

## V. Personnel

### 5.1 *Employee Qualifications and Duties*

- 5.1.1 General Requirements – Employees have a duty to perform their jobs responsibly and in a conscientious manner. In addition to any specific job requirements set forth in job descriptions or elsewhere, employees are expected to meet the following general performance and service standards:
- a. Employees are required to be punctual and to attend work regularly.
  - b. Employees are required to perform the duties and responsibilities that are assigned to them by the Board, the Superintendent, or their supervisor(s). Such duties and assignments may extend beyond or outside the instructional day and may include off-campus functions, events, and activities.
  - c. Employees are expected to treat all students, co-employees, visitors, and guests of the Board with respect. Employees are expected to demonstrate moderation, restraint, and civility in their dealings with others and, in general, to serve as appropriate role models for students in their behavior and demeanor.
  - d. Employees are required to obey all laws, ordinances, Board policies, supervisory directives, and other pertinent authority while carrying out duties for the Board.
  - e. Employees whose duties include the instruction or supervision of students must provide effective supervision, discipline, organization, and instruction of the students.
  - f. Employees must complete and submit required reports accurately and in a timely fashion.
  - g. Employees must respect, protect, and exercise due care in the handling, use, and operation of Board property and equipment.
  - h. Employees shall at all times maintain appropriate, “professional” distance from students and shall not engage in conduct (including communication of any kind) that constitutes, solicits, or suggests sexual, romantic, or inappropriately familiar interaction with students.
  - i. *Employee Attire* – Employees are required to report to work or to school functions in attire that is appropriate to their position and the nature of the function and that is in keeping with generally accepted standards of decorum and professionalism. Service and other employees who are issued uniforms shall wear uniforms when required.

- j. Employees shall promptly disclose to the Board any fact that would disqualify them from employment or that renders them unable to perform their essential job functions.

#### 5.1.2 Special Requirements

- a. *Work Schedules (Teachers)* – Supervisory and instructional duties of teachers commence a minimum of twenty (20) minutes prior to the start of the school day and conclude twenty (20) minutes after the departure of students. Assignments and duties may extend beyond the instructional day and may include off-campus functions, events, and activities; conferences and meetings with parents; supervision of student arrival and departure; and preparation for the following instructional day. Teachers will be provided a minimum of thirty (30) minutes of planning time each instructional day.
- b. *Work Schedules (Support Personnel)* – The Superintendent is authorized to establish work schedules, including minimum work times, for support personnel.
- c. *Professional Certification* – In addition to requirements established by the State Board of Education and the pertinent job description, professional employees must hold a degree from an accredited college or university and hold a current, valid, and properly endorsed Alabama Teacher’s Certificate, which will be maintained in the Superintendent’s office. If a teacher earns a higher certificate that merits increased compensation under the approved salary schedule, any salary increase will become effective upon receipt of documentation of the new certification from the State Department of Education.
- d. *Substitute Teachers* – Substitute teachers must, at a minimum, possess a high school diploma and valid and current Alabama Substitute Teacher’s Certificate or Alabama Teacher’s Certificate.
- e. *Long-Term Substitutes* – Substitute teachers who serve twenty (20) days of continuous service as a substitute for the same teacher will be described as a long-term substitute. A daily rate of pay will be approved by the Board and reflected in the salary schedule.
- f. *Teacher Aides* – Teacher aides must, at a minimum, possess (i) a high school diploma or its equivalent; (ii) a two year diploma from a college or university (or the equivalent hours) or pass the Work Keys Assessment; and (iii) a certificate from the State Department of Education verifying a “clear” status resulting from a background check.
- g. *Bus Drivers* – In addition to the requirements established by the State Board of Education, a bus driver must: (i) hold a valid commercial driver’s license, (ii) complete a minimum of twelve (12) hours of

approved instruction in school bus driving, and (iii) satisfactorily complete a written examination driver's performance test approved or administered by the State Department of Education or State Superintendent. A bus driver must also meet any requirements of the entity providing the Board's automobile liability coverage.

[Reference: ALA. CODE §16-27-4 (1975)]

## 5.2 *Hiring*

- 5.2.1 Application Procedures – Job applicants for all positions must file an online application on the Teach in Alabama website (<http://www.alsde.edu/TeachinAlabama>). Applications must be completed in full. All information provided in the application must be truthful. Any misrepresentation of a material fact on an employment application may disqualify the applicant from consideration for the position and may subject an employee to adverse employment action, including termination.
- 5.2.2 Qualifications – Applicants must meet the minimum qualifications of the position as provided in Board policy, the job description for the position, the posted advertisement for the position, or as may otherwise be established by the Board, applicable law, or regulation. Applicants must hold such degrees, licenses, certificates, and like credentials as may be necessary, appropriate, or customary for the position in question.
- 5.2.3 Hiring Authority – The Board is responsible for making all final hiring decisions, and no hiring decision is official, final, or effective unless and until it is approved by a vote of the Board. No principal, administrator, supervisor, or other employee has authority to hire an applicant without Board approval or to commit the Board to specific action regarding employment.
- 5.2.4 At-Will Employment – Except as may otherwise be provided or required by law, by contract, or by the specific terms of their appointment, all personnel are deemed “at-will” employees and may be terminated, demoted, reassigned, suspended, or disciplined with or without pay, or with reduced pay, and with or without cause.
- 5.2.5 Nepotism
- a. *Supervisory Relationships* – No employee may be assigned to a work location or to a position in which the employee would report to, be evaluated by, or would work under the immediate supervision of another family member as defined in the Alabama Ethics Law, ALA. CODE §36-25-1(12) (1975). Any inadvertent employment or assignment of a family member that violates this policy must be promptly disclosed to the Superintendent upon its discovery, and all involved employees must cooperate in accepting reassignments or taking other measures necessary to correct the violation.

- b. *Employment of Family Members* – Board members, administrators, or supervisors may not use their positions to directly or indirectly seek or secure the employment of any family member as defined in the Alabama Ethics Law. ALA. CODE §36-25-1(12) (1975).

