

## **A - SCHOOL DISTRICT LEGAL STATUS**

### **SCHOOL DISTRICT LEGAL STATUS**

The Public Schools of Mobile County are administered by the Mobile County Board of School Commissioners, and the district encompasses the County of Mobile. The Public Schools of Mobile County are unique since public education commenced in Mobile County before the State of Alabama established public education. The Public School System of Mobile County was in existence during the time that what is now the State of Alabama was a part of the Louisiana Territory. In general, the policies of the Board are dictated by: (1) Section 270 of the Constitution of Alabama of 1901; this Section has been continued through many State Constitutions and (2) by Amendment 111 of the Constitution, which was adopted and ratified on September 7, 1957; the last Section of this Amendment amends Section 270 of the Constitution but does not affect it materially.

To a lesser degree, the School System is guided by Title 52 of the Alabama Code of 1940, as recompiled in 1958, as amended. The policies of the School System make every reasonable effort to comply with the rules and regulations of the Alabama State Department of Education, insofar as such compliance does not conflict with the provisions of Section 270 of the Constitution, Amendment 111 relating thereto, man Court decisions, opinions of legal counsel employed by the Board for many years for the purposes of interpreting the laws of the State, constitutional provisions, the meaning of myriad Court decisions affecting schools in general, and the Mobile County Public School System in particular.

Board Approved June 26, 1974

**NONDISCRIMINATION**

The Board and its employees or agents shall not discriminate in any way on the basis of race, sex, religion, national origin, age or handicap.

District guidelines shall be designed to support nondiscrimination. These guidelines shall specify grievance procedures, shall include the name and location of the Board employee(s) assigned responsibility for grievances and compliance with regulations defined in P.L. 94-142, Section 504 of the Rehabilitation Act of 1973 and other state and federal laws. These guidelines shall be made available to all personnel.

Statutory Reference:

Hearing Held: July 15, 1992

Adopted: September 23, 1992

**NONDISCRIMINATION, COMPLAINTS, APPEALS**

Any student, parent, or other individual may file a written complaint or appeal for an exception to any school district practice. Administrative procedures for reviewing all complaints are designed to secure solutions at the lowest level.

All complaints shall be handled promptly as soon as possible and resolved within 30 days after the complaint is filed unless additional time is required because of exceptional circumstances.

Statutory Reference:

Hearing Held: July 15, 1992

Adopted: September 23, 1992

## GUIDELINES FOR NONDISCRIMINATION, COMPLAINTS, APPEALS

Normal steps in reaching a resolution to individual concerns are listed below:

1. In the event an individual or group believes there is a basis for complaint, that person or group will initiate informal discussion within 5 days after he knew, or should have known of the occurrence leading to the possible concern.
2. If the complaint is not resolved at the informal level, the complainant may file a written complaint and supporting evidence with the Superintendent or his specified designee.
3. Within ten days the Superintendent's designee will discuss the matter with the complainant; thereafter a thorough investigation will be conducted to gather all relevant information. Equal rights for discussion will be given to other appropriate parties.
4. If the complaint is not settled through the discussion process the Superintendent may designate a hearing officer, and a formal hearing will be scheduled to permit both parties to present evidence before the hearing officer.
5. If satisfaction is not reached with the hearing officer's formal recommendations, the grievant may request a hearing before the School Board.
6. Legal appeals beyond this point are at the individual's option.

Statutory Reference:

Hearing Held: July 15, 1992

Adopted: September 23, 1992

**PERSONNEL DEVELOPMENT**

Personnel shall meet minimum requirements such as a degree and professional certification, and demonstrate efficient performance skills in the area of assignment. All employees are encouraged to actively participate in inservice education which will promote personal and professional growth.

Personnel, upon identification and recommendation by the immediate supervisor, shall be given the opportunity to participate in an improvement program coordinated through the Division of Staff Development and designed for improvement in specific areas.

Additionally, personnel are expected to develop and grow in job performance beyond minimum requirements.

## GRIEVANCES

A careful investigation shall be made of grievances registered against school board employees if such grievances appear to be valid and significant. Employees against whom charges are made shall have full opportunity to understand the charges made against them and to present pertinent facts bearing on same before official action is taken. Persons making serious charges shall be required, before any action is taken, to submit complaints in writing or to sign prepared statements summarizing charges in accordance with the attached procedure for implementing this policy and the accompanying forms.

Before taking grievances to a higher level, employees shall be encouraged to discuss them with their immediate supervisors. Employees should exhaust all means of remedying their grievances prior to contacting the Board. The Board has no obligation and, furthermore, believes it unwise to study and analyze problems of aggrieved persons until they have been first brought to the attention of administrators and the Superintendent. This interpretation of functions is based on the assumption that administrators at all levels will be patient, careful, and understanding in consideration of problems, complaints and grievances experienced by employees working under their supervision. The Board's intent is that its employees have fair, just and humane treatment. It also desires faithful and efficient service and a demonstrated spirit of teamwork on the part of all its employees.

Employees unfamiliar with the process to be observed in airing grievances may contact the Employee Relations Liaison or his/her designee and request guidance.

Legal Reference:

Hearing Held:

Adopted: May 14, 1997

**PROCEDURE FOR IMPLEMENTING POLICY GAE  
GRIEVANCES**

Note: Employees unfamiliar with the process to be followed in raising “grievances” may contact the Employee Relations Liaison or his/her designee and request guidance.

General Provisions and Definitions:

Grievance: A grievance is a complaint brought by an employee alleging that either an administrator or employee has taken one of the following actions, and that said conduct has had a substantial adverse affect on the employee’s working conditions or employment rights.

1. A violation, misinterpretation, or misapplication of an existing Board policy, administrative rule or administrative procedure;
2. Unprofessional conduct directed towards the grievant or impugning his/her personal good name or professional reputation;
3. The change in a recognized administrative practice which has been consistently followed for at least one calendar year which imposes a hardship on the employee.

Matters not covered by definition of grievance: The term “grievance” does not include matters dealing with denials of promotions or requests for voluntary transfers unless an identified Board policy or administrative procedure has also been violated or misinterpreted; nor does the term “grievance” include any matters dealing with involuntary transfers, or terminations which are covered by the Teacher Tenure Act or the Fair Dismissal Act; nor does the term “grievance” include alleged violations of State or Federal law or existing Court Orders. If circumstances give an employee both a right to bring a legal cause of action and a grievance, then the employee in his/her discretion may pursue his/her grievance under this policy prior to the filing of any legal cause of action.

Days: The term “days” when used in this procedure shall mean working school days as established by the Board adopted 12-month calendar for the applicable school year. At all Steps in the grievance policy procedures, the employee or his/her representative and the relevant administrator may mutually agree to suspend the relevant time frame requirements, provided that the agreement is in writing signed by the administrator and either the employee or his/her representative.

Newly discovered information: At each Step beyond Step I, if an employee wishes to present new documentation or information bearing on the merits of his/her grievance, then he/she may present said documentation or information to the administrator before whom the grievance is presently pending.

### **STEP I (Local School)**

An employee who feels that he/she has a grievance shall present the matter in appropriate written form, within thirty (30) days of the alleged grievance, to his/her principal or immediate supervisor. Failure by the grievant to file the grievance within thirty (30) days of the alleged grievance will result in the automatic denial of the grievance. The grievant shall provide a statement of the grievance and the relief sought.

Should the employee receive satisfaction, the matter is considered closed.

The principal or immediate supervisor shall have fifteen (15) work days, except in emergency - not to exceed ten (10) additional work days - from receipt of written grievance form to conduct a conference with the employee to discuss the grievance.

Failure of the principal or immediate supervisor to comply within the specified time frames automatically resolves the grievance in favor of the grievant.

After the Step I conference is held, the principal or immediate supervisor shall submit a written disposition report setting forth the reasons for his/her disposition within five (5) days after the conference has been held. If the grievance calls for relief or action which the Step I supervisor cannot provide, the Step I supervisor shall deny the grievance on this basis.

Upon receipt of the Step I disposition report by the employee's principal or immediate supervisor, the grievant shall have no longer than ten (10) days to file for an appeal should he/she desire.

Failure of grievant to file a timely appeal automatically forfeits any further appeal for relief at any other advanced step of the grievance procedure, except in instances where the employee requests a third party advisor. In such instances, the matter is automatically referred to Step II.

### **STEP II (Employee Relations Liaison)**

If the grievant files a written notice of appeal, the Employee Relations Liaison or his/her designee shall schedule a meeting/hearing with the employee, the immediate supervisor and requested advisors within twenty (20) days after receiving written notification of appeal.



Failure of the Employee Relations Liaison or his/her designee to comply within the specified time frame automatically resolves the grievance in favor of the grievant.

The Employee Relations Liaison may consolidate grievances arising out of the same or similar circumstances providing that it will not change the time requirements.

Additional documentation may be submitted by the employee or the immediate supervisor. A hearing shall be conducted at which time the employee and his/her representative and the principal or immediate supervisor will have the opportunity to present their positions regarding the grievance in dispute. The employee and the principal or immediate supervisor may present witnesses and whatever documentary evidence he or she may wish to present in support of his or her position regarding the grievance. A party shall have the right to call and question his witnesses. A full presentation by all witnesses present and other pertinent testimony shall be considered by the Employee Relations Liaison or his/her designee. However, the hearing will not be a formal, adversarial hearing governed by normal legal rules of evidence or procedure.

An official recording will be made for each conference by the Employee Relations Liaison or his/her designee. A grievant desiring a transcript of the hearing shall be responsible for the taping and transcribing of the hearing. Parties are expected to conduct the hearing within a reasonable period of time.

The parties shall submit to the Employee Relations Liaison or his/her designee at least four (4) days prior to the scheduled hearing a list of those witnesses whom he/she desires for the Board to require to be present at the hearing, along with a statement regarding the materiality of the witnesses' testimony. The Board and its agents have a duty to require the attendance at the Step II hearing of any material witnesses employed by the Board as determined by the hearing officer. Material witnesses are those witnesses who will offer relevant, non-redundant factual testimony at the Step II hearing. If a material witness is unable to appear, or if the administration is unable to procure the attendance of a witness at the scheduled hearing, then the parties can agree to a postponement of the hearing for the purpose of obtaining the testimony in question.

In the event individuals responsible for serving as a hearing officer or designating a hearing officer are listed as witnesses by the grievant and the grievant furnishes the statement provided above listing the reasons for calling said witness, the Superintendent or his/her designee shall appoint a hearing officer who has no direct, personal or first-hand knowledge of the matters in controversy.

