioral condition.
- D. An employee found to be willfully or wantonly negligent in equipment operation (including the safe and lawful operation of vehicles for Board purposes), resulting in either damage to the equipment or in an accident, shall be subject to disciplinary action, up to an including termination.

5.27 Retirement Recognition by the Board

- A. The Board recognizes the efforts of staff who have given many years of service to persons with disabilities and their families. Upon the retirement of any staff member who has given twenty (20) years of full-time service to the Board, the Superintendent is authorized to expend up to Six Dollars (\$6.00) per year of service for that employee in the form of a gift, plaque, dinner, or other appropriate expression of appreciation.
- B. For the purposes of this policy, the twenty (20) years of service may have been continual or the employee's active pay status may have been interrupted by leaves of absence, other employment, etc.

5.28 Dress Code

The Board reserves the right to prescribe appropriate dress and grooming, and to set standards which are in the best interests of the department and position. The Board requires that an employee's clothing and overall appearance be appropriate, in good taste, and present a favorable image of the program to the public and serve as a role model for enrollees. All clothing/footwear items shall comply with appropriate safety standards for the position as established by the Superintendent or immediate supervisor. Appropriate standards of cleanliness shall be required.

5.29 Employee Property Damage

When an employee's property is damaged by an enrollee, the Board shall pay the unreimbursed costs of the property. Unreimbursed costs are subject to approval by the Superintendent and/or the Board. Replacement of damaged items will be set at comparable worth. If the damage to employee's property is the result of an action of an enrollee, which is considered deliberate, the enrollee or the parent/guardian of the enrollee will be billed for damages. The functioning level of the enrollee shall be considered before deliberate intent is attributed to the action.

5.30 Use of County Vehicles

- A. Use of county vehicles (defined as vehicles owned and/or insured by the Fayette County Commissioners) shall be restricted to Board-authorized activities and shall be restricted for official county use only.
- B. Employees operating a county vehicle shall show proof of proper and valid driver's licensing along with proof of personal vehicle insurance. Employees are also responsible for maintaining any and all required licensing and insurance. Any employee who utilizes their own personal vehicle for business purposes must provide "proof of insurance" annually.
- C. Employees with driving restrictions on their personal driver's license including, but not limited to, points earned for poor driving performance, may affect the status of the employee's right to drive a county vehicle, which may affect the employee's employment status with the Board. Any citation received by an employee, whether operating a county vehicle or personal vehicle while working, shall be reported to the Superintendent immediately. If the operation of a motor vehicle is an essential job function of the employee's position, then an employee may be terminated from employment with the Board if the employee is unable to perform motor vehicle operation duties.
- D. At any time, the Board may require employees who operate county vehicles or use personal vehicles for Board business, or transport individuals served by the Board, to submit to random drug/alcohol testing and/or to submit a driver's abstract. The Board shall bear the costs of these tests and abstracts.

- E. An employee who operates a county vehicle or personal vehicle for Board business shall at no time use a cellular phone for personal calls, emailing, texting or other phone functions while driving. However, in an emergency situation after pulling vehicle off of the roadway to a safe parking area, the cellular phone may be used to report the emergency.
- F. An employee who operates a county vehicle shall exercise caution and responsibility and shall adhere to all safety regulations, including pre-trip inspections as required by the Board. Any employee involved in an accident or incident involving county vehicles shall report immediately to the Operations Division to file a report.
- G. Any accident or unusual incident, such as a mechanical malfunction involving the operation of a Board motor vehicle or destruction of equipment must be reported in writing to the supervisor within twenty-four (24) hours of the occurrence.
1. Should an employee become incapacitated as a result of the accident, such that the employee is unable to communicate with the supervisor, this report shall be made in writing within twenty-four (24) hours of the time the employee becomes able to make such report.
 2. The employee is responsible for making an immediate report of any vehicle accident to the proper law enforcement officials.
 3. An employee who has had more than one accident within a one (1) year period of time may be subject to discipline, up to and including termination.
 4. If an employee is involved in an accident with a Board owned or leased vehicle, or the employee's own personal vehicle while engaged in Board purposes, he/she will be required to report for a drug/alcohol test.
- H. Failure to report 1) accident or incidents involving county vehicles, or personal vehicles while engaged in Board business; 2) any personal driving citations; and/or 3) reckless or destructive operation of county vehicles, may be grounds for disciplinary action, up to and including termination.