### **5.3 *Probationary Employment***

Employees are required to serve the maximum period of any probationary service provided or permitted by law before tenure, non-probationary status, or any other statutorily sanctioned form of employment security will be recognized by the Board.

### **5.4 *Non-Teaching Supplemental Duties***

Compensation in the form of supplements may be paid for noninstructional supplemental duties in accordance with rates specified or established for such duties in the Board's official salary schedule. Such duties include coaching and sponsorship of athletic support organizations (e.g., cheerleaders, flag teams, drill teams) as well as scholastic support activities (e.g., yearbook, service clubs, academic honoraries). Such supplemental duties are considered additional nonteaching assignments to be made and approved on an annual basis or otherwise as the needs of the school require. Such supplemental duties are not considered to be a part of a teaching contract or appointment, and no tenure, continuing service status, non-probationary status, or contractual right to continued employment or compensation for such supplemental assignment will be recognized or implied in the absence of a separate written contract of employment providing for such rights.

### **5.5 *Professional Development***

The Superintendent will develop and implement an ongoing program of professional training and development that is designed to enhance the competencies of professional and support staff. Employee attendance and participation in such training institutes, workshops, seminars, and programs may be made mandatory by the Superintendent. The unexcused failure of an employee to attend or participate in such professional development activities may constitute grounds for termination of employment or other disciplinary action.

### **5.6 *Employee Conflicts of Interest***

Employees may not use their offices or positions for personal gain and must adhere to applicable provisions of the Alabama Ethics Law. Employees may only engage in outside employment under the following terms and conditions:

- a. Employees will not engage in outside business activities or render any service for another employer during such time as duties and responsibilities have been assigned by the Board;
- b. Employees will not accept outside employment that would interfere with or impair the ability of the employee to perform duties as a Board employee effectively;

- c. Employees may not accept work that could compromise the employee's independent judgment in the exercise of duties for the Board;
- d. Employees may not use or disclose confidential information acquired through Board employment for their personal gain or for the benefit of a third party.

## **5.7 *Employee Gifts***

Employees may accept gifts from students or other members of the public if the gifts are in accordance with the Alabama Ethics law or other pertinent state laws.

Employees may accept gifts or gift cards purchased from pooled donations within a class, team, or other school organization for the employee's personal use provided that the amount that each person gives does not exceed twenty-five dollars (\$25.00) and that the contribution to the pool does not result in the donor's exceeding the aggregate amount of fifty dollars (\$50.00).

[Reference: ALA. CODE §36-25-1, et seq.; Alabama Ethics Opinion 2011-12]

## **5.8 *Employee Evaluations***

- 5.8.1 Certified Personnel – Certified employees (other than contract principals) will be evaluated in accordance with an evaluation program approved for use by the Alabama State Board of Education. Contract principals will be evaluated in accordance with rules, regulations, and requirements promulgated by the State Department of Education or as may otherwise be permitted by law.
- 5.8.2 Non-Certified Personnel – Non-certified personnel will be evaluated in accordance with criteria and procedures to be developed by the Superintendent.
- 5.8.3 Use of Evaluations in Connection With Employment Decisions – Unless prohibited by law (including applicable regulations) or the terms of the evaluation instrument, employment evaluations may be considered in making employment decisions, together with such other information and considerations as may reasonably bear upon the wisdom, necessity, or advisability of the employment decision. However, employment evaluations are intended to enhance the overall quality of the school system's instructional program and are not intended to confer, constitute, or give rise to any individual right, entitlement, or enforceable expectation of continued employment or advancement. Accordingly, except as may be specifically provided otherwise in state law applicable to "contract principals," employees do not acquire any employment right or right of legal action based on any actual or alleged failure on the part of the Board or the evaluator to follow specific evaluation policies, regulations, or procedures.
- 5.8.4 Special Evaluation Situations – The Superintendent, the Chief School Financial Officer, and other employees who serve in positions of special trust or sensitivity

may be evaluated by such means as may be permitted by law or applicable regulation, or as agreed to in an employment contract.

- 5.8.5 Exempt Personnel – Except when required by law or contract, temporary, substitute, and occasional employees, or employees appointed to supplemental positions (e.g., coaches, extracurricular activity sponsors) will not be formally evaluated in those roles.

## **5.9 Personnel Records**

- 5.9.1 Content of Personnel Files – A central personnel file will be maintained for all regular employees. The personnel file may contain information regarding the employee's current assignment, payroll status, and work history, including but not limited to job qualifications, certification, licenses, employment contract(s), evaluation data, disciplinary information, and such other documents, written materials, and data as may be reasonably deemed necessary and appropriate by the Board for sound and efficient personnel administration. Anonymous material and other matters that are prohibited by law, regulation, or Board policy from being maintained in personnel files may not be included therein. Employees may reasonably supplement or respond in writing to any material contained in the personnel file with which they disagree and such responses will also be included in the personnel file.
- 5.9.2 Alternate Data Storage – Personnel file data may be stored or maintained electronically or digitally.
- 5.9.3 Confidentiality – In general, the contents of an employee's personnel file will be deemed confidential except for documents, information, and materials that are matters of public information or public record under applicable state or federal law.
- 5.9.4 Access to Personnel Files – Board members, the Superintendent, Board administrators (including principals), employees of the Human Resources Department, and other persons whose duties reasonably require access to personnel files are authorized to view, copy, and use the contents of personnel files for purposes that are required by or in keeping with their official duties on behalf of the Board.

## **5.10 Employee Leave**

- 5.10.1 Work Attendance an Essential Job Function – Punctual, regular attendance is an essential job function of every job and position, and employees are expected to report to work when scheduled to work and to remain at work each working day.
- 5.10.2 Absences – Except as otherwise authorized under Board policy, employees may be absent from work only in the following circumstances:

- a. Illness, injury or other qualifying reason for sick leave or on-the-job injury leave under state law or the Family Medical Leave Act;
- b. Personal leave;
- c. Vacation leave;
- d. Professional leave;
- e. Military leave;
- f. Court leave;
- g. Other unpaid leave that is specifically approved by the Board upon a showing of substantial hardship or extraordinary circumstances.