The Employee Relations Liaison or his/her designee shall have fifteen (15) work days after the conference to provide a written decision. The written decision shall explain the reasons for the Employee Relations Liaison's decision. If the grievance is solved, or no further action is requested in writing, the matter is considered closed.

The principal, immediate supervisor and grievant shall have no longer than ten (10) work days to file for an appeal of any unfavorable decision.

Failure of the grievant to comply with the steps above automatically forfeits any further appeal for relief at any advanced step of the grievance procedure.

Mediation Procedure: In those cases where there are multiple grievances filed by multiple grievants and the grievances arise out of the same or similar facts or circumstances, then the Employee Relations Liaison or his/her designee has the discretion to order that the grievances be resolved through informal mediation. In such cases, the Employee Relations Liaison may refer the matter to a mediator selected by the Superintendent. It shall be the responsibility of the mediation officer to schedule a conference with both parties and to make every reasonable effort to arrive at a fair and equitable solution. Within thirty (30) days of assignment of the mediation, the mediator shall report to the Employee Relations Liaison the extent to which the mediation has resulted in agreement. After thirty (30) days or thereafter from the referral of the grievance to mediation, the grievant(s) shall have the right to decide that the mediation is no longer worthwhile, and the grievance(s) will then be heard at Step II in compliance with the provisions of this policy.

### **STEP III (Superintendent or Designee)**

If the grievant is dissatisfied with the preceding Step II decision, a written request for review, within fifteen (15) days should be submitted to the Superintendent or his/her designee. Likewise, if the immediate supervisor is dissatisfied with the Step II decision, a written request for review within fifteen (15) days should be submitted to the Superintendent or his/her designee.

The Superintendent or his/her designee shall, within fifteen (15) days, review the tape of conference and documentation accumulated at Step II. The Superintendent or his/her designee shall provide either a written statement adopting the decision of the Step II administrator or a written decision explaining the basis and rationale for his/her decision to the grievant, within fifteen (15) days after the conclusion of the review. Failure of the Superintendent or his designee to comply within the specified time frame automatically resolves the grievance in favor of the grievant.

If the grievance is resolved or no further action is requested in writing, the matter is considered closed.

The grievant and the principal or relevant administrator shall have no longer than ten (10) days to file for an appeal of any unfavorable decision.

Failure of the grievant to comply with the steps above automatically forfeits any further appeal for relief at any advanced step of the grievance procedure.

#### **STEP IV (Board of School Commissioners)**

If the grievant is dissatisfied with the Step III decision, a written request for review should be submitted within ten (10) days to the Superintendent or his/her designee requesting a review of all tapes and documentation by the Board of School Commissioners.

Likewise, if the immediate supervisor is dissatisfied with the Step III decision, a written request for review should be submitted within ten (10) days to the Superintendent or his/her designee requesting a review of all tapes and documentation by the Board of School Commissioners.

After receiving such written request, the Superintendent or acting Superintendent shall submit available tapes and documentation to each Board member as a part of the bi-monthly action agenda except in emergency instances, not to exceed two (2) Board meetings, for their review.

A Board review decision to uphold the Superintendent's decision or overturn the Superintendent's decision shall be made within thirty (30) work days after submission of documentation, during a regular Board meeting.

The Superintendent will inform the grievant of the Board's decision within ten (10) days after the Board renders a decision. Failure of the Superintendent, his/her designee or the Board to comply within the specified time frame automatically resolves the grievance in favor of the grievant.

**GARNISHMENTS**

Employees of the Board are expected to meet their just financial obligations in a manner which reflects honor and respect to the school system, to the cause of public education and characterizes good citizenship.

Employees against whom complaints (Garnishments) are made initially shall be notified in writing by the Assistant Superintendent of Personnel of the Board's expectations.

Upon the receipt of three writs of garnishments concerning one employee, within a ten-year period of time, the Assistant Superintendent of Personnel shall submit a comprehensive report to the Superintendent covering the employee's garnishment record with appropriate recommendation.

When necessary, a hearing shall be scheduled before the Board in order to provide the employee an opportunity to endeavor to relate to the Board the reasons why obligations have not been met in conformity with the Board's expectations. Board action may result in termination of the employee, placement of the employee on probation, or no formal punitive action taken by the Board.

The Board shall cause notice to be given, in writing, to the employee as to the disposition of the case within five days following the date of the Board hearing.

**STAFF - STUDENT RELATIONS**

Professional personnel having the responsibility of working directly with students shall strive to develop a professional working relationship with students. Professional personnel shall conduct themselves in such manner as to earn respect from students.

**NEPOTISM**

Upon effective date of this policy, a person shall not be employed or assigned to a school, division, department, office or other work location if the person is related to any other person already employed in any capacity at the same work location, or if the highest supervisor or subordinate supervisor of the work location is related to the new employee or assignee. Employee assignments in the same work location prior to the *original* effective date of this policy, October 24, 2001, are exempt. If the employee subsequently moves to a different school, division, department, office or other work location after the effective date of this policy, the requirements of the policy shall be followed.

The method of computing degrees of relationship is the civil law method: by blood (consanguinity) within the third degree, or by marriage (affinity) within the second degree. (See attached chart.) These rules against nepotism apply to employees paid with public funds, regardless of the source of those funds.

Relatives shall not supervise other family members. All applicants shall be required to disclose any family relationships that possibly could exist in the event the applicant is hired. All employees who are being promoted, or who apply for a transfer within the System, or who receive notice of involuntary (mandatory) transfer or demotion must disclose to the Human Resources Division and their current or prospective supervisor any family relationships with other System employees. This disclosure shall be made regardless of whether or not the reassignment would place the employee in the same department with a family member or would result in the employee supervising or being supervised by a family member.

**CONSANGUINITY:** The degree of relationship by consanguinity between a person and his or her descendant is determined by the number of generations that separate them. If a person and his or her relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding the number of generations between the person and the nearest common ancestor shared by him or her and his or her relative to the number of generations between the relative and the nearest common ancestor.

Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. For this purpose, an adopted child is treated as a natural child of the adoptive parents.

If the person already assigned to a work location is the prospective employee's or assignee's parent or child, there exists a relationship in the first degree. If the person is the prospect's grandparent, grandchild, sister, or brother there is a relationship in the second degree. If the person is the prospect's great grandparent, great grandchild, aunt, uncle, niece, or nephew, there is a relationship in the third degree. These are the only relationships by consanguinity that are prohibited by this policy.

**AFFINITY:** Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person. Divorce or the death of a spouse terminates relationships by affinity created by marriage unless a child of the marriage is living. If a child of the marriage is living, the marriage is considered to continue until the young child of that marriage reaches the age of 21.

A husband and wife are related by each other in the first degree by affinity. For other relationships, the degree of relationship of affinity is the same as the degree of the underlying relationship by consanguinity. If the spouse of the person already assigned to a work location is the prospective employee's or assignee's parent or child, there exists a relationship in the first degree. If the person's spouse is the prospect's grandparent, grandchild, sister, or brother, or if the prospect's spouse is the grandparent, grandchild, sister, or brother of the person already employed and assigned to a work location, there is a relationship in the second degree. These are the only relationships by affinity that are prohibited by this nepotism policy.

Statutory Reference:

Hearing Held: August 21, 2001

Adopted: October 24, 2001

Revised: June 10, 2003

## NEPOTISM (Illustration to Accompany Policy GBCA)

These illustrations depict the relationships that violate the nepotism policy.

### CONSANGUINITY (Blood) Kinship

Person already employed in work location is the new employee's or assignee's \_\_\_\_\_:

or

New Employee or assignee is the \_\_\_\_\_ of the person already employed in the work location:

<b>First Degree of Consanguinity</b>	Parent	Child
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<b>Second Degree of Consanguinity</b>	Grandparent	Grandchild	Sister or Brother
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<b>Third Degree of Consanguinity</b>	Great Grandparent	Great Grandchild	Aunt or Uncle	Niece or Nephew
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### AFFINITY (Marriage) Kinship

The spouse of the person already employed in work location is the new employee's or assignee's \_\_\_\_\_:

or

The spouse of the new employee or assignee is the \_\_\_\_\_ of the person already employed in the work location:

<b>First Degree of Affinity</b>	Parent	Child
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<b>Second Degree of Affinity</b>	Grandparent	Grandchild	Sister or Brother
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Note: The spouses of two persons related by blood are not by that fact related. The affinity chart supposes only one affinity relationship between the person already employed and the new employee or assignee through either of their spouses.



## **SEXUAL HARASSMENT**

Sexual harassment is an unlawful form of discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964, as amended in 1972 and 1991, Title IX of the Education Amendment of 1972, and the Code of Alabama. Some forms of sexual harassment may also constitute criminal conduct resulting in criminal penalties as has occurred in some cases already decided.

By issuing a single, comprehensive policy statement, the Board of Education seeks to clarify and reaffirm its commitment to ensuring that all Mobile County Public School System employees and students are provided with a work and learning environment that is free of sexual harassment.

The Board of School Commissioners of Mobile County does not condone or tolerate any form of sexual harassment of, or by, staff (including non-employee volunteers who work subject to control of school authorities) or students and is committed to the creation and maintenance of a learning and work environment in which all persons who participate in school programs and activities can do so in an atmosphere free from all forms of sexual harassment. It is the intention of Mobile County Public School System to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy.

It is the responsibility of every supervisor and principal to recognize acts of sexual harassment and take necessary action to ensure that such instances are addressed swiftly, fairly and effectively. Consequently, all Mobile County Public School System administrative and supervisory staff in schools, offices, and other facilities shall be cognizant of, and responsible for, effectively implementing the sexual harassment complaint. If the complaint involves employees, resolution procedures established in Grievance Policy GAE should be implemented with the understanding that if the immediate supervisor is the one involved, the employee would go to Step II. If the complaint involves only students, the investigation will be carried out in accordance with the provisions in the Student Code of Conduct for allegations of misconduct.

Malicious or frivolous complaints of sexual harassment are prohibited and subject to disciplinary action.

Reprisals of any kind are strictly prohibited against any person who has filed a report of sexual harassment, testified as a witness, assisted, or participated in any manner in any investigation or proceeding conducted under this policy. Reporting of sexual harassment, or participation in a sexual harassment inquiry, must not reflect in any way upon the individual's status, nor will it affect future grades, assignments, employment, etc.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:

- a. When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in other school activities
- b. When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personnel or academic decisions affecting the individual subjected to sexual advances
- c. When such conduct has the effect of unreasonably interfering with the individual's work and/or academic performance or creating an intimidating, hostile, or offensive work or learning environment.

**NOTATION:** Sexual harassment is determined only by looking at the record as a whole and at the totality of the circumstances, evaluating each situation on a case-by-case basis.