Revised by FCBDD: February 9, 2011 added section E

5.31 Volunteers (Non-Employees)

5.31.1 Purpose of Volunteer Policies

The Board accepts and greatly encourages the involvement of volunteers for the Board within all appropriate programs and activities. Therefore, the purpose of this policy is to provide direction and guidance to all volunteers involved with enrollee activities. The Board reserves the right to amend this policy and its accompanying procedures at any time.

5.31.2 Definition

“Volunteer” is a person who performs services on behalf of an agency without compensation. Before performing enrollee services, the volunteer must be authorized. At no time will a volunteer act in lieu of an employee. Volunteers may provide services to enrollees during traditional program hours and/or during evenings and weekends.

5.31.3 Source of Volunteers

- A. The Board believes that volunteers provide a valuable service for enrollees. The time and talents offered by volunteers act to supplement supports and services provided by the Board. The Board encourages the growth of the volunteer program and recognizes individuals in the following categories as potential volunteers: 1) parents/guardians and other family members who are not to be placed in a position of direct service or relationship to members of their family who are receiving services; and 2) interested citizens.
- B. All volunteers must be eighteen (18) years of age or older except for children ages sixteen (16) and above who are part of a specialized volunteer program (grandparent program, civic organizations, scouting groups, 4-H, community class from high school, etc.).
- C. The Board also accepts volunteers who are: 1) members of specialized volunteer programs; and 2) students sponsored by local colleges and universities in a capacity as student teacher, intern, or practicum student. For both C (1) and C(2), however, a special agreement must be in effect with the agency, organization, school, or program from which the special case volunteers originate and must identify responsibility for management and care of the volunteers.

5.31.4 Criminal Records Check

- A. All volunteers must undergo a criminal background check in accordance with rule 5123:2-2-02 of the Ohio Administrative Code unless the requirement is waived by the

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- Superintendent in writing. The cost of the criminal background check is to be borne by the volunteer unless otherwise specified by the Superintendent.
- B. Individuals interested in being a Board volunteer whose criminal background check reveals misdemeanors or felonies that could have a negative impact on the volunteer's actions, shall not serve as volunteers in any capacity. If a volunteer is found to have misrepresented information pertaining to the criminal background check check or who, after becoming a volunteer, has committed a misdemeanor or felony that could have a negative impact on the volunteer's actions, then that volunteer's services shall immediately be terminated.
 - C. Volunteers are not entitled to due process rights under this policy.

5.31.5 Services at the Discretion of the Board

- A. The Board accepts the services of all volunteers with the understanding that the services are at the sole discretion of the Board. Volunteers agree that the Board – at any time and for whatever reason – may decide to terminate the volunteer's relationship with the Board.
- B. The volunteer may at anytime, for whatever reason, decide to terminate the volunteer's relationship with the Board. The notice of this decision should be communicated as soon as possible to the volunteer's supervisor.
- C. Volunteers may be utilized in all programs and activities of the Board. Volunteers may not, however, be utilized to displace any paid employees from their positions.

5.31.6 Volunteer Rights and Responsibilities

- A. Volunteers will have the right to be given meaningful assignments, to instruction, to supervision, and to full involvement and participation.
- B. In return, volunteers shall agree to actively perform their responsibilities to the best of their abilities and within the scope of the mission, vision, and philosophy of the Board. Volunteers shall comply with all Board policies, especially those concerning behavior support, reporting unusual incidents / major unusual incidents, individual rights, and health / safety practices. Volunteers shall be evaluated from time to time to ensure that their actions are appropriate, effective, and necessary.

5.31.7 Services to be provided by volunteers

Volunteers require clear and comprehensive descriptions of their tasks and responsibilities. These written descriptions shall include a description of their purpose

and responsibilities, a designated supervisor and worksite, a listing of qualifications, and a timeframe for the performance of the responsibilities.

