

**2020-2021**

**O.U.R. COOPERATIVE**

**CLASSIFIED  
PERSONNEL  
POLICIES**

**Section 8 – CLASSIFIED PERSONNEL POLICIES FOR 2020-21**

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# **CLASSIFIED PERSONNEL POLICIES**

## **O.U.R. Educational Cooperative - 0520**

### 8.0 – General Information

#### **PREFACE**

The purpose of these policies of the O.U.R. Educational Cooperative is to operationalize the educational philosophy of the board of directors so that the board of directors and the cooperative personnel have a common understanding of values, mission, goals, objectives, and expectations.

The contents of these policies will remain in effect as policy until changed by the board of directors according to the provisions of the policy on Personnel Policies Review and Revision.

#### **NONDISCRIMINATORY POLICY**

It is the policy of the O.U.R. Cooperative to provide equal opportunities without regard to race, color, national origin, sex, age, qualified handicap, or veteran in its educational programs and activities. This includes, but is not limited to, admissions, educational services, financial aid and employment. Inquiries concerning application of this policy may be referred to the equity coordinator at the cooperative.

#### **LINES OF AUTHORITY**

The organizational structure of the cooperative reflects lines of authority established in Act 349 of 1985. Beginning with the General Assembly, the lines of authority extend through the State Board of Education, ADE, the local board of directors, the director, coordinators, and support staff, whereby the public school pupils and personnel are served. The duties of the board of directors and the director are as stated in the agency policies.

#### **TEACHER CENTER COORDINATOR**

The coordinator will facilitate the work of the Teacher Center Committee to develop and implement staff development activities for district personnel. Under the supervision of the director, the teacher center coordinator will supervise staff, coordinate the budgets and operations of the Teacher Center, and perform such other duties as specified by the director in annual job targets approved by the board of directors. In the absence of the director, the teacher center coordinator will monitor cooperative activities. Consistent with available resources and working through the Teacher Center Committee and assigned cooperative staff, the coordinator will make available:

- Staff development services.
- Educational resources.
- Curriculum assistance.

#### **PROGRAM COORDINATORS**

Program coordinators for Literacy, Mathematics, Special Education, Gifted and Talented Education, Workforce Education, Early Childhood, Distance Learning, ABC, and Technology have job duties as prescribed by the

Arkansas Department of Education and/or the governing federal agency that are specifically a part of contracts necessary to obtain program funding grants.

### **SPECIALITY PERSONNEL**

Specialty personnel may be employed by the cooperative with funding provided by school districts working together to obtain a service that they are unable to provide for themselves or to make the service more efficient and/or cost effective.

### **CLASSIFIED STAFF**

Support staff includes those personnel necessary to accomplish the bookkeeping/accounting, secretarial, and paraprofessional functions. Some support staff are funded specifically by a program area; others are prorated for time and funds among various program budgets of the Cooperative.

### **PROFESSIONALISM**

A high degree of professionalism is expected for all staff members of the O.U.R. Cooperative.

### **HEALTH REQUIREMENTS**

Laws that are applicable to school district personnel also apply to cooperative personnel.

### **PAYDAY**

Payday is scheduled once monthly, on the last day of the month. When the last day of the month falls on a weekend, payday will be the preceding Friday. The schedule may be adjusted for holidays.

### **DAILY SCHEDULE**

For most salaried, exempt non-certified staff, whose home base is the co-op, normal office hours for full time employees are 8:00 a.m. until 4:00 p.m. Monday through Friday throughout the year. However, personnel may be hired on the basis of other terms which will be reflected in their contract and/or salary schedule. In order to better serve school districts, assignments and hours may be adjusted or rescheduled on an individual basis.

For non-exempt non-certified hourly staff whose home base is the co-op, work hours for full time staff will be from 8:00 a.m. until 4:00-4:30 depending on the number of hours required by the department. In order to better serve school districts, assignments and hours may be adjusted or rescheduled on an individual basis.

The schedule for part-time employees will be determined by the director according to organizational and departmental needs.

### **PERSONNEL POLICIES REVIEW AND REVISION**

According to the Personnel Policy Law, elected personnel shall serve as the cooperative's Personnel Policies Committee.