Statutory Reference:

Hearing Held: October 12, 1994

Adopted: December 14, 1994

**SEPARATION**

Professional personnel shall be terminated from employment in accordance with the provisions of the Alabama School Code and/or board policy.

**RESIGNATION**

Professional personnel shall resign in accordance with provisions of the Alabama School Code. The Code states: "No teacher (to include all School District Professional Personnel), whether in continuing service status or not shall be permitted to cancel his, or her, contract during the school term for which said contract is in effect, nor for a period of forty-five days previous to the beginning of such school term, unless such cancellation is mutually agreed upon, any such teacher shall be permitted to cancel his, or her, contract at any other time by giving five days written notice to the employing board."

Persons canceling contract in any other manner shall be deemed unprofessional and subject to having certificate revoked or suspended.

Legal Reference: The Code of Alabama, Title 52, Section 361 (1)

Board Approved July 10, 1974

## EMPLOYEE TRAVEL

The Employee Travel policy of the Mobile County Public School System is to provide, within available resources and pursuant to Mobile County Public School System travel procedures set forth by the Superintendent, opportunities for employees to attend educational and job related meetings which will benefit both the individual and the school system.

Travel expenses incurred by employees or other authorized persons involved in conducting Mobile County Public School System business may be reimbursed when authorized by the employee's supervisor in accordance with currently adopted travel procedures. No person shall receive reimbursement from the Board and from other sources for the same travel expense.

The Superintendent shall establish New Travel Procedures to implement this policy and prescribe forms and procedures necessary for maintaining accurate, uniform records. Travel procedures shall insure reasonable economy. All travel estimated to be equal to or over \$300.00 requires advance approval by the Board and in accordance with the Superintendent's Uniform Travel Procedures.

Violation of this policy or falsification of required records shall be grounds for disciplinary action not excluding dismissal.

Statutory Reference:

Hearing Held: February 16, 2000

Adopted: June 28, 2000

Effective: October 1, 2000

## **Sick and Maternity/Paternity Leave**

### DEFINITIONS

- Accumulated Sick Days** - Paid days earned under state law for absences from work due to illness or injury of the employee or the care of an immediate family member which includes a person who has unusually close personal ties with an employee. The use of Accumulated Sick Days is optional as the employee may use all, some or none of his Accumulated Sick Days prior to being granted FMLA, Extended Sick Leave or Maternity/Paternity Leave.
- Disability** - A physical or mental inability to perform the duties and functions of the job as certified by an attending physician or mental health care provider with proper medical documentation.
- Extended Sick Leave** - An approved leave granted to an employee for an unpaid absence from work due to illness or injury of the employee or an immediate family member. This leave will be in addition to any Accumulated Sick Days available and any Family Medical Leave available. This leave may extend up to one calendar year from the date the employee goes into an unpaid status.
- FMLA** - Family Medical Leave Act. Provides unpaid leave for illness of eligible employees or immediate family members or the birth/adoption of a child. This leave begins after utilizing requested Accumulated Sick Days.
- Illness** - Medical or mental condition that causes disability in the employee or an immediate family member. Pregnancy is included in the definition of illness as required by the Pregnancy Discrimination Act.
- Injury** - Medical or mental condition that causes disability in the employee or an immediate family member which results from some type trauma or exposure from an external source.
- Immediate Family Members** - Shall include: parents, spouse, child and sibling.
- Maternity/Paternity Leave** - A period of leave for the birth or adoption of a child. This period will begin with the first day of disability of the mother and may last for up to one year from the date of the birth or adoption of the child. Proper medical documentation will be required only for the initial period of pregnancy, delivery and postpartum recovery.
- Medical Documentation** - A statement or letter from a physician or mental health provider regarding the disability of the employee or the employee's family member. If applying for FMLA or Extended Sick Leave, the statement, at the least, must address the diagnosis, the physical disability, a plan of treatment and the expected date of return to duty.

## ACCUMULATED SICK DAYS

All eligible full time employees will accrue Accumulated Sick Days for pay purposes at the rate of one day per month for each month employed during the year. Eligible part time employees, lunchroom workers and bus drivers will accrue days on a pro-rata basis of hours worked or number of runs a day. The maximum number of days allowed to be accumulated will be as set by state law.

Accumulated Sick Days are available for the following situations:

- a. personal illness or doctor's quarantine,
- b. incapacitating personal injury,
- c. attendance upon an ill member of the employee's immediate family (parent, spouse, child, sibling); or an individual with a close personal tie,
- d. death in the family of the employee (parent, spouse, child, sibling, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, grandchild, grandparent, uncle or aunt), or
- e. death, injury, or sickness of another person who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

If an employee is off work because of one of the stated reasons for over ten work days he will be required to provide a physician's statement or legal documentation which verifies disability, birth or adoption of a child. Should circumstances warrant it, a supervisor may require a physician's statement or legal documentation for any absence. If Accumulated Sick Days are not available and the employee will be in an unpaid status, the employee must apply for either FMLA or Extended Sick Leave prior to the end of any Accumulated Sick Days.

## FAMILY MEDICAL LEAVE

Eligible employees, as determined under the (FMLA), will be granted a period of leave, up to twelve weeks, for either a personal illness, an illness of an immediate family member, the birth of a child or the adoption of a child. This period of leave will be in conformity with the FMLA rules and regulations. After proper documentation has been received and the leave approved, it will begin after any period of Accumulated Sick Days and before any period of Extended Sick Leave.

## EXTENDED SICK LEAVE

Extended Sick Leave is available to eligible employees who are medically unable to perform the duties of their job or who have immediate family members who, due to an illness or injury, require continuing supervision from the employee.

Tenured or non-probationary employees may, upon approval of Human Resources, be allowed to take Extended Sick Leave for a period of up to one year. Approval of Extended Sick Leave will be based on medical necessity and disability after submission of proper medical documentation.

Extended Sick Leave, when approved, will begin on the day following any period of Accumulated Sick Days or FMLA Leave based on disability for personal illness or the first day of absence for the care of an immediate family member. In general, all employees who remain off work beyond any Accumulated Sick Days and/or FMLA leave because of the above mentioned reasons must apply for an Extended Sick Leave. Also, any employee who requires intermittent periods of time off must apply for an Extended Sick Leave and provide a general outline of the planned treatment.

For school based instructional employees (i.e. teachers, aides), Extended Sick Leave will not extend beyond the end of the quarter that is in progress twelve months after the commencement of the leave. Should the employee be medically cleared to return to work within three weeks of the end of a school quarter, that employee may be required to remain off work until the beginning of the next quarter.

#### MATERNITY/PATERNITY LEAVE

Maternity or Paternity Leave is available for employees for the birth or adoption of a child. Accumulated Sick Days may only be used for periods of disability related to the pregnancy, delivery or postpartum recovery. Otherwise, it will be unpaid and may extend up to one year from the date of the birth or adoption of the child. The portion of the leave used for the parental care of the child will be without proof of a qualifying medical condition of the parent or child. Employees requesting Maternity/Paternity leave following postpartum recovery will only be cleared to return to work at the expiration of the requested leave.

#### MISCELLANEOUS

The precedence of the leaves are as follows, with no overlapping (except for Maternity/Paternity Leave):

1. Accumulated Sick Days,
2. Family Medical Leave,
3. Extended Sick Leave,
4. Maternity/Paternity Leave.



A physician's statement verifying the employee's physical inability to perform their job functions will be provided by the employee for each period covered by Accumulated Sick Days (when required), FMLA, Extended Sick Leave and the period of Maternity/Paternity Leave which covers disability from pregnancy, delivery and postpartum recovery. Failure to provide proper medical documentation may result in denial of Accumulated Sick Days, FMLA and/or Extended Sick Leave (failure to report to work in the absence of proper documentation could be considered abandonment of job). If there is any doubt regarding the medical documentation, the Human Resources Division may designate a second provider to render an opinion as to the employee's disability. The school system will be responsible for the cost of this examination. If necessary, a third opinion may be requested at school system expense.

For twelve month employees and support personnel, the Extended Sick Leave will not extend beyond twelve months after the commencement of the leave.

An employee who fails to return to work after the expiration of any period of leave (without approval of a valid leave of absence) shall be considered to have abandoned his/her job and may be recommended for termination.

An employee who fails to apply for FMLA, Extended Sick Leave or Maternity/Paternity Leave as outlined in this policy may be considered to have abandoned his/her job and may be recommended for termination.

Employees will retain tenure and employment status while on approved leaves. In general, retirement credit and local experience credit will not be earned during leaves of absence.

Employees are not allowed to work during any leave of absence in which a physician or mental health provider certifies disability. For Maternity/Paternity Leave, employees are not allowed to work unless it is part time work outside their normal working hours. As an example, if a teacher is on Maternity/Paternity Leave, he/she is prohibited from working somewhere else during the day when school is in session. However, this would not apply to a part time job at night or on the week-end. Violators will be recommended for termination.

The total period of all leaves an employee is allowed to take beyond Accumulated Sick Days will be limited to 24 months. Any employee remaining off beyond that time will have to resign, retire (if eligible) or be recommended for termination.

CONTINUATION OF HEALTH BENEFITS

The employer's or system's contribution to the health benefits of the employee will be maintained while the employee is covered by any period of Accumulated Sick Days or FMLA leave. The employee is responsible for his/her share of the premiums during this time.

Once the Accumulated Sick Days and/or FMLA leave has ended, the employee will be responsible for the entire premium, both the system's premium and the employee's premium during this period.

The employee, based on guidelines set out by the state and/or PEEHIP, may or may not accrue insurance allocations while on FMLA, Extended Sick Leave or Maternity/Paternity Leave.

## Reference:

Hearing: October 27, 1998

Adopted: November 17, 1998

Repeals: GBRIB, GBRIC, GCRGC

**JOB RELATED INJURY**

- 1 A: A Job Related Injury is defined as damage to the body which occurs while an employee is acting within the line and scope of employment and which is not caused, entirely or in part, by the intentional actions of the employee.
  
- 1 B: Any employee whose absence arises from a job related injury can not be required to utilize earned sick leave, but may have his salary continued or reimbursed in conformance with the Pay Continuation (Tracking) Program or Reimbursement Program procedures.
  
- 1 C: The Pay Continuation (Tracking) Program provides for the employee to have uninterrupted salary for days missed, not to exceed thirty (30) working days, resulting from a job related injury as outlined in the procedures.
  
- 1 D: The Reimbursement Program provides reimbursement for missed days or salary, not to exceed thirty (30) working days, resulting from a job related injury as outlined in the procedures.
  