5.31.8 Maintenance of Records

- A. The superintendent shall develop and disseminate procedures for recruitment, selection, training, assignment, evaluation, and termination of volunteers to all volunteers and staff. A volunteer file shall be maintained for each volunteer, and the file shall be maintained in the Business Office or other office as designated by the superintendent.
- B. Records on each volunteer will include, but not be limited to: dates of services, responsibilities performed, evaluation of service, awards received, an application (required fingerprint check), records of trainings received, evaluations, and emergency notification data. Criminal background checks and medical information, if any is provided by the volunteer, shall be maintained in a confidential manner.

Policy #5.31 – 5.31.8 adopted by the FCBDD: September 19, 2007

5.32 Continuation of Health Benefits

- A. It shall be the practice of the Board to comply with the Consolidated Omnibus Budget Reconciliation Act (COBRA) to provide continuation of coverage when required. COBRA applies to the Board's "Group Health Plan". COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children (Qualified Beneficiaries) the right to temporary continuation of health coverage at group rates. Qualified beneficiaries will be offered the opportunity to continue under COBRA the group health care insurance benefits the individual was receiving immediately before the qualifying event.
- B. In order for continuation coverage to be made available, one of the following qualifying events, that would otherwise result in loss of coverage, must occur:

Qualifying Events for Employees:

Voluntary or involuntary termination of employment for reasons other than gross misconduct
Reduction in the number of hours of employment

Qualifying Events for Spouses:

Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
Reduction in the hours worked by the covered employee

Covered employee's becoming entitled to Medicare
Divorce or legal separation of the covered employee
Death of the covered employee

Qualifying Events for Dependent Children:

Loss of dependent child status under the plan rules
Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
Reduction in the hours worked by the covered employee
Covered employee's becoming entitled to Medicare
Divorce or legal separation of the covered employee
Death of the covered employee

- C. When coverage is lost for an employee, the Board or its insurance carrier will provide the employee or other Qualified Beneficiary the appropriate information necessary to obtain continuation of coverage under COBRA.

5.34 Employee Communicable Disease and Employee Isolation

This policy addresses the right of all persons who come into contact with Board employees to a safe and healthy environment.

5.34.1 Employee with Communicable Disease

- A. Every employee will be required to have a physical prior to employment, including a TB test. Record of these examinations are confidential and will be kept in the employee's personnel file.
- B. If an employee is suspected of having a communicable disease (other than colds, flu and other common viral infections), the Superintendent may request or require the employee to seek medical attention/examination, the cost of which would be the responsibility of the employee. If asked to stay away from work during the time of the medical attention/examination, the employee may return to work when the employee's physician states that continued presence at work will not pose a threat to the employee, co-workers, enrollees, or general public.
- C. An employee who has been diagnosed as having an infectious disease must inform the Superintendent of the condition; this information shall be held as personal and confidential, but may be revealed to the employee's direct supervisor. As a precaution and assurance of confidentiality, mention of the contagious disease only may become part of the employee's confidential medical personnel record.

- D. An employee may have or be a carrier of an infectious disease that is of life-long duration and he/she will not be symptom-free. If there is evidence that the disease cannot be transmitted by normal, casual contact in the work environment, and the condition is not a threat to self or to others, the employee will continue to work in a regular manner. The employee is expected to meet acceptable performance standards and will be treated in a manner consistent with other employees. The Superintendent shall establish a procedure by which it can be determined if an employee's health condition affects the work environment, productivity, job assignment, etc.
- E. No special consideration will be given beyond normal transfer requests for employees who feel threatened by a co-worker's life-threatening disease.

5.34.2 Employee Isolation Due to Communicable Disease

Prior to being sent home by Administration, an employee may have to be isolated due to having a suspected communicable disease. The Superintendent shall develop written procedures that identify how to isolate an employee suspected of having a communicable disease that might cause harm to self or to others.