Employees who know in advance that they will be absent from work must notify the Board of the expected absence in accordance with procedures specified by the Superintendent or the Board. In the event of an emergency or incapacity that makes advance notice impractical, employees must notify the Board of their absence as early as possible. Except as otherwise provided or permitted, an employee who is absent from work without approved leave will be considered absent without leave in violation of Board policy and subject to appropriate disciplinary measures. Employees who are approved for paid leave or absences will be paid at the regular daily rate of pay; however, a day of paid leave or absence will not be counted as a day worked for the purposes of computing overtime under the Fair Labor Standards Act. Pay will be reduced on a *pro rata* basis for leaves or absences not covered by sick, vacation, personal, or other appropriate form of paid leave. The continuation of benefits during an approved absence is subject to the provisions of the particular benefit policy or plan.

### 5.10.3 Paid Sick Leave

- a. *Persons Eligible for Paid Sick Leave* – All regular full time employees are eligible for paid sick leave.
- b. *Earning and Accumulation of Paid Sick Leave* – All eligible employees earn sick leave days at the rate provided for in state law. Eligible employees may accumulate sick leave as provided by state law.
- c. *Use of Sick Leave* – Eligible employees may only use paid sick leave for absences caused by the following:
  - 1. Personal illness;
  - 2. Incapacitating personal injury;

3. Attendance upon an ill member of the employee's immediate family, defined as a spouse, parent, child, sibling or any person with a close personal tie;
  4. Death of a family member, including a spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, nephew or niece, grandparent, grandchild, aunt or uncle;
  5. Death or care of an individual with whom unusually strong personal ties exist because of a relationship other than those listed above.
- d. *Certification* – Employees must certify that sick leave was used for one of the reasons provided in state law and specify the reason. If the employee's principal or department head has probable cause to believe that an employee has abused or misused sick leave, a physician's statement verifying the existence and nature of the illness or medical condition may be required by the Board. Abuse of sick leave may subject the employee to disciplinary action.

[Reference: ALA. CODE §16-1-18.1 (1975)]

5.10.4 On-The-Job Injury Leave – On-the-job injury includes an accident or injury to an employee that occurs in the course of performing job duties for the Board or when the employee is directed or requested by the employer to be on the property of employer and which prevents the employee from working or returning to the job. Employees who are accidentally injured on the job may be approved for paid “on-the-job injury” leave without using sick days, provided that:

- a. The injured employee submits written medical certification from the attending licensed physician stating that the employee was injured and cannot return to work due to a specified injury, if there is a reasonable expectation that the employee will return to work and, if so, the expected date of that return. The Board may require a second opinion from a Board specified physician, at its expense.
- b. The employee submits a signed written account of the accident attested by a principal or department head within twenty-four (24) hours after the injury occurred. If the injured employee is not able to notify the Board, another person reasonably knowledgeable about the employee's condition and circumstances leading to the injury may provide the required notification.

Upon a determination that the employee has been injured on the job and cannot return to work, the Board may maintain the employee's salary and benefits for the period of incapacity caused by the injury, not to exceed ninety (90) days. An employee who is injured on the job may file a request for unreimbursed medical

expenses and costs with the State Board of Adjustment. The Board will provide such reasonable assistance to the employee in filing the Board of Adjustment claim as is required by law, but assumes and will have no responsibility or liability for processing the claim or directly reimbursing the employee any unreimbursed medical expenses and costs. On-the-job injury leave will be administered in accordance with and subject to the requirements and limitations imposed by state law regarding such leave.

[Reference: ALA. CODE §16-1-18.1 (1975)]

5.10.5 Personal Leave – Personal leave must be requested in writing in accordance with such procedures as may be established by the Superintendent.

- a. *Paid Personal Leave* – All regular full time employees are eligible for two non-cumulative personal leave days each scholastic year without loss of pay.

The two days may be taken at anytime during the school year; however, an employee must work for a full year to earn the two (2) paid personal leave days. In the event an employee uses the two (2) days the first semester and does not work the second semester, a day’s pay will be deducted. In order to protect the educational interest of students, it is suggested that paid personal leave not be taken during the first or last two (2) weeks of school or immediately before or after a holiday.

Teachers may be compensated for unused paid personal leave at the end of the school year at the average daily rate of pay used for substitute teachers if requested in advance. All other unused paid personal leave converts to sick leave.

- b. *Additional Personal Leave* – All regular full time employees are eligible for additional non-cumulative personal leave days each scholastic year for which the employee will be charged an amount equal to the average daily rate of pay for a substitute teacher as follows:

| <u>Years of Consecutive Service for the Board</u> | <u># of Additional Days</u> |
|---------------------------------------------------|-----------------------------|
| 5-9                                               | 1                           |
| 10-14                                             | 2                           |
| 15+                                               | 3                           |

Additional personal leave may not be taken during the first or last two (2) weeks of school or immediately before or after a holiday without prior approval of the immediate supervisor. Employees with unused additional personal leave may choose to convert the unused days to sick leave days at the end of the school year.

[Reference: ALA. CODE §16-8-26 (1975)]

#### 5.10.6 Vacation

- a. *Vacation benefits* – Eleven-month and twelve-month full-time employees are eligible for ten (10) days of paid vacation each scholastic year. Accrual of vacation begins upon employment.
- b. *Accrual and accumulation of vacation time* – Eleven-month full-time employees earn .91 vacation days per month, September through July. Twelve-month full-time employees earn .83 vacation days per month for twelve months. Up to twenty (20) vacation days may be accumulated. Accumulated vacation in excess of 20 days will be forfeited if not used by December 31<sup>st</sup>. Vacation days may not be bought, sold, or donated. Accumulated vacation time will be forfeited if not used prior to the effective date of resignation or retirement. No payment will be made for any vacation leave that is unused as of the employee’s resignation, termination or death.
- c. *Scheduling* – vacations must be scheduled with the knowledge and approval of the employee’s supervisor.