- 2 A: In addition to reimbursement of sick leave days, an employee who is injured on the job also has the right under Code of Ala. 1975, 41-9-60 to file a claim with the State Board of Adjustment. The statute requires a claim to be filed within one year of date of the injury.
  
- 2 B: Salary continuation or reimbursement is contingent upon presentation of proper documentation to and approval by the Department of Human Resources. This documentation must state that the absence was due to or arising from the job related injury.

- 2 C: All employees shall be informed regarding the Pay Continuation (Tracking) and the Reimbursement Programs and be provided the opportunity to select the program in which they wish to participate. Written documentation of program selection by the employee shall be maintained with the Office/Employee Health Program Nurse.
- 3 A: Light duty assignments, as established by the department to which the employee is assigned, can be utilized for the employee with an job related injury with the approval of the employee's administrator.
- 3 B: Failure of the employee to follow the outlined procedures can result in the employee not being entitled to salary continuation or reimbursement for loss of time.

Statutory Reference:

Hearing Held: January 10, 1996

Adopted: February 14, 1996

**JOB RELATED INJURY  
PROCEDURES**

Job Related Injuries are to be reported immediately to the Department of Human Resources Office/Employee Health Programs Nurse on the appropriate forms by the employee's administrator or designee.

An employee injured on the job shall report any and all injuries immediately to his administrator or designee and complete a Report of Injury Form (SS433). An Accident Report Form (SS431) shall be filed as soon as possible.

**THE FOLLOWING PROCEDURES WILL BE USED BY THE EMPLOYEE TO CLAIM BENEFITS UNDER THE PAY CONTINUATION PROGRAM.**

1. If the injury requires no apparent medical treatment.
  - A. The administrator or designee will:
    - (1) Complete the Report of Injury Form (SS433)
    - (2) Provide the employee with a copy of the Report of Injury (SS433).  
Should the employee seek medical care after work hours, he/she will take the copy of the Report of Injury (SS433) to the treatment site. The employee will notify his administrator or designee the next work day if treatment is obtained after work hours.
    - (3) Complete the Accident Report Form (SS431).
    - (4) Send the Report of Injury (SS433) and Accident Report Form (SS431) to the Health Services Office via Mail Bag.
  - B. The Office Nurse will send copies of these forms to the Department of Human Resources/Employee Relations for the employee's file.
2. If injury requires medical treatment:
  - A. The administrator or designee shall:
    - (1) Fax Report of Injury (SS433) to and call the Office Nurse;
    - (2) Send the employee to the treatment site with the I.D. Card or Letter, Report of Injury (SS433) and the Physician Statement Form;
    - (3) Complete the Accident Report Form (SS431).
  - B. The Office Nurse faxes the Report of Injury (SS433) and the Release of Information Form and calls the treatment site.

- C. The injured employee goes to the treatment site and presents the Report of Injury (SS433), ID Card or Letter and the Physician Statement Form.
  - (1) Immediately after treatment, the Physician Statement Form, or other treatment form from the treatment site, must be presented to the Health Services Office Nurse in order to determine work status. The Physician Statement Form, or other treatment form from the treatment site, is faxed by the treatment site to the Office Nurse or taken by employee or designee to his/her administrator who will call or fax the report to the Office Nurse. If injuries prevent the employee or designee from complying with the above guidelines, the employee or designee must call the Office Nurse so she may obtain needed information from the treatment site.
- D. The Office Nurse will provide copies of documentation to the Department of Human Resources/Employee Relations.

3. Continuation of Pay for days missed.

- A. With proper documentation from the examining physician and responsible administrator or designee, the injured employee, who is declared unable to return to work, will receive full salary, not to exceed thirty (30) work days.
- B. The absence will be coded as Code 9 on the payroll report and the pay will continue as approved by the Assistant Superintendent of Human Resources or designee.
- C. If the employee fails to report for their assigned regular duty when released by the treating physician, and assigned by the supervisor, or refuse light duty as recommended by the treating physician and accepted and assigned by his/her administrator, the request will be handled by the Reimbursement process. The request for Board approval for the Reimbursement process must take place within forty-five (45) working days after the employee is released from the physician and returns to work.

4. Reimbursement from State Board of Adjustment.

- A. Code of Ala. 1975, § 41-9-60 provides that an employee may apply to the State Board of Adjustment for any expenses not covered by insurance or days of work missed exceeding thirty (30) days. The statute requires that a claim be filed within one year of the date of injury.

THE FOLLOWING PROCEDURES WILL BE USED BY THE EMPLOYEE TO CLAIM BENEFITS UNDER THE REIMBURSEMENT PROGRAM.

1. If injury requires no apparent medical treatment.
  - A. The administrator or designee will:
    - (1) Complete the Report of Injury Form (SS433);
    - (2) Provide the employee with a copy of the Report of Injury (SS433).

Should the employee seek medical care after work hours, he/she will take the copy of the Report of Injury (SS433) to the treatment site. The employee will notify his administrator or designee the next work day if treatment is obtained after work hours.
    - (3) Complete the Accident Report Form (SS431).
    - (4) Send Report of Injury (SS433) and Accident Report Form (SS431) to the Health Services Office via Mail Bag.
  - B. The Office Nurse will send copies of these forms to the Department of Human Resources/Employee Relations for employee's file.
2. If the injury requires medical treatment:
  - A. The administrator or designee shall:
    - (1) Fax Report of Injury (SS433) to and call the Office Nurse
    - (2) Send the employee to the treatment site with the I.D. Card or Letter, Report of Injury (SS433) and the Physician Statement Form;
    - (3) Complete the Accident Report Form (SS431).
  - B. The Office Nurse faxes Report of Injury (SS433) and the Release of Information Form and calls the treatment site.
  - C. The injured employee goes to the treatment site and presents the Report of Injury (SS433), ID Card or Letter and the Physician Statement Form.
    - (1) Immediately after treatment, the Physician Statement Form, or other treatment form from the treatment site, must be presented to the Health Services Office Nurse in order to determine work status. The Physician Statement Form, or other treatment form from the treatment site, is faxed by the treatment site to the Office Nurse or taken by employee or designee to his/her administrator who will call or fax the report to the Office Nurse. If injuries prevent the employee or designee from complying with the above guidelines, the employee or designee must call the Office Nurse so she may obtain needed information from the treatment site.

- D. The Office Nurse will provide copies of documentation to the Department of Human Resources/Employee Relations.
3. Reimbursement of days missed.
- A. With proper documentation from the examining physician and responsible administrator or designee, the injured employee can file for reimbursement of days missed, not to exceed thirty (30) work days, after he/she returns to work. Proper documentation is filed by the employee with the Department of Human Resources/Employee Relations. The claim will be approved or disapproved by the Board.
  - B. No reimbursement shall be considered unless the request is made within forty-five (45) work days following the employee's return to work.
  - C. If the employee lost sick leave days for time missed due to an approved job related injury, the lost sick leave days will be reimbursed. If the employee did not have enough sick days to cover days missed due to an approved job related injury and his salary was docked, the employee's lost salary will be reimbursed. An employee can not be reimbursed salary when sick leave days were used.
4. Reimbursement from State Board of Adjustment.
- A. Code of Ala. 1975, § 41-9-60 provides that an employee may apply to the State Board of Adjustment for any expenses not covered by insurance or days of work missed exceeding thirty (30) days. The statute requires that a claim be filed within one year of the date of injury.



**ANNUAL LEAVE/OPTIONAL VACATION DAYS**

Twelve month employees are designated either 240 or 260 day employee type, depending on their hire date as a 12-month employee. They are entitled to annual leave, sick days, personal leave, and holidays. Because of a hire date prior to July 1, 1999, 240 day employees are entitled to additional days off (optional vacation days).

Annual leave or optional vacation days may be taken at intervals during the year so long as arrangements are pre-approved by the supervising administrator and so long as time taken does not exceed time earned. Unused annual leave will be allowed to accumulate up to the maximum of forty-five (45) days as of the attendance reporting date for the June 30th payroll.

Annual leave is earned on an accrual basis. It is not awarded in advance of time worked. Employees leaving the system shall be paid for the unused portion of accumulated annual leave up to the maximum allowed by policy.

The number of holidays can vary in number at the Board's discretion. Generally, these holidays are:

- July 4th 1
- Labor Day 1
- Veterans Day 1
- Thanksgiving 2
- Christmas 2
- New Years 2
- Martin Luther King 1
- President's Day 1
- Mardi Gras 2
- Memorial Day 1
- Total 14

The Superintendent and Board may desire to have certain offices/departments/divisions of the system open and adequately staffed for the public on non-holidays. Division heads and supervisors may be required to ensure staffing and supervision during these times.

Benefit days must be reported in half-day increments for record-keeping purposes.

Based on the nature of their work, some employees are scheduled to work on holidays (e.g., security guards) for which they will be compensated accordingly. Failure to work on holidays as scheduled will result in disciplinary action. Non-exempt employees who are called in to perform emergency work on holidays will also be compensated accordingly (e.g. emergency maintenance personnel).

	12-Month Employees Hired <b>Before July 1, 1999</b>	12-Month Employees Hired <b>After July 1, 1999</b>
Employee Type	240*	260*
Number of Holidays	14	14
Number of Annual Leave Days	10 - first 12 months 15 - after 120 months	5 - first 12 months of employment 10 - 13-120 months of service 15 - 121-240 months of service 20 - after 240 months of service
Number of Optional Vacation Days	7 to 9 Depending on what day of week July 1 falls and if it is a leap year	None

\*Hourly/Daily rate of pay is calculated on employee type.

The number of annual leave days for employees who move from a 10-month work calendar to a 12-month work calendar is determined by the total number of months as an employee as shown in the table above under "12-Month Employees Hired After July 1, 1999."

**OPTIONAL VACATION DAYS**

Unused optional vacation days as of June 30th of each year can be converted to accumulated annual leave. If an employee wishes to carry over the unused optional vacation days to sick leave instead of annual leave, a signed request must be on file in the Payroll Department before the June 1st deadline for carryover requests.

Employees leaving the system may convert accrued optional vacation days to count as sick leave.

Legal Reference:

Hearing Held:

Adopted: March 21, 2001

Revised: March 25, 2003

**SUBSTITUTE, TEMPORARY, AND PART-TIME POSITIONS**

**SUBSTITUTE EMPLOYEES:** Persons employed to work on a daily or short duration period of time as replacement for persons absent or on approved short-term leave shall be classified as substitute employees. Persons in this category shall include teachers, school clerks, bus drivers, bus aides, campus custodial and campus CNP assistants. Substitute employees shall not be eligible for benefits and privileges available to permanent, full-time employees. Pay for substitute employees shall be set and paid at a rate set by the Board. Persons employed in substitute, temporary, and part-time positions shall not be related by blood or consanguinity to any other person employed at the work location where the substitute person is to be hired.