5.35 Classification Plan

- A. The Board shall administer a classification plan based on an analysis of the duties and responsibilities of positions within the organization. Position descriptions shall be prepared for the various positions of the agency. Position descriptions are based on an analysis of the duties and responsibilities of the position. They shall include normal work schedules and certification/registration and/or licensure requirements. An employee shall sign the position description as a condition of employment. A copy of the signed position description shall be placed in the employee's personnel file.
- B. The Superintendent/designee shall regularly review the duties and responsibilities of positions and make necessary adjustments to the position descriptions. Division heads may request reclassification of existing positions in order to effect and maintain the most efficient operation of their departments. Such requests must be based on departmental needs, budget considerations and/or an audit of the employee's duties. Reclassification of a position represents a change in job functions or duties.
- C. An employee may request that his/her position description be reviewed by requesting a review by the Superintendent. Unless duties are substantially altered on a permanent basis, the employee may not request such a review for one (1) year from the date of the results of the last review. If the employee is not satisfied with the results of the Superintendent's decision, he/she may request a formal review by the Personnel Committee of the Board. The decision of the Personnel Committee is final.

D. The review of position descriptions between the Superintendent and managers, or between managers and employees, shall maintain consistency with appropriate civil service classifications, maintain comparability between positions carrying the same working title within the Board, and reflect the needs of the Board in fulfilling goals.

E. A reclassification may result in a change in salary or hourly rate for the incumbent in the position. A position to be reclassified is not posted unless the position is vacant at the time of reclassification. It has no effect on the total authorized positions of the Board.

**5.39 Concealed Carry / Weapons on County Property or While
Conducting County Business**

A. The safety and security of enrollees and their families, board employees, visitors, contractors, and the general public are of vital importance to the Board. Further, carrying a concealed weapon is not part of anyone's Position Description, and such activity does not arise in the course or scope of employment.

B. "Weapon" is defined as any item or material that is intended to be used to physically harm or to threaten someone (e.g. firearm, whether loaded or unloaded; knife; explosive; other common items such as baseball bat, etc.)

C. More specifically, the Board specifically prohibits employees from engaging in the following activities:

1. Carrying a weapon while on duty, whether or not licensed to do so. For those employees who leave the Board's facilities and travel to perform duties, these employees shall not carry a firearm on their person or in their vehicle;
2. Possessing a weapon while on duty in any parking area owned, leased, or controlled by the Board or by the Fayette County Commissioners, whether or not contained in a vehicle;
3. Displaying a weapon while on duty. Should an employee display a weapon or firearm – whether in a facility, on a parking lot, or on any other Fayette County property, such action will be considered to be a threat, and the employee may be prosecuted; and/or
4. Displaying an empty handgun holster on his/her person while on duty.

D. Any violation of this policy or any of the authorized procedures related to this policy may result in disciplinary action, up to and including termination.

5.40 Use of County Credit Card

The use of a county credit card subject to the regulations and procedures contained in this policy.

- A. Only authorized business-necessitated expenses are to be charged to the county credit card. Business-necessitated expenses are limited to:
1. Food expenses;
 2. Transportation expenses;
 3. Gasoline and oil expenses;
 4. Motor vehicle repair and maintenance expenses;
 5. Telephone expenses;
 6. Lodging expenses;
 7. Internet service provider expenses;

No late charges or finance charges shall be allowed as an allowable expense unless authorized by the Highland County Board of County Commissioners.

- B. Personal expenditures may not be charged to a county credit card. Personal expenditures are to be paid by the person directly.
1. Employees may not charge alcoholic beverages to the county 's credit card.
 2. Employees may not charge personal telephone calls, cellular phones or internet usage to the County's credit card.
 3. Employees may not charge personal services, such as laundry, dry cleaning, shoe shines, or repairs, clothing items, tips, flowers, or other personal items to a county credit card. This list is not meant to be exhaustive but illustrative.
- C. The county credit card may not be used without prior authorization of the Superintendent. Only employees designated in writing by the Superintendent are authorized to use the county credit card. To make such designation, the Superintendent shall issue a signed authorization with a copy of this policy to the employee approved to use the county credit card.
- D. Expenses incurred on behalf of a governmental unit are tax exempt. When using the County's credit card, the authorized employee shall tell the vendor that he/she represents a tax exempt governmental unit. It is the responsibility of the authorized employee to ensure that sales tax is not charged, especially for gasoline purchases. No gasoline purchases are to be charged to the county credit card for placement in an employee's personal vehicle. The Board has a policy in place for reimbursement of mileage for private vehicle usage.
- E. Employees are to promptly turn in receipts to the Superintendent or the Business Manager.
- F. The county credit card is not to be used for cash advances. Online purchases must be authorized by the Superintendent. All credit card slips must be completely

filled out so the County Auditor can clearly determine the governmental purpose.