[Policy revised 6/8/2017]

5.10.6 Professional Leave – The Superintendent or his designee is authorized to grant professional leave with pay to Board employees to engage in educational activities which, in the judgment of the Superintendent, serve the needs and interests of the school system. The number of days approved for such leave will be at the discretion of the Superintendent.

5.10.7 Military Leave – Military leave is available to all eligible employees in accordance with state and federal law.

5.10.8 Court Leave – Permanent and full-time employees are entitled to regular compensation while performing jury duty (ALA. CODE §12-16-8) or when the employee is summoned for school-related purposes under subpoena or other legal requirement to testify at trial in a court of law or in an administrative proceedings constituted under the statutory authority of the agency conducting the proceedings. Paid leave is not authorized for employees to meet with attorneys, to attend depositions, or to otherwise prepare for legal proceedings unless the presence of the employee is requested or required by the Board.

5.10.9 Unpaid Study Leave – Upon written application by the employee, the Board may provide an unpaid leave of absence for up to one year to pursue study or professional growth opportunities. Such leave is available to nonprobationary certified personnel only. Except as provided to the contrary by applicable law, the employee shall not be entitled to return to the same position held before the

commencement of leave, and may be assigned to a different work location or position upon return from leave at the discretion of the Board.

## **5.11 *Family and Medical Leave Act (FMLA)***

5.11.1 Eligible Employees – The FMLA is applicable to all persons who have been employed for at least twelve (12) months and have worked a minimum of 1,250 hours during that twelve (12) month period.

5.11.2 Medical Leave Provided by the Act – Under the FMLA, eligible employees are entitled to twelve (12) weeks of unpaid leave during any twelve (12) month period for one or more of the following reasons:

- a. The birth and first year care of a newborn child;
- b. The placement of a foster child or adoption;
- c. The care of an immediate family member, defined as a spouse, child or parent, with a serious health condition;
- d. The taking of medical leave because of the employee’s own serious health condition.

For the birth, adoption, or foster placement of a child, the entitlement to leave for child care expires at the end of the twelve (12) month period beginning on the date of birth, adoption, or placement. Leave associated with the illness of a child will only be provided if the child is under eighteen (18) years of age or is incapable of self care due to physical or mental disability.

5.11.3 Serious Health Conditions – The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves the following:

- a. Any period of incapacity in connection with or following inpatient care in a hospital, hospice, or residential medical care facility.
- b. Continuing treatment by a health-care provider, to include any period of incapacity due to:
  1. A health condition, including treatment and recovery, lasting more than three (3) consecutive days, and any subsequent treatment or period of incapacity relating to the same condition;
  2. Pregnancy or prenatal care;
  3. A chronic, serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve episodes of incapacity (e.g., asthma and diabetes);

4. A permanent or long-term condition for which treatment may not be effective (e.g. Alzheimer's, severe stroke) and for which supervision of a health-care provider is required;
5. Multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three (3) days if not treated.

#### 5.11.4 Military Family Leave Provided by the Act

- a. *Qualifying Exigency Leave* – Under the FMLA, an eligible employee with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may utilize the twelve (12) week medical leave entitlement to address qualifying exigencies resulting from that service.
- b. *Military Caregiver Leave* – An eligible employee, who is the spouse, child, parent, or next of kin of a covered service member, is entitled to take up to twenty-six (26) weeks (including any medical leave provided by the Act) of unpaid leave during any twelve (12) month period (beginning the first day of the leave) to care for an individual covered service member with a serious injury or illness incurred in the line of duty while on active duty that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. A covered service member is a member of the Armed Forces, including the National Guard and Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

5.11.5 Spouse Employed by the Board – Spouses who are both employed by the Board are limited to a combined total of twelve (12) weeks of family leave for the birth and care of a newborn child, for the placement of a child for adoption or foster care, for the care of a parent who has a serious health condition, and for qualifying exigency leave. Spouses who are both employed by the Board are limited to a combined total of twenty-six (26) weeks for military caregiver leave.

5.11.6 Intermittent Leave – An employee may take leave intermittently or on a reduced leave schedule only when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment. Intermittent leave should be scheduled to the extent practicable so as not to unduly disrupt the operations of the Board. Intermittent leave may be further limited for teachers in accordance with federal law.

5.11.7 Use of Vacation and Sick Leave – If an employee has available sick leave, vacation leave or other applicable paid leave, the employee must utilize those forms of leave before taking unpaid leave under the FMLA. In that instance, the

paid leave and the FMLA leave will run concurrently and the employee's twelve (12) weeks of unpaid FMLA leave will be reduced by the paid leave utilized, as long as the need for such leave results from one or more of the qualifying reasons under the FMLA.

5.11.8 Notice – Employees seeking leave under the FMLA must provide thirty (30) days advance notice of the need to take leave when the need is foreseeable. When the need for leave is unforeseeable, employees should notify their supervisors as soon as possible. Employees must also provide notice of the need for qualifying exigency leave as soon as practicable.

5.11.9 Certification for Medical or Military Caregiver Leave – Every request for FMLA leave based upon the serious health condition of the employee or employee's spouse, children, or parents, or leave as a military caregiver must be supported by medical certification issued by the appropriate health care provider on forms provided by the Board.

For leave based on a serious health condition of the employee or employee's spouse, child, or parent, the Board reserves the right to obtain a second opinion from an independent health-care provider designated by the Board. If the opinion received by the employee and the second opinion conflict, the Board and the employee must agree on a third provider to issue a binding opinion. Both the second and third opinions (if necessary) will be at the expense of the Board.

5.11.10 Certification for Qualifying Exigency Leave – Certification will be required by the Board for requests for qualifying exigency leave. Certification must be timely submitted on forms available from the Board. For the first such request, certification may include a copy of the military service member's duty orders or other military documentation.