**SUBSTITUTE TEACHERS:** Persons must be certified by the State Department of Education to substitute as a teacher. The Division of Human Resources shall be responsible for administering the procedures for persons to become substitute teachers: collecting all required documentation and fees connected with the process; administering a writing sample or using other means to determine capability; ensuring completion of tests for health conditions; and processing criminal history background checks through the fingerprinting process. Retired teachers who return to teach on a temporary basis are considered "substitute teachers" if they are assigned to an allocated vacancy.

The Division of Human Resources shall mail lists of eligible and certified substitute teachers to all principals, as needed, during the school year, and shall issue to all approved substitutes, whether or not on the mailing list, a current identification card. Substitute teachers, when enrolled, are encouraged to visit schools and advise principals of their availability for assignment. Principals shall require each substitute to present evidence of his or her clearance from the Human Resources Division when reporting to school for assignment the first time during the current school year.

A principal or his or her designee shall be responsible for securing substitutes from the approved list in case of absence of a regular teacher. Individual school guidelines pertaining to the calling of substitute shall be outlined in writing and given to each teacher at each school. Substitute

teachers shall be expected to carry out instructions provided by the Principal and regular teachers and to prepare daily reports normally required of the regular teacher.

Principals shall ensure that the substitutes for teachers are reported to payroll and are paid only in accordance with Board-approved substitute pay rates. Regular teachers are prohibited from making their own arrangement for paying substitutes. It shall be the responsibility of the Principal and the regular teacher to ensure that the substitute teacher has the necessary instructions, materials to teach effectively, lesson plans as well as textbooks, class rolls, seating charts, and an outline of local school procedures.

In emergency situations, such as the inability of securing a substitute for a regular teacher who must leave school unexpectedly because of an emergency, the principal shall utilize regular teachers to cover the classes.

**TEMPORARY EMPLOYEES:** Extra persons employed to work on a regular full-time basis for a limited period of time shall be considered temporary, and, as such, are not eligible for those benefits and privileges available to permanent, full-time employees. Temporary employees shall be transferred to full-time permanent status should their continuous employment extend to or beyond four and one-half months. Temporary employees do not mean substitute employees.

**PART-TIME EMPLOYEES:** Persons employed to work for brief intermittent periods of time within a given department are considered part-time employees and, as such, are not eligible for those benefits and privileges available to permanent, full-time employees.

Statutory Reference:

Hearing Held: August 21, 2001

Adopted: October 24, 2001

## **CERTIFIED PERSONNEL**

It is the intent of the Board to employ appropriately certificated individuals as instructors and instructional administrators. The term "certified" personnel refers to all employees who are regularly certified by the teacher certification authority of the State of Alabama who may be employed as instructors, principals, or in supervisory positions requiring certification.

Statutory Reference: Code of Ala. 1975 § 16-24-1

Hearing Held: November 18, 1991

Adopted: April 28, 1992

## **CLASSIFIED PERSONNEL**

The term "classified" personnel refers to all employees who are not regularly certificated by the teacher certification authority of the State of Alabama.

Statutory Reference:

Hearing Held: November 18, 1991

Adopted: April 28, 1992

## EMPLOYMENT CONTRACTS

The Board shall provide written employment contracts for all non-tenured regular members of the instructional staff.

Statutory Reference:

Hearing Held: November 18, 1991

Adopted: April 28, 1992

**Compensation and Pay Plan**

Base pay for classroom teachers and those other selected, certificated individuals whose work day is spent working directly with students or whose work product solely benefits the instruction of children, will be determined by the State of Alabama Teacher's Salary Matrix.

For all other employees, including principals, assistant principals, and central office certified administrators, the Superintendent shall develop and recommend a compensation or pay plan to the Board for adoption. Changes in the plan, after initial adoption, shall be approved annually by the Board.

The compensation or pay plan shall be designed to provide appropriate pay for the assessed worth of System jobs. The plan shall consist of pay range structures for the following employee groups or pay families:

1. Administrative/professional
2. Clerical/technical
3. Manual trades

The compensation or pay plan shall be designed and administered to accomplish the following:

1. Stay competitive with appropriate labor markets for the various categories of jobs performed by personnel,
2. Recognize the levels of skill, effort, and responsibility required of different jobs,
3. Protect continued length of service to the System in regard to the hiring of new employees, and
4. Be fiscally controlled and cost effective.

A copy of the System's compensation or pay plan for the current year shall be available in the administrative offices.

For purposes of administering the System's compensation or pay plan, the following definitions apply:

1. Pay family or job family: the listing or classification of jobs based on related compensable factors, i.e., educational preparation, required certification, skill, experience, and the like.



2. **Pay grade or job grade:** the individual components, based on the level or skill, effort, and responsibility, within the same job or pay family.
3. **Pay range:** the established rates of pay, based on comparable market pay, from minimum to maximum within an individual pay or job grade.

**Pay Grade Classification:** Each job in the System shall be assigned to a pay grade within the appropriate pay family based on the level of skill, effort, and responsibility required of the job assignment. The Superintendent shall recommend the classification of new positions or reclassifications of existing positions as necessary based on an assessment of job requirements and comparability to other positions in the System. Pay grade classification for new professional positions, as well as reclassification of existing professional jobs to new pay grades, shall be recommended at least annually by the Superintendent for Board approval.

**Appeals Process:** Twice a year, job supervisors may submit reclassification requests to the Superintendent or designee following the requirements outlined in the pay plan's administrative procedures. A team of System employees from each of the three job families who have been trained in assessing job grade assignments shall review the request and make recommendations to the Superintendent about classification. This team shall consist of 18 members: 3 administrative/professional employees in supervisory positions; 3 administrative/professional employees in non-supervisory positions; 3 clerical/technical employees in supervisory positions; 3 clerical/technical employees in non-supervisory; 3 manual trades employees in supervisory positions; and 3 manual trades employees in non-supervisory positions. An assessment team shall have a minimum of 6 trained employee assessors.

**Pay Ranges:** Pay ranges for each pay grade shall establish minimum and maximum rates of pay within the range. All pay ranges shall be established by monthly, daily, or hourly basis rates to promote consistent treatment of employees who have different work periods. Employees shall be paid within the range of rates established for the position assigned. Payment of a rate outside the established range shall require Board approval.

The Superintendent shall review pay ranges on an annual basis and recommend adjustments consistent with economic and job market indicators. The annual publication of the compensation or pay plan shall reflect these adjustments, if any.

**Pay Advancement:** Pay ranges shall be structured to allow the opportunity to increase employee pay within the range for continued service to the System. The Superintendent on an annual basis shall make recommendations regarding locally funded, across-the-board increases for employees not paid on the state teacher salary matrix. Recommendations shall be based on consideration of such factors as cost of living indexes, wage increases within competitive job markets, and the availability of resources to fund recommended pay increases. Any employee whose overall evaluative performance is less than satisfactory as defined on a written evaluation as well as documentation in support of the evaluative score shall not receive a pay increase, except as required by law or applicable regulations, such as a state-funded increase.

**Salary Retention:** A principal or assistant principal whose salary is reduced because of a transfer to a different school will retain the higher salary for a period of one year. At the end of that one year, the salary appropriate for the assignment in the subsequent year will be given. If necessary, a principal will be given a salary adjustment to pay at least \$1.00 more than the highest paid assistant principal assigned to the same school

**New Jobs:** Newly established positions or jobs approved by the Superintendent shall be analyzed and classified, and assigned to a job grade by the Board-adopted compensation plan. Job descriptions for new administrative/professional positions, containing the designated pay grade, will be recommended by the Superintendent for Board approval.

**Determining Salaries for New Hires:** The Superintendent or designee shall approve salaries or rates for new employees using the following general guidelines:

- New employees with no prior job experience will be placed at the minimum of the assigned pay range.

- New employees with comparable job experience or special qualifications will be placed above the minimum pay rate up to the midpoint of the assigned pay range. Experience gained in teaching is included.
- New employees may be placed above the midpoint pay rate for documented programmatic reasons. In no case will a new hire, however, be placed above the maximum of the assigned pay grade.
- Regardless of prior comparable experience, new employees shall not be placed above the pay of other district employees with more years' service with the System.

**Definition: "Comparable experience" – previous actual work or on-the-job experience with work activities, duties, and responsibilities that were in the majority the same as those of the new job. Counting the number of years as a Mobile County Public School System employee does not automatically count as comparable experience. Previous experience in a related job where the job tasks, duties, and responsibilities are the same or similar will count. Teaching experience within the System and outside the System counts as comparable experience in determining the salaries of new hires in administrative and professional positions.**

**Statutory Reference:**

**Hearing Held: August 21, 2001**

**Adopted: September 26, 2001**

## **INTERRUPTION OF PROGRESS TOWARD TENURE**

A non-tenured teacher who has been non-renewed at the end of a school year will be deemed to have no interruption in progress toward tenure if he or she is re-employed as a teacher within the school system on or before the 21st working day of the succeeding school year. Such teachers re-employed after the 21st working day of the succeeding school year shall be deemed to have an interruption in their progress toward tenure.

Reference:

Hearing Held: January 26, 1998

Adopted: February 11, 1998

## **REASSIGNMENTS and/or REDUCTION IN FORCE Tenured Teachers**

When a reduction in the number of students in a school, reduction of courses or programs within a school, budget constraints, closing of a school, merger of schools or other sound administrative reason necessitates the reassignment of tenured teachers, the teacher within the school in the affected certification area who has least seniority in the school system will be reassigned first. A teacher within the affected certification area who requests a transfer will be considered prior to such reassignments. Staff racial composition of both schools may also be a consideration, and may take precedence over seniority in the selection of teachers for reassignment, however, in no event shall a tenured teacher be selected for reassignment over a non-tenured teacher in the affected certification area.

Should no vacancy exist to which the affected tenured teacher can be assigned, non-tenured teachers, in the teacher's area of certification, will be non-renewed, as needed, to create a vacancy for the reassigned teacher. The tenured teacher with the least seniority in the school system will be laid off first. If the teacher is tenured and holds at least a bachelor's degree from an accredited institution, he will be offered assignment out of field and given a maximum of three (3) years to gain certification in another area. The new certification area will be determined after discussion with the Human Resources Department. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification. In accordance with the letter of assurance to the Office of Civil Rights, case #04-92-1031, dated 5-11-92, any teacher reassigned out-of-field to a special education teaching position shall be required to submit annual plans, certified by an approved university, showing that teachers are presently enrolled and will complete the requirements for certification in special education by the three (3) year deadline. It is the intent of the Board that tenured teachers not be required to recertify in a new field more than once. Any teacher who would qualify for retirement within two (2) years will be permitted to teach to acquire the needed service. Should a vacancy occur in an area in which the reassigned tenured teacher holds certification, the reassigned teacher will be notified of the vacancy and given an opportunity to accept or reject the position before other candidates are considered. Such consideration will extend two years subsequent to being reassigned. If a teacher rejects the position, the Board will have no further obligation to extend this right to other vacancies.