- G. Employees are not to exceed the authorized credit card limit.
- H. Employees are to immediately report any lost or stolen credit cards. Failure to do so promptly could result in a suspension without pay depending on the circumstances surrounding the incident. Employees are responsible for the county credit card while they are authorized to use it.
- I. The County Auditor is responsible for monitoring credit card usage and reporting any suspended violations to the Commissioners.
- J. Failure of employees to follow these regulations and this policy will be sufficient cause to revoke the use of the credit card and may subject the individual who violates this policy to disciplinary action up to and including discharge.

5.41 Public Records Policy

Pursuant to Section 149.43 of the Ohio Revised Code, the Board hereby adopts this public records policy. It is the policy of the Board that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Board to adhere to the state's Public Records Act.

- 5.18 In accordance with Section 149.43 of the Ohio Revised Code, the Board defines records as: Any document, device, or item – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of the Board, which documents the organization, functions, policies, decisions, procedures, operations, or other activities of the Board. Records regarding individuals with developmental disabilities who are eligible for services from or who are served by the Board are not public records and will be disclosed only in accordance with state and federal law.
- 5.19 It is the policy of the Board that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See also Section 4 for the e-mail record policy). Record retention schedules will be updated regularly and posted prominently at the Board's administration office and other facilities.

5.42 Record requests

- A. A requester must at least identify the records requested with sufficient clarity to allow the Board to identify, retrieve, and review the records. If it is not clear what records are being sought, the Board may deny a request but will provide the requester an opportunity to to revise the request by informing the requester of the manner in which records are maintained by the Board and accessed in the ordinary course of the Board's business.

- B. The Board may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the Board to identify, locate, or deliver the public records sought by the requester.
- C. Public records will be available for inspection during regular business hours, with the exception of published holidays. The Board's regular business hours are 8 a.m. to 4 p.m. although these hours may change from time to time. Public records will be made available for inspection promptly. Copies of public records will be made available within a reasonable period of time. "Prompt" and "reasonable" take into account, among other things, the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.
- D. Section 149.43 of the Ohio Revised Code contains certain exemptions from disclosure. With respect to each request, the Board will determine whether an exemption applies to prohibit disclosure or permit non-disclosure of the requested records. If a record contains information that does not constitute a public record in accordance with federal or state law, such information will be redacted. The Board will make the redaction plainly visible or notify the requester of the redaction. When a redaction is required or authorized by state or federal law, it is not considered a denial of a request. A denial of public records in response to a valid request will be accompanied by an explanation, including legal authority, as required by Section 149.43 of the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.
- E. Those seeking public records will be charged only the actual cost of making copies.
1. The charge for paper copies is cents per page.
 2. The charge for downloaded computer files to a compact disc is \$ per disc.
 3. There is no charge for documents e-mailed.
 4. Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.
- F. Documents in electronic mail (E-mail) format are records as defined by Section 149.43 of the Ohio Revised Code when their content relates to the business of the Board. E-mail is to be treated in the same fashion as records in other formats and will follow the same retention schedules.

- G. Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Board are instructed to retain their e-mails that relate to public business (see Section 1 Public Records) and to copy them to their business e-mail accounts and/or to the Board's records custodian.
- H. The records custodian will treat the e-mails from private accounts as records of the public office, will file them in the appropriate way, will retain them pursuant to established schedules, and will make them available for inspection and copying in accordance with the Public Records Act.
- I. Notwithstanding the existence of this policy, the Board hereby informs the public that it shall comply with the requirements of the Ohio Public Records Act, including, but not limited to, Section 149.43 of the Ohio Revised Code, and that the provisions of the Ohio Public Records Act, and any amendments thereto, supercede and take precedence over this policy. The Board retains the right to amend this policy at any time in accordance with the Ohio Public Records Act.