5.11.11 Return to Work – The Board may require an employee who has taken leave due to the employee's own serious medical condition to provide the Board with a healthcare provider's certification in order to return to work. Any employee who takes leave under these provisions will be entitled to be restored to the original position held when the leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

5.11.12 Maintenance of Benefits – Benefits accrued by the employee before leave is taken are not lost when approved FMLA leave is taken. Employees who are on approved FMLA leave will remain eligible to participate in benefit programs in which the employee was enrolled at the time of the leave, provided that the employee will continue to be responsible for payment of employee's portion of any cost, premium, or like payment that is required to maintain eligibility for the coverage or benefit. An employee that does not return to work after FMLA leave, will be required to reimburse the Board for the cost of benefits coverage extended to the employee during the leave, unless the reason for the employee's failure to return to work is (i) a continuing serious health condition suffered by either the

employee or a family member, or (ii) other circumstances beyond the employee's control.

- 5.11.13 Instructional Employees – Medical leave taken by eligible instructional employees is subject to further limitations and provisions established by the FMLA. The Superintendent or his designee is authorized to develop additional information and guidelines concerning Instructional Employees.

## **5.12 Sick Leave Bank**

A “Sick Leave Bank” plan for full-time certified and classified employees is hereby established in accordance with applicable provisions of state law. A Sick Leave Bank Committee will oversee the operations of the Sick Leave Bank in accordance with state law and the following provisions:

- a. *Sick Leave Bank Committee* – The Sick Leave Bank Committee will be composed of one member representing the Board and four members representing participating members of the sick leave bank.

*Board Representative* – The Member representing the Board will be appointed by the Superintendent, subject to Board approval.

*Participant Representatives* – The participant representatives will be selected by the sick leave bank members to include two certified and two noncertified employees who are members of the sick leave bank.

- b. *Procedures for Selecting Employee Representatives on Committee*
1. *Nomination* – Before each election of participant representatives, the Board will hold an open nomination period. Any employee who is eligible to participate in the sick leave bank may be nominated for one of the participant representative positions. Nominations must be written and must be received in the Human Resources Department by the deadline specified in a notice to be provided by the Superintendent or his designee through Board publications and other means of communication that are generally used for such purposes.
  2. *Voting* – Each eligible nominee will be placed on the Sick Leave Bank Committee ballot. Voting will take place by ballot at Board facilities at the time specified or as may otherwise be provided by the Board. Supervision of voting will be by local facility personnel. Voting members will be required to verify their ballot by signing the Board's voter record. Votes will be forwarded to the Human Resources Department for final tabulation. The four candidates receiving the highest number of votes will serve as participant representatives on the Sick Leave Bank Committee.

- c. *Term of Committee Members* – Sick Leave Bank Committee members will serve for a term of one year and may not serve for more than five years.
- d. *Chairman of the Sick Leave Bank Committee* – The Sick Leave Bank Committee will elect a chairman from among its representatives at its first annual meeting.
- e. *Meetings* – The Sick Leave Bank Committee will meet at least annually following each enrollment period. The Committee will also meet as necessary in its discretion.
- f. *Sick Leave Bank Committee Duties* – The Sick Leave Bank Committee will develop proposed rules and regulations for the Sick Leave Bank, to be submitted to participating members for approval. At a minimum, said rules and regulations must include those terms and provisions that are required by statute. The Committee has the authority to review both participation in the Bank and requests for leave to ensure compliance with state law, Board policy, and such rules and regulations as may be adopted by the Sick Leave Bank Committee.
- g. *Employee Participation* – Participation in the Sick Leave Bank is voluntary and open to all full-time employees of the Board. However, employee participation is subject to such rules and regulations regarding enrollment procedures, deposits, withdrawals, and participation as may be developed by the Committee.

[Reference: ALA. CODE §16-22-9 (1975)]

### **5.13 *Equal Employment Opportunity***

- 5.13.1 Unlawful Discrimination Prohibited – The Board is an equal opportunity employer. Personnel actions and decisions will be made without regard to factors or considerations prohibited by federal or state law (as such laws may from time to time be amended), including but not limited to race, gender, age, disability, national origin, citizenship, and religious preference.
- 5.13.2 Implementing Regulations Authorized – The Superintendent is authorized and directed to implement such rules, regulations, procedures, and directives as necessary and appropriate to implement and enforce this policy and any law prohibiting discrimination in the workplace, including the designation of one or more complaint/grievance investigators, officials, or coordinators, the development of complaint or grievance procedures for responding to allegations of unlawful discrimination, the provision of training or dissemination of instructional materials and advisories to appropriate staff members, and the administration of corrective or remedial action in response to violations of the law and of this policy.

## 5.14 *Sexual Harassment*

The Board strictly prohibits unlawful discrimination in all of its programs, offices, departments and facilities. Sexual harassment, as defined by law, is a form of unlawful discrimination and will not be tolerated from employees or other persons associated with the Board.

5.14.1 Definition of Sexual Harassment – Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when:

- a. Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of employment or other employment benefits provided by the Board;
- b. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual's employment, or other benefits provided by the Board; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

5.14.2 Examples of Prohibited Conduct – The following are examples of conduct that may constitute sexual harassment, depending on individual circumstances:

- a. Verbal harassment or abuse of a sexual nature, including graphic or derogatory comments, the display of sexually suggestive objects or pictures, and sexual propositions;
- b. Repeated unwelcome solicitation of sexual activity or sexual contact;
- c. Unwelcome, inappropriate sexual touching;
- d. Demands for sexual favors accompanied by implied or overt promises of preferential treatment or threats with regard to an individual's employment status.

5.14.3 Employee Complaint Resolution Procedure

- a. *Reporting* – Any employee with reason to believe that he or she has been or is being subjected to any form of sexual harassment should report the matter immediately. Under no circumstances will an employee be required to present the complaint to the person who is the subject of the complaint.
- b. *Informal Complaint* – An employee may choose to submit a sexual harassment complaint to a supervisor for investigation and resolution at

the departmental or local level without resorting to formal complaint procedures. If the supervisor is the subject of the complaint, the complaint may be submitted to the Superintendent for resolution. If the complaint is not resolved informally to the satisfaction of the complaining employee, the employee must contact the Superintendent to initiate formal complaint procedures.