The school district's committee on personnel policies for classified employees shall organize itself in October, elect a chair and secretary, and develop a calendar of meetings throughout the year to review the co-op's personnel policies to determine whether additional policies or amendments to existing policies are needed. Minutes of the committee meetings shall be promptly reported and distributed to members of the board of directors and posted in the work sites of the co-op.

Either the committee or the board of directors may propose new personnel policies or amendments to existing policies if the proposals by the board have been submitted to the committee at least ten (10) working days prior to presentation to the board. The director may recommend any changes in personnel policies to the board of

directors or the personnel policies committee. The recommendations shall become proposals if adopted by either the board or committee.

The chair of the committee or a committee member designated by the chair shall have the opportunity to orally present the committee's proposed policies or amendments to existing policies to the board. After presentation to the board, final action shall be taken no later than the next regular board meeting.

The board of directors shall have the authority to adopt, reject, or refer back to the committee for further study and revision, any proposed policies or amendments to existing policies that are submitted to the board for consideration.

**Classified Departments:**

Office  
Technology  
HIPPY  
ABC Para

Date Adopted: Spring 2003  
Last Revised: Spring 2011

## 8.1 - Salaries

The cooperative salaries are funded by a fixed base grant, other state and federal grants, and prorated sharing by member districts, and revenue from services. None of these sources provide consistent increases necessary to guarantee annual automatic increases. Any salary increase for classified employees will be recommended based on program fund availability.

In the absence of a departmental/position salary schedule, beginning salaries are negotiable, but in no case shall a beginning salary be higher than the salary of a continuing staff member with equivalent credentials in an equivalent position. Data to be considered for establishing beginning salaries in such cases include the current salaries for comparable positions in other Arkansas educational cooperatives and the current salaries for comparable positions in school districts.

For the purpose of the salary schedule, an employee will have worked a “year” if he/she works at least 160 days.

Applications for movement on the salary schedule must be approved by the director. Applications must be received by August 19 to be considered for the year. An official transcript or certificate must be on file in the O.U.R. business office which shows college hours earned before a final evaluation can be made and before final approval can be given by the director. Transcripts or certificates must be on file by October 15 unless an exception for extenuating circumstances is approved by the director.

The director has the authority, when recommending an applicant and his/her placement on the salary schedule to the Board for its approval, to consider the applicant's previous work experience with similar duties, responsibilities, and skill sets to those job duties and responsibilities the applicant would assume for the co-op.

Legal Reference: A.C.A. 6-17-2301

Date Adopted: Spring 2003

Last Revised: Spring 2013

**2020-21 CLASSIFIED SALARY SCHEDULE**  
**For O.U.R. COOPERATIVE**  
**District Number 0520**

Year	Clerical		Administrative Secretary		Assistant Bookkeeper	Business Manager			
<b>0</b>	<b>Minimum Wage Rate</b>	<b>Prorated</b>	25,785		28,031	38,410			
<b>1</b>			26,110		28,381	39,060			
<b>2</b>			26,435		28,731	39,710			
<b>3</b>			26,760		29,081	40,360			
<b>4</b>			27,085		29,431	41,010			
<b>5</b>			27,410		29,781	41,660			
<b>6</b>			27,735		30,131	42,310			
<b>7</b>			28,060		30,481	42,960			
<b>8</b>			28,385		30,831	43,610			
<b>9</b>			28,710		31,181	44,260			
<b>10</b>			29,035		31,531	44,910			
<b>11</b>			29,360		31,881	45,560			
<b>12</b>			29,685		32,231	46,210			
<b>13</b>					32,581	46,860			
<b>14</b>					32,931	47,510			
<b>15</b>						48,160			
<b>16</b>						48,810			
<b>17</b>						49,460			
<b>18</b>						50,110			
<b>19</b>						50,760			
<b>20</b>						51,410			
<b>21</b>						52,060			
<b>22</b>						52,710			

\*240day contract (8hrs per day) & years of experience determined by the Director