Adopted by the FCBDD: 3/11/2015

5.43 Social Networking Media

A. Introduction

The Fayette County Board of DD (Board) recognizes the popularity of social media is on the rise and fundamental changes are occurring in the way people communicate and share information with one another. Often, these social media platforms encourage casual and free-flowing exchanges of information among family, friends and acquaintances. Our mission includes dealing with very private and legally protected information. The Board recognizes its responsibility to assure all employees, volunteers, and contractors adhere to local, state and federal requirements to protect privacy of employees and the individuals we serve. A variety of laws, including, but not limited to, Ohio Revised Code (ORC) Section 5126.044 and the Health Insurance Portability and Accountability Act (HIPAA) of 1996, prohibit the disclosure of information of and about the individuals we serve. The Board also retains its prerogative to protect its image and restrict employee activities that do not add value to the Board's mission, goals or financial well-being. Any of your conduct that adversely affects your job performance, the performance of fellow associates, individuals served, Board members, providers, people who work on behalf of the Board or Board's legitimate business interests may result in disciplinary action up to and including termination.

B. Definitions

No matter the method of communication, agency confidentiality obligations must

be observed however; Networking sites and platforms include (but are not limited to) emails, blogs, web forums, chat rooms, wikis, video photo portals, and collaborative professional space.

Examples of social media include (but are not limited to):

1. Facebook
2. MySpace
3. Twitter
4. Flickr
5. Youtube
6. LinkedIn
7. Digg and many others

C. Procedures

All employees are expected to direct questions to their supervisor regarding publishing information about the individuals we serve or another topic that might be prohibited by this policy, or State or Federal law. Employees are responsible for the content of social networking sites. Outside parties can take legal action against employees for postings. The Board will not indemnify employees for anything they write on social networking sites under a Board email account or a private one. Employees are assuming personal responsibility for any federal or state regulations that may be violated while using/posting on social media.

Disclaimers:

The official Board networking sponsored pages will include the following disclaimers:

1. Site Administrator Content: The comments and postings on this site are those of the site administrator and do not necessarily reflect the Board opinions, strategies or policies.
2. User-generated Content and Disclaimer: the Board accepts no responsibility or liability for any data, text, software, music, sound, photographs, images, video, messages or any other material or content generated by users and publicly posted on this page.
3. Terms of use: By posting content on this page, you represent, warrant and agree that no content submitted, posted, transmitted, or shared by you will infringe upon the rights of any third party, including but not limited to copyright, trademark, privacy; or contain defamatory or discriminatory or otherwise unlawful material. The Board reserves the right to alter, delete or remove (without notice) the content at its absolute discretion for any reason whatsoever.
4. Copyright: the content on this page is subject to copyright laws. Unless you own the rights in the content, you may not reproduce, adapt or communicate

without the written permission of the copyright owner nor use the content for commercial purposes. A copy of any written permission must be on file in the Superintendent's office prior to use of any copyrighted materials.

5. Anyone who believes that the Board sponsored networking page contains inappropriate content should report it to the Superintendent.

In the spirit of maintaining a positive environment to our site visitors, we reserve the right to remove any employee comments or wall postings from official Board-sponsored pages that are inappropriate, inflammatory or damaging to the Board or any individual. The Superintendent will maintain a Facebook (fan) page. The Superintendent's designee(s) will be included as administrator(s) for the page. Employees and volunteers recognize that they use social media at their own risk. The Board assumes no responsibility or liability for social media activity by employees or volunteers that is not approved and coordinated through the Superintendent's Office.

Examples of prohibited social networking media activities include but are not limited to:

1. The identity of individuals we serve is confidential, as is their medical information. The daily activities, moods, diagnosis, and other routine information about eligible individuals also may not be shared, absent the individual's and/or guardian's consent. Consent must be given in writing in advance to the Superintendent's office. Any Board employee who posts such information about the individuals we serve on a social networking site is in violation of agency confidentiality requirements, this policy, and related state and federal laws and regulations. Absent special circumstances set forth in Section IV of this policy, the Board does not share information about the individuals we serve.
2. Employees are prohibited from displaying or using Board logos, web page pictures or content, or other proprietary information on their personal web page, social networking site, or other Internet site. Statements which are slanderous or detrimental, including evidence of the misuse of the Board's authority, information, insignia or equipment are prohibited.
3. Comments or displays which impact employees' abilities to perform their job duties or the Board's ability to maintain an efficient workplace. Comments or displays about the individuals served by the Board, coworkers, supervisors or the Board that are vulgar, obscene, threatening, intimidating, harassing, or a violation of the Board's workplace policies against discrimination, harassment or hostility on account of age, race, religion, sex, gender, ethnicity, nationality, disability, military status or other protected class, status, or characteristic.