#### 5.14.4 Formal Complaint Procedure

- a. *Persons Responsible For Receiving and Investigating Formal Complaints* – The Superintendent is responsible for receiving and investigating formal complaints regarding sexual harassment. The Assistant Superintendent is an additional official to which formal complaints can be reported. If the Superintendent is unavailable or is the subject of the complaint, the alternate should be contacted regarding the formal complaint.
- b. *Complaint form, contents* – Formal complaints should be made in writing, signed by the complainant, and fully describe the circumstances surrounding the alleged harassment. Harassment complaints that cannot be made in writing should be memorialized by the Superintendent or designated alternate official.
- c. *Investigation* – The Superintendent will promptly investigate the complaint, review the results of any investigation with legal counsel or other appropriate officials, make any findings that are supported by the investigation, and recommend appropriate action based on these findings. The complainant will be informed of any action that is taken as a result of the investigation.
- d. *Review by the Superintendent and the Board* – A complaining party who is not satisfied with the investigation or resolution of the complaint may request that the Superintendent take additional or different action or present the complaint to the Board for its review and action. In such case, the Board will render a final decision as soon as practicable.

5.14.5 Confidentiality – To the extent possible, reports of sexual harassment will be kept confidential; however, complete confidentiality cannot be guaranteed.

5.14.6 Retaliation Prohibited – No retaliation or adverse action may be imposed as a result of a good faith complaint or report of sexual harassment. False accusations that are made in bad faith or for improper reasons may result in disciplinary action.

5.14.7 Penalties for Violation – Any employee who violates the terms of this policy or who impedes or unreasonably refuses to cooperate with a Board investigation regarding allegations of sexual harassment will be subject to appropriate disciplinary action, up to and including termination.

## 5.15 *Reduction-In-Force*

### 5.15.1 Certified Employees –

This policy applies to layoffs that are implemented by a reduction in force as contemplated by ALA. CODE §16-1-33 (1975). A layoff may take place when the Board determines that a financial exigency, program change, decrease in student enrollment, change in curriculum, consolidation or reorganization of schools or school districts, serious natural disaster, or other legitimate business reason requires that the contract of one or more teachers, principals, or other professional employees be terminated. Such a determination constitutes the necessary cause for termination, demotion or reassignment. To the extent possible, the Superintendent will use attrition and non-renewal to achieve staff reductions.

Based on the philosophy of maintaining the best educational program possible, prior to the implementation of a layoff, the Board will determine, upon recommendation of the Superintendent of Education, the organizational levels/areas and/or positions to be reduced. The Board should determine whether organizational levels/areas are to be considered distinctive categories. The personnel/positions within these levels/areas may be considered separately. For the purpose of the layoff, the following terms are defined:

*Grade Level* – kindergarten, elementary grades 1-6, secondary grades 7-12, administration and supervision, special education, counseling and guidance, vocational programs, and federal programs.

*Discipline Area* – certificate endorsement area(s) and current major teaching or administration/supervisory assignment(s) within the District.

*Layoff* – A “layoff” within the meaning of this policy is a separation from employment with the Board of Education. However, employees who are laid off under authority of this policy are eligible for recall to employment as conditionally provided in this policy. Moreover, layoffs are not terminations within the meaning of the Alabama Teacher Tenure laws and are not subject to the procedural or substantive requirements thereof. Nor does the term “layoff” include or apply to the expiration of temporary, occasional, or “at-will” appointments or to decisions not to renew or extend employment beyond the expiration of annual or other specified terms of appointment.

*Financial Exigency* – “Financial exigency” means any decline in the Board’s financial resources brought about by decline in enrollment, cuts in funding, decline in tax revenues, or any other actions or events that create a need to reduce financial expenditures for personnel.

*Program Change* – “Program change” means any elimination, curtailment or reorganization of curriculum offering, program, or school operation because of a lack of student response to particular course offerings,

legislative revisions to program funding, or a reorganization or consolidation of two or more individual schools.

Subject to any applicable statutory and constitutional limitations, the Board has the authority to terminate, demote or reassign professional personnel to achieve the necessary reduction in staff. All terminations, demotions, or reassignments shall be based on objective criteria.

Following the identification of the grade level(s), discipline area(s), and positions the number of staff to be reduced from each of the area(s) will be determined by the Board based on a recommendation by the Superintendent of Education. The Superintendent shall also recommend the particular employees to be terminated, demoted, or reassigned.

When a layoff is necessary, the first employees to be dismissed will be non-tenured persons within the areas/class of personnel being reduced. Non-tenured employees will be retained when a tenured employee is terminated only if the tenured employee is not qualified by certification or competence to hold the position that the non-tenured employee occupies.

In order for a staff member selected to be reduced in force by these procedures to displace a staff member in another discipline area with less service time, said staff member must be certified to handle the entire position of the employee they seek to displace. However, an employee does not have displacement rights to a higher paying position than the one he/she occupies at the time of the reduction in force.

If more than one tenured employee is being considered for dismissal, the following objective criteria, in order stated, will be used to determine which of the tenured employees will be retained:

1. Certification must be held in a teaching position that is open. A tenured employee who is highly qualified for the position under federal guidelines will be given consideration over a tenured employee who is not highly qualified. However, in the event a tenured employee has been serving in a position not requiring highly qualified status and is being returned to a teaching position for which they are otherwise qualified, he or she shall be given one year from the date of reassignment to become highly qualified. In addition, if the reassignment is as a result of a reduction in force and such tenured employee has greater length of service than a tenured employee who is highly qualified for the position, the tenured employee with the greatest length of service will be given preference for the position without regard to his or her highly qualified status.
2. Seniority and the length of continuous, full-time, contracted certified employment in the position beginning on the actual date of employment in the affected position as reflected in the Board minutes. Continuous

employment will not be considered interrupted by holidays, vacation periods, summer recesses or approved leaves of absence; however, in computing length of service, the period of any approved leave of absence shall not be counted as part of the total continuous employment.

If, based upon these factors, two or more tenured faculty are equally qualified for the position, the following prioritized list will determine the order of the reduction in force:

1. Source of funding.
2. The date the Board ratified the employee's contract for the affected position.
3. The date the Board ratified the employee's contract for the initial position in the system, i.e., length of seniority in the system.
4. If all of the above are equal, lots will be drawn.