\*Administrative Secretary on 7.5 hours prorated

\S\Kelvin Hudson, President of the Board

**EARLY CHILDHOOD**  
*(Special Education & Tuition Paying & P.A.T.)*  
**190 Day Contract**

<b>Year</b>	<b>w/o CDA 7/1/20- 12/30/20</b>	<b>w/o CDA 1/1/21</b>	<b>CDA</b>	<b>Associate</b>	<b>Cook</b>				
<b>0</b>	15,200	16,720	16,720	18,050	16,720				
<b>1</b>			16,720	18,300	16,720				
<b>2</b>			16,744	18,550	16,744				
<b>3</b>			16,994	18,800	16,994				
<b>4</b>			17,244	19,050	17,244				
<b>5</b>			17,494	19,300	17,494				
<b>6</b>			17,744	19,550	17,744				
<b>7</b>			17,994	19,800	17,994				
<b>8</b>			18,244	20,050	18,244				
<b>9</b>			18,494	20,300	18,494				
<b>10</b>			18,744	20,550	18,744				
<b>11</b>			18,994	20,800	18,994				
<b>12</b>			19,244	21,050	19,244				

- \*Years of experience will be approved by the Director**
- \*Annual Salary on a 190day contract & 40 hours per week**
- \*Stipend for tuition paid preschool classified Director - \$1,200 per year**
- \*P.A.T. – 240 days**

\S\Kelvin Hudson, President of the Board

**ABC CLASSIFIED SALARY SCHEDULE**  
**(ABC Preschools & HIPPY)**  
**187 Day Contract**

<b>Year</b>	<b>w/o CDA</b>	<b>w/o CDA</b>	<b>CDA</b>	<b>Associate/BS</b>					
<b>0</b>		16,456	16,456	17,765					
<b>1</b>			16,456	18,011					
<b>2</b>			16,480	18,257					
<b>3</b>			16,726	18,503					
<b>4</b>			16,972	18,749					
<b>5</b>			17,218	18,995					
<b>6</b>			17,464	19,241					
<b>7</b>			17,710	19,487					
<b>8</b>			17,956	19,733					
<b>9</b>			18,202	19,979					
<b>10</b>			18,448	20,226					
<b>11</b>			18,694	20,472					
<b>12</b>			18,940	20,718					

- \*Years of experience will be determined by the Director**
- \*Annual Salary on a 187day contract & 40 hours per week**
- \*Applicable to ABC Preschools & HIPPY Program**

\S\Kelvin Hudson, President of the Board

***O.U.R. COOPERATIVE***

<b>Position</b>	<b>Degree</b>	<b>Salary</b>	<b>Degree</b>	<b>Salary</b>	<b>Contract Days</b>
Technology Coordinator		66,000			240
K-12 Behavior Support Specialist	Masters	61,000	Doctorate	64,310	200
Custodian		\$11 hourly			
Custodian/Maintenance		\$11.50 hourly			
Level 1 Copy/Tech Technician		\$12.54 hourly			
Career & Technical Education Coordinator		51,000			240
Assistant HIPPPY Coordinator		31,340			240
Clerical/Paraprofessional Substitute		\$10 hourly effect. <i>7/1/20 – 12/31/20</i>  \$11.00 hourly <i>1/1/20 – 6/30/20</i>			
Long Term Teacher or other Staff Substitute		negotiated			

***AWARE YEARLY SALARY AMOUNTS***

<b>Position</b>	<b>Contract Days</b>	<b>FY3: 2020-21</b>	<b>FY4: 2021-22</b>	<b>FY5: 2022-23</b>
Site Project Manager	200	\$67,626	\$68,978.52	\$70,358.09
Behavior Specialist/State AWARE PD Provider	200	\$60,235	\$61,439.70	\$62,668.50
Behavior Specialist	190	\$57,222	\$58,366.44	\$59,533.77
Stipend for Additional Management Duties for AWARE Grant for Business Manager		\$4,994	\$5,093	\$5,196