4. An employee may not post any confidential information about individuals served by the Board, Board employees, Board members or their families.
5. Unprofessional communication which, if left unaddressed, could potentially result in a civil or criminal cause of action against the Board. Unprofessional communication also includes that which the Board could demonstrate has a substantial risk of negatively affecting the Board's reputation, mission or operations, such as slander, defamation or other legal cause of action.
6. Employees have a responsibility when expressing personal opinions in a public forum to make clear that the opinion is a personal one. Any public communication that could be understood to be representing the Board must be prior approved by the Superintendent.
7. Employees are certainly free to associate with individuals and organizations of their choice outside the working environment in-so-far as such association does not adversely affect the Board's reputation; therefore, nothing in this policy or this manual is intended to restrict any employee's rights of free speech and association. However, employees are cautioned that their use and/or access to the news media, internet or any public forum, as a private citizen, must be kept separate and distinct at all times from their employment with the Board, and that any such contact as a private citizen, must be tempered by the fact that each employee's actions in their private life may not impact negatively upon the reputation of the Board.
8. Only individuals approved by the Board can make public presentations on the Board's behalf.

Social media sites may be inspected by the Board for cause to determine potential policy violations. If an employee believes that an online communication violates a Board policy, the employee should immediately report the communication to his supervisor. The Board may investigate the matter, determine whether such communication violates policy, and take appropriate action.

D. Exceptions

There are a few exceptions.

1. You may share information as required by law or other Board policies.
2. If an individual's guardian has provided written consent, which has been provided to the Board, the Board may share information using the means specified in that consent, for the information identified in the consent.
 - a. The Board will always have this request and appropriate releases documented.

- b. If it is not documented, it is the employee's responsibility to ensure the appropriate releases are in place before the employee shares the information.
 - c. All written consents will be given to the Superintendent in advance of posting or publication of information for final approval.
3. If an individual who is his/her own guardian desires to share certain information, the employee may assist the eligible individual in sharing information if it is within the employee's job responsibilities to do so and as defined in the Individual Service Plan.
4. Employees are responsible for reviewing any special circumstances with their supervisor for additional guidance. The Board is required to be aware of what is shared and with whom as it relates to individuals receiving board services.

E. Respectful Communications

Our relationships with the community, our business partners, our employees and individuals we serve are extremely important. If a staff member has an issue of complaint, it must be handled through the appropriate chain of command, not aired on a social networking site. Participants on social network sites should be aware of the following:

- Social media posts are public record.
- You are posting content onto the World Wide Web and you cannot ensure who does and does not have access to your information.
- Information you post online may continue to stay on the World Wide Web even after you erase or delete that information from pages.
- Before participating in any online community, understand that anything posted online is available to anyone in the world. Any text or photo placed online is completely out of your control the moment it is placed online-even if you limit access to your site.
- By agreeing to the terms of use, online communities have your permission to republish your content worldwide and share information with advertisers, third parties, and law enforcement, among others.
- Don't post information, photos or other items online that could reflect negatively on you, your family or Board and the individuals served by the Board.
- Be discrete, respectful, gracious and as accurate/factual as you can be in any comments or content you post online. Take particular care of spelling, punctuation, and grammar as it does reflect on you professionally, as well as on the Board.

F. Work Time

Unless directed otherwise, in writing, employees may not access, read, post or monitor social networking media while at work. This includes text messaging and emailing that is not part of an employee's job duties. The use of Board owned computers and equipment for social media networking, text messaging or email that is not part of an employee's job duties is strictly prohibited.

G. DISCLOSURE

Employees who believe they might have published something on a social networking site prior to the implementation of this policy that may be in direct conflict with the policy should notify their supervisor immediately. The employees will be provided with additional guidance. The agency's goal is to correct any problems that may exist.

Adopted by the FCBDD: 2/11/2015