The above procedure shall not violate any applicable court order or statute.

Personnel who are to be reduced in force shall be given written notice by personal service or United States certified or registered mail.

Names of personnel reduced in force shall be placed in a school system reemployment pool. Any tenured professional employee terminated or demoted pursuant to this policy will, for a period of one calendar year, be offered re-employment, if their previous position is reinstated by the Board. The employee shall still be qualified by certification and competency in the area of need to qualify for the recall. Recalled employees will be re-employed in reverse order of termination or demotion before non-tenured/new professional employees in the same position are hired. If a former employee refuses an offer of employment pursuant to this policy, his or her rights of recall are forfeited.

Provided personnel in the employment pool are recalled, they shall be issued a letter of reappointment by personal service or postal mail within fifteen (15) work days of the vacancy occurring. The letter advising of reappointment will be sent to the recalled employee at the employee's last known address according to personnel records of the Board. Said personnel must accept or reject the offer of re-employment in writing within five (5) working days of receipt of the offer.

[Reference: Ala. Code §16-1-33 (1975)]

#### 5.15.2 Classified Employees –

This policy applies to layoffs that are implemented by a reduction in force as contemplated by Ala. Code §16-1-33 (1975). A layoff may take place when the Board determines that a financial exigency, program change, decrease in student

enrollment, change in curriculum, consolidation or reorganization of schools or school districts, serious natural disaster, or other legitimate business reason requires that the contract of one or more non-certified staff be terminated. Such a determination constitutes the necessary cause for termination, demotion or reassignment. To the extent possible, the Superintendent will use attrition and non-renewal to achieve staff reductions.

Based on the philosophy of maintaining the best educational program possible, prior to the implementation of a layoff, the Board will determine, upon recommendation of the Superintendent of Education, the work sites, areas and/or positions to be reduced. The Board should determine whether work sites/areas are to be considered distinctive categories. The personnel/positions within these sites/areas may be considered separately. For the purpose of the layoff, the following terms are defined:

*Work Areas* – Child Nutrition personnel, custodians and maids, secretaries/bookkeepers, building maintenance, automotive mechanics, transportation, and instructional assistants.

*Work Sites* – Central office to include: Child Nutrition personnel, secretaries/ bookkeepers, custodians and maids, building maintenance, and transportation. Child Nutrition personnel, custodians and local schools to include maids, secretaries/bookkeepers, and instructional assistants.

*Layoff* – A “layoff” within the meaning of this policy is a separation from employment with the Board of Education. However, employees who are laid off under authority of this policy are eligible for recall to employment as conditionally provided in this policy. Moreover, layoffs are not terminations within the meaning of the Alabama Fair Dismissal laws and are not subject to the procedural or substantive requirements thereof. Nor does the term “layoff” include or apply to the expiration of temporary, occasional, or “at-will” appointments or to decisions not to renew or extend employment beyond the expiration of annual or other specified terms of appointment.

*Financial Exigency* – “Financial exigency” means any decline in the Board’s financial resources brought about by decline in enrollment, cuts in funding, decline in tax revenues, or any other actions or events that create a need to reduce financial expenditures for personnel.

*Program Change* – “Program change” means any elimination, curtailment or reorganization of curriculum offering, program, or school operation because of a lack of student response to particular course offerings, legislative revisions to program funding, or a reorganization or consolidation of two or more individual schools.

Subject to any applicable statutory and constitutional limitations, the Board has the authority to terminate, demote or reassign professional personnel to achieve the necessary reduction in staff. All terminations, demotions, or reassignments shall be based on objective criteria.

Following the identification of the work sites/area(s) and positions, the number of staff to be reduced from each of the sites/area(s) will be determined by the Board based on a recommendation by the Superintendent of Education. The Superintendent shall also recommend the particular employees to be terminated, demoted, or reassigned.

When a layoff is necessary, the first employees to be dismissed will be probationary persons within the sites/areas of personnel being reduced. Non-tenured employees will be retained when a tenured employee is terminated only if the tenured employee is not qualified to hold the position that the non-tenured employee occupies.

In order for a staff member selected to be reduced in force by these procedures to displace a staff member in another area with less service time, said staff member must be qualified to handle the entire position of the employee they seek to displace. However, an employee does not have displacement rights to a higher paying position than the one he/she occupies at the time of the reduction in force.

If, based upon seniority, two or more non-probationary employees are equally qualified for the position, the following prioritized list will determine the order of the reduction in force:

1. The date the Board ratified the employee's current contract.
2. The date the Board ratified the employee's contract for the initial position in the system, i.e., length of seniority in the system.
3. If all of the above are equal, lots will be drawn.

The above procedure shall not violate any applicable court order or statute.

Personnel who are to be reduced in force shall be given written notice by personal service or United States certified or registered mail.

Names of personnel reduced in force shall be placed in a school system re-employment pool. Any non-probationary employee terminated or demoted pursuant to this policy will, for a period of one calendar year, be offered re-employment, if the same position is reinstated. The employee shall still be qualified by competency in the area of need. Recalled employees will be re-employed in reverse order of termination or demotion before probationary/new employees in the same class or organizational level are hired. If the employee refuses an offer of employment pursuant to this policy, his or her rights of recall are forfeited.

Provided personnel in the employment pool are recalled, they shall be issued a letter of reappointment by personal service or postal mail within fifteen (15) work days of the vacancy occurring. The letter advising of reappointment will be sent to the recalled employee at the employee's last known address according to personnel records of the Board. Said personnel must accept or reject the offer of re-employment in writing within five (5) working days of receipt of the offer.