Normal attrition, voluntary retirements, and voluntary leaves of absence will be considered prior to a teacher being laid off.

For purposes of layoff only, seniority will mean length of continuous service a teacher has taught in the school system, which will include approved leaves. Date of acquired certification will not determine order of layoff. Should a vacancy occur in an area in which the laid off tenured teacher holds certification, the laid off teacher will be notified of the vacancy and given an opportunity to accept or reject the position before other candidates are considered. Such consideration will extend two years subsequent to being laid off. If a teacher rejects the position, the Board will have no further obligation to extend this right to other vacancies.

For purposes of this policy only, the term "layoff" means cancellation of contract with an opportunity to be reemployed within the school system.

Statutory Reference: Code of Ala. 1978, § 11-24-5, 6, 7, 8 & 9

Hearing Held: June 11, 1992

Adopted: June 29, 1992

## **REDUCTION OF CERTIFICATED, TENURED ADMINISTRATORS**

Should it be deemed necessary because of financial limitations, declining enrollment, closing of a building, or other serious and legitimate business or legal reasons, or because of a serious natural disaster to decrease the number of central office or local school administrative positions, the Board of School Commissioners shall have the authority to take action to achieve a reduction in staff.

Prior to any reduction in administrative positions, the Board shall determine, upon the recommendation of the Superintendent, the departments or job functions that will be reduced or eliminated.

After the Board has identified the administrative department or job function to be reduced or eliminated, employees within each job function of the identified department shall be selected for reduction based upon seniority within the department and based upon qualifications as determined by the Superintendent.

If the employee who is identified for reduction is tenured as a principal or supervisor, and has (1) certification as a principal or assistant principal and (2) prior successful service in the school system, as a principal or assistant principal, the affected employee may displace the principal or assistant principal in the system with the least seniority. That is: if the affected administrator has prior successful experience as a secondary principal, he may displace the secondary principal with the least seniority in the system as a secondary principal, provided the principal to be displaced has less seniority as a principal than the affected administrator; if the administrator has prior successful experience as a secondary assistant principal, he may displace the secondary assistant principal in the system with the least seniority as a secondary assistant principal, provided that the assistant principal to be displaced has less seniority. The same applies for administrators with prior successful elementary administrative experience. An administrator with prior successful experience as both secondary or elementary may displace either.

If there is no principal or assistant principal in the system who has less seniority as a principal or assistant principal than the affected employee, the employee will be offered a teaching position. Should no teaching vacancy exist to which the employee may be assigned, non-tenured teachers in the administrator's area of certification will be non-renewed or terminated as needed, to create a vacancy for the reassigned employee. The employee may be offered a teaching assignment out-of-field and given a maximum of three (3) years to gain certification to teach in another area. The new certification area will be determined after discussion with the Human Resources Department. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification.

Any affected employee who would qualify for retirement within two (2) years will be permitted to teach to acquire the needed service.

If the affected employee is not tenured as a principal or supervisor, or does not have certification and prior successful experience as a school administrator, the employee will be offered a teaching position if he is tenured as a teacher. Should no teaching vacancy exist to which the employee may be assigned, non-tenured teachers in the employee's area of certification will be non-renewed or terminated as needed, to create a vacancy for the reassigned employee. The employee may be offered a teaching assignment out-of-field and given a maximum of three (3) years to gain certification to teach in another area. The new certification area will be determined after discussion with the Human Resources Department. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification.

Any affected employee who would qualify for retirement within two (2) years will be permitted to teach to acquire the needed service.

A principal who has tenure as a principal and is displaced as a result of a reduction in force may displace the assistant principal in the system with the least seniority as an assistant principal; provided, however, the principal may only displace an assistant principal who has less seniority as an assistant principal than the affected principal has as a principal or assistant principal. A principal with prior successful secondary experience may displace only secondary assistant principals. A principal with prior successful elementary experience may displace only elementary assistant principals. If there is no assistant principal in the system who has less seniority as an assistant principal than the affected principal, the principal will be offered a teaching position. Should no teaching vacancy exist to which the principal may be assigned, non-tenured teachers in the principal's area of certification will be non-renewed or terminated as needed, to create a vacancy for the reassigned principal. The principal may be offered a teaching assignment out-of-field and given a maximum of three (3) years to gain certification to teach in another area. The new certification area will be determined after discussion with the Human Resources Department. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification.

Any affected principal who would qualify for retirement within two (2) years will be permitted to teach to acquire the needed service.

A principal who is not tenured as a principal but is tenured as a teacher and is displaced as a result of a reduction in force, or any assistant principal who is tenured as a teacher and is displaced as a result of a reduction in force, will be offered a teaching position. Should no teaching vacancy exist to which the assistant principal or non-tenured principal may be assigned, non-tenured teachers in the assistant principal or non-tenured principal's area of certification will be non-renewed or terminated as needed, to create a vacancy for the displaced administrator. The assistant principal or non-



tenured principal, as described above, may be offered a teaching assignment out-of-field and given a maximum of three (3) years to gain certification to teach in another area. The new certification area will be determined after discussion with the Human Resources Department. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification.

Any affected principal or assistant principal who would qualify for retirement within two (2) years will be permitted to teach to acquire the needed service.

Normal attrition, voluntary retirements, and voluntary leaves of absence will be considered prior to an administrator being laid off.

Should an eliminated administrative position be reinstated within (2) calendar years, the administrator will be notified of the vacancy and given an opportunity to accept or reject the position before other candidates are considered. Should an affected administrator be assigned to an out-of-field teaching position, and should a vacancy occur in which the affected administrator holds certification, the reassigned administrator will be notified of the vacancy and given an opportunity to accept or reject the position before other candidates are considered. Such consideration will extend two years subsequent to the reduction. If the administrator rejects the position, the Board will have no further obligation to extend this right to other vacancies.

For purposes of this policy, seniority means length of continuous service, including any approved leaves.

For purposes of this policy, "displacement" refers to the right of an employee affected by this policy to assume a job or position held by another employee.

Any employee who is displaced to a lesser paying position as a result of a reduction in force shall be placed on the appropriate salary schedule for the new position.

In accordance with the letter of assurance to the Office of Civil Rights, case #04-92-1031, dated 5-11-92, any teacher re-assigned out-of-field to a special education teaching position shall be required to submit annual plans, certified by an approved university, showing that teachers are presently enrolled and will complete the requirements for certification in special education by the three (3) year deadline. The employee will be reimbursed by the system for all tuition costs incurred in attaining the out-of-field certification. It is the intent of the Board that tenured teachers not be required to recertify in a new field more than once. It is the intent of the Board that a tenured teacher, required by this policy to re-certify in a new field will not be required to re-certify again.

**OVERTIME AND COMPENSATORY TIME COMPENSATION**

**EXEMPT/NON-EXEMPT:** For purposes of determining eligibility of overtime and/or compensatory time off ("comp time"), all employees shall be designated "exempt" or "non-exempt," according to the Federal Fair Labor Standards Act, better known as the Wage and Hour Law. The wage-hour compensation and rate-of-pay for regular work and for overtime for "non-exempt employees" shall follow the rules for "non-exempt employees" of the Wage and Hour Law since they are not exempt from its provisions. (See on page 3 EXEMPT EMPLOYEES' TEST FOR "PROFESSIONAL" WAGE-HOUR CLASSIFICATION.

All supervisors shall keep a daily record of the time worked for individual employees (time clock cards, sign-in/sign-out rosters, time sheets) whether "exempt" or "non-exempt."

**OVERTIME FOR NON-EXEMPT EMPLOYEES:** Non-exempt employees, generally classified members of the support staff, shall have worked a minimum of forty clock (40) hours in the same work week before they become eligible for overtime pay. All hours of work must be recorded on individual time cards. All hours over 40 may be compensated at the rate of time-and-a-half of the base hourly rate of pay or reconciled as compensatory time off at time-and-a-half. Vacation, holidays, sick leave, and accrued personal leave shall *not* count in calculating weekly overtime; docked sick leave shall not count in calculating weekly overtime. Supervisors of non-exempt employees shall ensure an agreement or understanding with the employees regarding the form of compensation for overtime (money or compensatory time off) prior to the performance of the work occasioning the overtime duty. The supervisor shall maintain some record of them, such as a calendar notation, a memo to the file, a note on the time card, or some similar indication that the employee was notified of the type of compensation to expect.

Overtime for non-exempt employees (over 40 hours) may be reconciled as compensatory time off at the rate of time-and-a-half if granted within thirty working days. When an employee is requested to work beyond his or her normal work schedule of 40 hours within a work

week, the employee may be given compensable time off at the rate of time-and-a-half (i.e., three hours off for two worked). The time off must occur within thirty working days. By recording on the individual time card for the employee, supervisors are also authorized to grant an employee who works beyond the regular working time in one single day permission to delay arriving for work the succeeding day by the same amount of time, hour-for-hour. At each work location, records shall be kept that record both the date and times of working, and the date and times that the employee was granted for compensatory time off. Pay records sent to payroll shall accurately document overtime hours to be paid as well as overtime hours already granted as compensatory time off, if any.

Because employee work loads vary in some assignments, on occasion a supervisor may arrange for an employee's work schedule to change within a given work week with the understanding that the total number of hours worked would not exceed 40.

**REQUIRED OVERTIME FOR SOME NON-EXEMPT EMPLOYEES:** In some job assignments, overtime work may be required on occasion because of emergency situations or the need to complete specific work by a certain date. Employees shall be expected to perform such work if given notice of at least one day, except in emergency situations. Supervisors shall give employees as much advance notice as possible of required overtime work, and employees who refuse such assignments shall be subject to discipline. Repeated refusals to work overtime shall constitute grounds for dismissal.

**NON-EXEMPT MAKING UP FOR LOST TIME:** When an employee is required, for personal reasons, to be absent from work for a portion of the workday, the employee may, with advanced (prior to) supervisory permission, "make up" the time, hour for hour, at a date and time mutually convenient to both the employee and the supervisor, provided, however, that the time is "made up" within the same work week and that time cards reflect both the lost time and the made-up time. Such arrangements can be made only if the employee's type of work and work location are amendable to such arrangements.