[Ref.: Ala. Code §16-1-33 (1975)]

## **5.16 *Unauthorized Payments***

- 5.16.1 Notification to the Employee – Upon discovery of any unauthorized or erroneous payment or disbursement of funds to an employee, the Board will attempt in good faith to notify the employee of such unauthorized payment and to reach agreement with the employee, if possible, regarding the amount and terms of repayment. Notification to the employee will consist of a letter mailed or delivered to the employee's last known address. The notice will specify the amount owed, the method by which the amount was calculated, a proposed schedule of repayment, an opportunity for the employee to review or examine any documents or other evidence supporting the claimed overpayment, and an opportunity for the employee to object in person or in writing to the amount or manner of the proposed withholding to provide an alternative plan of repayment. Unless the Board's ability to recover funds in question could be jeopardized by doing so, the Board will arrange a reasonable schedule of repayment so as to avoid undue hardship to the employee.
- 5.16.2 Retention and Recovery Authorized – If no objection to the proposed withholding is received within a reasonable time (to be specified in the notification letter), monies may be retained in the manner and to the extent described in the notification. If the employee objects to the proposed withholding, the Superintendent or his designee may, upon consideration of the objection and information and argument (if any) submitted in connection therewith, take such action as may be warranted under the circumstances and inform the employee in writing of the decision. If the employee is dissatisfied, he may contest the decision through the Board's complaint procedure. Monies may be withheld by the Board pending completion of the grievance process, provided that, should the Board later pay over to the employee monies that have been retained under authority of this policy, such payment(s) will reflect all appropriate deductions and will include accrued interest from the date of withholding at the rate specified by the then-effective rate applicable to interest on unpaid judgments under Alabama law. If, after exhausting reasonable efforts to do so, the Board is unable to contact the employee in the first instance, the Board may retain or withhold from compensation or other payments due the employee an amount sufficient to satisfy the indebtedness; provided that any such retention or withholding will be subject to review and reconsideration at the request of the employee.

- 5.16.3 Repayment Required as a Condition of Reemployment – The Board reserves the right to require repayment of any outstanding indebtedness as a condition to reemployment of any former employee.
- 5.16.4 Procedures Not Exclusive – The provisions, procedures, and method of review specified herein are in addition to those that are otherwise available to the parties under law for the retention or recovery of funds, and for administrative or judicial review thereof.

### **5.17 *Drug and Alcohol Testing of Safety Sensitive Employees***

- 5.17.1 Scope – The Board will conduct employee drug and alcohol testing for employees in safety sensitive positions as required by and in accordance with federal law. Testing will be required for all employees holding a commercial drivers' license (CDL) or who occupy a safety sensitive position as designated by the Board ("covered employees").
- 5.17.2 Prohibited Alcohol and Controlled Substance-Related Conduct – In addition to activities identified in other policies, rules, and procedures, Board employees are prohibited from the following:
- a. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration in excess of the standard set by the Federal Highway Administration (FHWA);
  - b. Being on duty or operating a vehicle while possessing alcohol;
  - c. Consuming alcohol while performing safety-sensitive functions;
  - d. Consuming alcohol within eight hours following an accident for which a post-accident alcohol test is required, or prior to undergoing a post-accident alcohol test, whichever comes first;
  - e. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements;
  - f. Consuming alcohol or being under the influence of alcohol within four (4) hours of going on duty, operating, or having physical control of a vehicle;
  - g. Reporting for duty or remaining on duty when using any controlled substance, except when instructed by a physician who has advised the driver and the Board that the substance does not adversely impact the performance of any safety-sensitive duty; and
  - h. Reporting for duty, remaining on duty, or performing safety sensitive functions with controlled substances in the employee's system.

In the event of a violation of this policy, the employee shall be removed immediately from safety-sensitive duties and shall be subject to such further actions, including disciplinary action up to and including termination, as deemed appropriate by the Superintendent and the Board.

5.17.3 Testing Program Authorized – The Superintendent is directed to establish a testing program whereby all covered employees will be tested for the presence of alcohol and controlled substances. The following tests will be conducted:

- a. *Pre-employment Testing* – Prior to the first time a covered employee performs a safety-sensitive function for the Board, the employee must undergo testing for alcohol and controlled substances.
- b. *Post-accident Testing* – Each surviving driver of an accident, as defined by the FHWA, will be tested for alcohol and controlled substances. In addition, covered employees who are involved in an accident involving injury to a person, or property damage in excess of five hundred dollars (\$500.00) will be subject to post-accident testing.
- c. *Random Testing* – The Board will conduct unannounced random alcohol and controlled substance testing of its covered employees.
- d. *Reasonable Suspicion Testing* – A covered employee must submit to alcohol or controlled substance testing whenever there is reasonable suspicion of alcohol misuse or the use of controlled substances based on specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or bodily odors of the employee.
- e. *Return-to-Duty Testing* – A covered employee must submit to return-to-work alcohol and/or controlled substance test before being permitted to return to work following a positive alcohol or controlled substance test or other violation of this policy or federal regulations.
- f. *Follow-up Testing* – Any employee who continues performing safety-sensitive functions for the Board, following a determination that the employee requires assistance in resolving problems associated with alcohol misuse or the use of controlled substances, shall be subject to unannounced follow-up alcohol or controlled substance testing as directed by the Board’s substance abuse professional (SAP).

5.17.4 Administration of Program – The Superintendent or his or her designee is authorized to oversee the Board’s testing program, to contract with appropriate providers to implement the program, to develop guidelines, rules and regulations, to implement training programs, to develop and distribute educational materials and appropriate notices to covered employees, and to take such further action as may be required by federal law.

[Reference: Omnibus Transportation Employee Testing Act of 1991]

## 5.18 Searches (Personnel)

- a. *Board Property* – All school system property, facilities, and grounds may be entered, inspected, and searched for any lawful purpose by Board officials or their designees at any time, without prior notice and to the fullest extent permitted by law. The right to enter, inspect, and search includes and extends to (but is not limited to) Board owned or controlled offices, desks, file cabinets, lockers, storage areas, computers, files, documents, data, and devices however and wherever kept, stored, or maintained.
- b. *Employee Property* – The Board reserves the right to inspect employees' vehicles, purses, files, and other personal property if a supervisor forms a reasonable individualized suspicion that the property contains evidence of a violation of Board policy or contains any material, object, or substance that otherwise creates or presents a risk of harm or injury to the school, the workplace, or persons therein.
- c. *Use of Recovered Items* – Property, material, substances, information, or records that are obtained, discovered, or recovered as a result of a search may be retained and used for any lawful purpose.