**EXEMPT EMPLOYEES' TEST FOR "PROFESSIONAL" WAGE-HOUR CLASSIFICATION:** The five (5) Federal wage-hour account tests that must be met before an individual can qualify for a guaranteed straight salary, thus being free or "exempt" from minimum wage, overtime compensation, and the recording of hours worked. All five tests must be met.

1. The primary duty of the professional is to perform work requiring knowledge of an advanced type in a field of learning or science customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship and from training in the performance of routine mental, manual, or physical processes. Such professions as education, law, medicine, accountancy, engineering, architecture, etc. generally meet this requirement, and the best evidence thereof is the appropriate academic degree.
2. This work requires the consistent exercise of discretion and judgment in its performance.
3. This work is predominately intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the results accomplished cannot be standardized on a time basis.
4. The individual must spend less than 20 percent of the total hours of work in a work week in non-exempt work. (Routine work is exempt if it is directly and closely related to the performance of the professional duties, and it is also "an essential part of and necessarily incident to" the professional work).
5. The present minimum fee or salary test for a professional employee is the same as the minimum hourly wage established by the Wage and Hour Law. A professional employee must be paid at least minimum wages.

Statutory Reference:

Hearing Held: August 21, 2001

Adopted: October 24, 2001

# GCRAB

## **DRUG AND ALCOHOL TESTING FOR SCHOOL EMPLOYEES WHO ARE SUBJECT TO A COMMERCIAL DRIVER'S LICENSE**

The Federal Omnibus Transportation Employee Testing Act of 1991 requires that all persons subject to commercial driver's license requirements be tested for alcohol, marijuana, cocaine, amphetamines, opiates (including heroin) and phencyclidine (PCP), pursuant to Department of Transportation (DOT) regulations.

The district shall adhere to federal law and regulations requiring a drug and alcohol testing program of every employee who is subject to a Commercial Driver's License in the performance of any safety sensitive job function or duty.

The Superintendent or designee shall implement a post-employment drug and alcohol testing program. In compliance with the requirements of the Code of Federal Regulations, Title 49, Section 382 et seq., procedures shall be consistent with the federal regulations.

Every employee who is required by law to obtain a commercial driver's license in the performance of any job function or duty shall be subject to a drug and alcohol testing program that fulfills the requirement of the Code of Federal Regulations, Title 49, Part 382.

Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, Section 40 et seq.

### PRE-EMPLOYMENT TESTS

Tests shall be conducted before the first time a driver performs any safety-sensitive function for the district.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver

requirements related to accidents; and performing any other work for the district or paid work for any other entity.

The tests shall be required of an applicant only after he/she has been offered the position.

Exceptions may be made for drivers who have had the alcohol test required by law within the previous six months and participated in the drug testing program required by law within the previous 30 days, provided that the district has been able to make all verifications required by law.

### POST-ACCIDENT TESTS

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention.

No such driver shall use alcohol for eight hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours, the district shall prepare and maintain records explaining why the test was not conducted. Tests will not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

### RANDOM TESTS

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. The number of random alcohol tests (EBT) annually must equal 25% of the average number of driver positions. The number of random drug tests annually must equal 50% of the average number of driver positions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made.

### REASONABLE SUSPICION TESTS

Tests shall be conducted when a supervisor or district official trained in accordance with law has reasonable suspicion that the driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Alcohol tests (Evidentiary Breath Tests) are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test (EBT) may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test (EBT) is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests (EBT) shall terminate after eight hours.

A supervisor or district official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### ENFORCEMENT

Any driver who refuses to submit to a post-accident, random, reasonable suspicion or follow-up tests shall not perform or continue to perform safety-sensitive functions.

Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and including dismissal in accordance with applicable state law.

A driver who violates district prohibitions related to drugs and alcohol shall receive from the district the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person or organization in which he/she has a financial interest, except under the circumstances allowed by law.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

#### RETURN-TO-DUTY TESTS

A drug or alcohol test (EBT) shall be conducted when a driver who has violated the district's drug or alcohol prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards.

#### FOLLOW-UP TESTS

A driver who violates the district's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.



**RECORDS**

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests (EBT). Records shall be made available to subsequent employer or other identified persons only as expressly requested in writing by the driver.

**NOTIFICATIONS**

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify:

1. The person designated by the district to answer driver questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. Specific information concerning driver conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests (EBT) administered in accordance with Part 382.

8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment;
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; and
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management.

Drivers shall also receive information about legal requirements, district policies and disciplinary consequences related to the use of alcohol and drugs.

Each driver shall sign a statement certifying that he/she has received a copy of the above materials.

Before any driver operates a commercial motor vehicle, the district shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements.

Before drug and alcohol tests (EBT) are performed, the district shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after compliance date specified in law.

The Medical Review Officer (as selected by the Board) shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his/her employment application.

The Medical Review Officer will notify the employee in person of the positive test results. The employee shall have 72 hours to request further confirmation testings. If the confirmation test results are positive, the Medical Review Officer will conduct an interview with the employee to determine if there is a medical reason for the positive results. The Medical Review Officer shall notify the Superintendent or his designee of the test results.

Drivers shall inform their supervisors and Medical Review Officer if, at any time, they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

In the event that any portion of this policy shall conflict with the Omnibus Transportation Safety Act, as amended, or the regulations developed pursuant thereto, the language of the act and regulations shall govern.

Statutory Ref: Code of Ala 1975, §16-24-1 et seq, §36-26-100 et seq, 49 U.S.C. §1301 et seq.

Hearing Held: January 11, 1995

Adopted: February 22, 1995

# GCRABB

## DRUG AND ALCOHOL TESTING FOR SCHOOL EMPLOYEES POLICY STATEMENT

The Mobile County Public School System (MCPSS) recognizes that our employees are our greatest asset. MCPSS is committed to provide its employees and students with a safe work place and school environment that is free of illegal alcohol and drug use, including the mind and mood altering effects or abuse of prescription drugs. For that reason, the MCPSS requires that all employees report to work without any alcohol or illegal or mind altering substances in their systems.

The MCPSS also prohibits employees using, possessing, manufacturing, distributing or making arrangements to distribute illegal drugs or alcohol while at work or on company property.

This Policy applies to the following school employees not subject to Commercial Driver's License (CDL) requirements.

- All prospective employees prior to being hired after being offered employment.
- All non-CDL employees who drive system vehicles or motorized equipment.
- All employees shall be subject to reasonable suspicion tests.

Employees who are subjected to this policy may be tested for: amphetamines, cannabinoids, cocaine, opiates, phencyclidine and alcohol and or other substances.

Such tests will be directed by the coordinator of the drug program.

### **A. Prospective Employees**

Pre-employment substance screening by a school system approved drug testing agency will be required for prospective employees after being offered employment.

Prospective employees are required to sign a consent/release form before submitting to screening. Prospective employees will be disqualified for hire if they test positive, refuse to submit to a test, or refuse to execute the required consent/release form.

The cost of the drug test is the responsibility of the prospective employees.

### **B. All Current Employees**

#### **1. Reasonable Suspicion**

All employees may be required to submit to screening whenever a supervisor observes circumstances which provide reasonable suspicion of

drug or alcohol abuse. The supervisor's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

The required observations for alcohol and/or controlled substance reasonable suspicion testing shall be made by a supervisor or designee who has been trained for at least 60 minutes on alcohol misuse and an additional 60 minutes on controlled substance misuse.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work by employees acting within the line and scope of employment. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

Refusal to submit to reasonable suspicion test requests will be considered a positive test.

The Supervisory Referral for Drug and Alcohol Testing Form must be completed within 24 hours of the testing, or before the results of the tests are released, whichever is earlier.

While one supervisor may request a reasonable suspicion test, when feasible, supervisors are encouraged to obtain a second supervisor as a witness. The Assistant Superintendent of Human Resources or his/her designee or coordinator of the drug program should be notified prior to referring the employee for reasonable suspicion testing.

The coordinator of the drug program or his/her designee will make arrangements for reasonable suspicion drug and/or alcohol testing.

If an employee is required to take a reasonable suspicion drug and/or alcohol test, transportation to and from the testing site will be arranged.

## **2. Random Testing**

The MCPSS may conduct random unannounced drug screening of all employees who drive system vehicles or motorized equipment.

Random testing for the above employees will adhere to the same guidelines as those noted in policy GCRAB which abide by the following code: 49 C.F.R. Part 40, 382 et. seq. and the Omnibus Transportation Employee Testing Act of 1991, as amended as noted in policy GCRAB.

## **3. Post Accident Testing**

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver or equipment operator:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident; or
3. Property damage of a substantial nature for motorized equipment operator.

Drivers or motorized equipment operators, make themselves readily available for testing, absent the need for immediate attention.

Post accident testing for drivers is to adhere to the same guidelines as those noted in policy GCRAB which abide by the following code: 49 C.F.R. Part 40, 382 et. seq. and the Omnibus Transportation Employee Testing Act of 1991, as amended as noted in policy GCRAB.

#### **4. Return to Duty/Follow up Testing**

All employees who are referred for rehabilitation through administrative channels, or suspended for violation of this policy, will be subject to unannounced testing for no less than 12 months and no more than 60 months following return to duty at the discretion of the coordinator of the drug program. This will be in addition to the other types of tests provided in this policy.

#### **5. Prescription Drugs**

The proper use of medication prescribed by a physician is not prohibited; however, the MCPSS prohibits the misuse or abuse of prescribed (or over the counter) medications.

The MCPSS requires all employees using drugs at the direction of a physician to notify their supervisor prior to beginning work where these drugs may affect their job performance, such as by causing drowsiness.

Employees who perform safety-sensitive functions and/or are mandated by this policy to require drug testing must provide documentation from their physician stating that the substance does not adversely affect their ability to perform their duties in a safe manner.

#### **6. Employee Education**

Mobile County Public School System will provide education to employees on substance abuse.

#### **7. Supervisory Training**

Mobile County Public School System will provide supervisory training, which will take place the first year of employment and every three years thereafter.

The information will include:

- how to recognize the signs of drug or alcohol abuse
- how to document the signs of drug or alcohol abuse
- how to refer those who abuse drugs or alcohol.

Representatives of employee organizations shall be notified of the availability of this drug and policy information. Documentation of training attendance will be maintained.

## **8. Enforcement**

Violations of this policy will subject the employee to discipline up to and including discharge:

Those violations include the following:

1. Testing positive.
2. Refusal or failure to submit to a post-accident, random or reasonable suspicion test.
3. Refusal to cooperate with the MCPSS in any test investigation.
4. Refusal or failure to complete drug education provided by the MCPSS.
5. Refusal to complete and submit the policy consent\release form.
6. Adulterating, substituting, misidentifying or otherwise acting to deceive MCPSS or the testing site regarding test samples.
7. Refusal to be referred to the Employee Assistance Program or do not or cannot successfully complete their treatment program.

An employee who violates the Mobile County Public School System prohibitions related to drugs and alcohol shall receive from the district the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems.

Statutory Reference:

Hearing Held: February 16, 2000

Adopted: April 25, 2000

## **Educational Leave for Classified Employees**

Classified employees may, upon approval of Human Resources, be allowed to take a unpaid Educational Leave of Absence for a period of up to one quarter or semester for their period of student teaching.

Classified employees must be enrolled in an educational program leading to a degree in teaching and must have been employed for one year prior to the period of student teaching.

Employees shall provide proof of enrollment and verification of being in an intern program prior to approval of this leave. Proof of class or course completion shall be provided at the end of the leave.

An employee who fails to return to work with the school system after the expiration of this Educational Leave shall be considered to have abandoned his/her job and will be recommended for termination.

Reference:

Hearing: October 27, 1998

Adopted: November 17, 1998



**Sick Leave Bank**

The Board supports and establishes a Sick Leave Bank open to all employees in accordance with current state law. Specific procedures and regulations for the operation of the Sick Leave Bank shall be developed and approved as directed by state law. The make up of the committee shall conform to the requirements of the state law governing the Sick Leave Bank.

Employee participation in the Sick Leave Bank shall be optional for each employee.

Statutory Reference: Code of Ala. 1975, §16-22-9

Hearing Held: December 8, 1993

Adopted: April 13, 1994

Revised: November 30, 1994

Revised: February 9, 2000

**SICK LEAVE BANK PROCEDURES  
MOBILE COUNTY PUBLIC SCHOOL SYSTEM**

The purpose of the Sick Leave Bank (SLB) shall be to provide a loan of sick leave days up to the maximum allowed by law for participants in the SLB after their accumulated sick leave days have been exhausted. The SLB shall also manage sick leave days donated to a member for catastrophic illnesses or injuries. All operations of the SLB shall conform to Alabama Code, Section 16-22-9 and 16-1-18.1. Should any of these procedures conflict with state or federal law, then the applicable law will take precedence over the conflicting provision of the SLB procedures.

**GENERAL LOAN GUIDELINES**

- A) Any full-time or part-time employee of the Board of School Commissioners (BOARD) who receives accumulated sick days as a benefit is eligible to join the SLB. Participation shall be on a voluntary basis. Employees must join or withdraw at the beginning of the school year no later than the last business day in September otherwise they will not be eligible to participate until the following school year. New employees may join the SLB within the first four (4) weeks following their employment date.
- B) Forms to join the SLB will be available from the Division of Human Resources and the office at each school site. To join the SLB, the employee shall complete and sign the authorization form to contribute two (2) sick leave days OR to commit two (2) sick leave days for deposit in the SLB. Pledged days shall be deposited from the first two (2) sick leave days earned by the employee. To avoid any per diem salary deduction during this time frame, the participant may apply to the Committee for a loan should the participant need sick leave.
- C) The Business Division/Payroll Office and Division of Human Resources will maintain accurate records of contributors eligible to participate in the SLB.
- D) The membership shall not be allowed to borrow or owe in excess of fifteen (15) days, unless fifty (50%) or more of the SLB members vote to extend this limit.
- E) To be eligible for a loan from the SLB, a participating member must have exhausted all accumulated sick leave in his/her personal account. Also, the applicant must have missed at least three (3) days due to the same illness (not a recurring illness such as headache or sinus infection) before applying for a loan from the SLB. Any sick leave drawn from the SLB by a participating employee shall be used in accordance with the definition of sick leave as set forth in state statutes and BOARD policies/procedures.

- F) The SLB Committee shall determine the number of days loaned to an applicant. Factors to be considered in making this decision shall include but are not limited to: (1) the applicant's need; (2) the circumstances of the illness; (3) years of service in the system and (4) the availability of days currently on deposit.
- G) The SLB Committee shall require a statement from the applicant's attending doctor certifying the nature of the illness and disability as a prerequisite for awarding a loan.
- H) The days placed in the SLB will be counted toward the maximum allowed by law (225 days). The central administration will maintain records of deposits and withdrawals as well as the overall accounting data of the SLB. Reports shall be provided semi-annually and at the request of the SLB Committee or the BOARD.
- I) In cases where the applicant is incapacitated, the employee may authorize a designee to apply to the SLB on the contributor's behalf.
- J) An individual cannot leave the school system without repaying any outstanding debt of leave days from the SLB. If the employee has no sick leave days remaining in his/her record, then his/her final pay check shall be reduced in an amount equal to the number of days of debt times the employee's daily rate of pay. Such moneys collected shall be converted to equivalent sick leave days and re-deposited in the SLB.
- K) Any member who is retiring from the school system may withdraw his/her contributed days to be applied toward the person's retirement credits.
- L) Sick leave days owed to the SLB shall be paid back at a rate of one per month beginning with the next available earned sick leave day and continuing in this manner until the entire debt has been repaid. To avoid any per diem salary deduction during this repayment time should the participant need sick leave, the participant may apply to the Committee for a loan.

### **CATASTROPHIC PROVISIONS**

- A) In accordance with state law, an employee must be a member of the SLB to receive or donate days for catastrophic illnesses or injuries.
- B) A Catastrophic Illness is defined as "any illness or injury so certified by a licensed physician which causes the employee to be absent from work for an extended period of time." The "extended period of time" will be determined on a case-by-case basis by the SLB Committee in the system where the beneficiary employee works.

- C) In accordance with state law, before sick leave days for a catastrophic illness may be donated, the employee who is to receive such days shall have no sick leave days or personal leave remaining in his/her personal account. Also, a participating member must borrow and utilize days from the SLB up to the maximum number of days allowed from the SLB (currently 15 days). Any donated days may be used to repay the loan days borrowed. No employee may donate more than thirty (30) sick leave days to a single employee. However, no limit is established on the number of days a beneficiary employee may receive from donors. Donated days will be at the donor's discretion.
- D) The applicant must have missed at least three (3) days due to the same illness (not a recurring illness such as headache or sinus infection) before applying for a catastrophic donation from the SLB. Sick leave days may be donated to a beneficiary employee to be used for the same reasons covered in the Sick Leave Policy of the BOARD.
- E) The SLB Committee is required to forward sick leave days donated by participants to another SLB for use by a particular employee who is suffering a catastrophic illness.
- F) A beneficiary employee may earn regular sick leave while on catastrophic leave donated by other employees; however, the beneficiary employee must use the day earned each month as it is earned.
- G) An employee who donates sick leave days for catastrophic illness purposes may still accumulate the maximum number of days allowed by law. (Example: Employee has 225 sick leave days, donates 20 days for catastrophic illness, leaving 205 days; the employee may build back or accumulate to the 225 days in the same manner as sick leave is normally accumulated).
- H) Donated days not used by the beneficiary employee shall revert to employees who donated the days on a prorated basis. Odd days shall be distributed by random selection. After the beneficiary employee returns to work, unused days are returned to the donors after thirty (30) days.
- I) A signed statement is required from the beneficiary employee or the chairperson of the SLB Committee stating that the beneficiary agrees to use the donated days.
- J) To donate or receive catastrophic sick leave days, the donating employee and the beneficiary employee must complete the transfer authorization form required by the committee.

**ESTABLISHMENT OF THE COMMITTEE**

- A) The SLB Committee shall be composed of five (5) members. Four members are elected by secret ballot of SLB participants. The superintendent, with the approval of the BOARD,

appoints one member to the committee. The four elected members of the committee shall be comprised of two certified employees and two classified employees.

- B) Members of SLB Committee are elected for a term of one (1) year. Persons may not serve for a term longer than five (5) years.
- C) The SLB Committee is charged with the responsibilities as dictated by state law, federal law and BOARD policy for the administration and operation of the SLB. Decisions and actions of the SLB may only occur by a majority vote. The attendance of at least three persons is required to constitute a quorum.
- D) The duties of the Sick Leave Bank Committee shall consist of:
  - 1) The SLB Committee will elect by majority vote one of its own as chairperson. Elections for this position shall occur on the first meeting of the new committee. The chairperson may succeed him/her self in this position.
  - 2) Meetings of the Committee shall be set by the Committee on a schedule to convene at least once a month. Additional meetings may be called by the chairperson or by the request of at least two members of the Committee. A representative from Employee Relations shall attend as an ex officio participant.
  - 3) The Committee shall investigate any alleged abuse of the SLB. All Due Process rights shall be afforded the employee. A finding of abuse shall require the violator to repay all sick leave credits to the SLB. The Superintendent or BOARD may impose additional disciplinary actions.
  - 4) The committee shall develop guidelines, procedures and forms for the operation of the SLB. The guidelines shall be approved by the membership by secret ballot. Any changes to these guidelines and procedures shall be either recommended by the committee or brought to the committee by a petition of 5% of the membership. These changes will then be presented to the membership for approval by secret ballot. No recommended changes shall be submitted for a vote that conflict with state or federal law.

Statutory Reference: Code of Ala. 1975, §16-22-9

Hearing Held: December 8, 1993

Adopted: April 13, 1994

Revised: November 30, 1994

Revised: February 9, 2000

## **REASSIGNMENTS and REDUCTIONS IN FORCE Non-Probationary Classified Employees**

Should it be necessary or advisable to reduce the number of classified employees, reassignment will be considered prior to lay-offs.

### Reassignments

Within the job classification and location identified for reduction, the classified personnel with the least amount of continuing, uninterrupted service in the school system shall be reassigned first, unless the administration determines he has needed skills or qualifications not possessed by a more senior employee. Voluntary transfer requests will be considered prior to mandated reassignments.

### Reduction in Force

If the Board, in exercising its right to set standards of service in the school system, takes action to reduce staff within particular job classifications, departments and locations the following provisions shall apply:

Within the job classification and location identified for reduction the Board shall terminate the employment contract of the employee: with the least amount of continuing, uninterrupted service in the school system unless the administration determines he has needed skills or qualifications not possessed by a more senior employee.

Normal attrition, voluntary retirements, and voluntary leaves of absence will be considered prior to termination of employment.

For purposes of this policy, continuous, uninterrupted service shall mean length of continuing employment with the school system, including approved leaves. Any seniority accrued prior to a break in employment for any reason except approved leave shall not be counted.

Statutory Reference: Code of Ala. 1975, § 36-26-100 et seq.

Hearing Held: June 11, 1992

Adopted: June 29, 1992

Revised: February 9, 1994