**\*AWARE contracts run from October 1 – September 30.**

\S\Kelvin Hudson, President of the Board

## ***SPEECH PATH***

<b>Steps</b>	<b>Asst. Speech Path Bachelor</b>	<b>Asst. Speech Path Master</b>	<b>Speech Path</b>
<b>0</b>	33,800	38,450	46,384
<b>1</b>	34,250	38,950	46,884
<b>2</b>	34,700	39,450	47,384
<b>3</b>	35,150	39,950	47,884
<b>4</b>	35,600	40,450	48,384
<b>5</b>	36,050	40,950	48,884
<b>6</b>	36,500	41,450	49,384
<b>7</b>	36,950	41,950	49,884
<b>8</b>	37,400	42,450	50,384
<b>9</b>	37,850	42,950	50,884
<b>10</b>	38,300	43,450	51,384
<b>11</b>	38,750	43,950	51,884
<b>12</b>	39,200	44,450	52,384
<b>13</b>	39,650	44,950	52,884
<b>14</b>	40,100	45,450	53,384
<b>15</b>	40,550	45,950	53,884
<b>16</b>	41,000		54,384
<b>17</b>	41,450		54,884
<b>18</b>	41,900		55,384
<b>19</b>	42,350		55,884
<b>24</b>	42,800		56,384

\*190 Day Contract

\*Years of experience will be determined by the Director.

Speech Para indexed at .53 of relevant step of Asst. Speech Path with Bachelor's Degree

Stipend for Speech Pathologist Supervising an Aide - \$2,500

Stipend for Speech Pathologist Supervising an Assistant - \$2,000

Speech stipend based on 1.0 f.t.e. of supervision being 5 days or more weekly.

Speech stipend will be prorated when less than 1.0 f.t.e.

Date Revised: Spring 2020

\S\Kelvin Hudson, President of the Board

## 8.2 – Personnel Evaluations

Noncertified personnel may be periodically evaluated. Any forms, procedures or other methods of evaluation, including criteria, are to be developed by the director or his designee(s), but shall not be part of the personnel policies of the co-op.

Date Adopted:

Last Revised:

## 8.5 – Leave Policies

### **Definitions**

1. “Employee” is a full-time employee of the cooperative.
2. “Sick Leave” is absence from work due to illness, whether by the employee or a member of the employee’s immediate family, or due to a death in the family. The director shall determine whether sick leave will be approved on the basis of a death outside the immediate family of the employee.
3. “Current Sick Leave” means those days of sick leave for the current contract year, which leave is granted at the rate of one day of sick leave per contracted month, or major part thereof.
4. “Accumulated Sick Leave” is the total of unused sick leave, up to a maximum of (120) days accrued from previous contract, but not used. Accumulated sick leave also includes the sick leave transferred from an employee’s previous public school employment. (1)
5. “Immediate family” in this policy includes the employee’s spouse, children, parents, in-laws, siblings, grandchildren, and any other relative if the other relative lives in the same household as the employee and any other as approved by the director.

### **Leave Time**

All leave time must be taken in increments of fifteen minutes.

### **Sick Leave**

Sick leave is to be used for personal illness, illness in the immediate family, or a death in the family when bereavement leave is not applicable. The director has the discretion to approve sick leave for an employee to attend the funeral of a person who is not related to the employee.

When claiming sick leave, a staff member must complete a sick leave request and file it with his/her immediate supervisor. An accurate record of sick leave will be maintained. The director may at his/her discretion require proof of illness.

A full-time staff member, (in regard to sick leave and as defined by Arkansas Code 6171302 includes any staff member who works not less than twenty (20) hours per week), under contract shall be allowed one (1) day of sick leave for each month or major portion thereof that the individual is employed at full pay under the contract, until a maximum of one hundred twenty (120) days has been accumulated. Other staff members shall be allowed pro-rated sick leave.

Pay for sick leave shall be at the employee’s daily rate of pay, which is that employee’s total contracted salary, divided by the number of days employed as reflected in the contract. Absences for illness in excess of the employee’s accumulated and current sick leave shall result in a deduction from the employee’s pay at the daily rate as defined above.

For all absences in excess of the total accumulated, a proportional salary amount will be deducted. This amount will be equal to the number of excess days divided by the total number of contract days, multiplied by the contract salary.

At the discretion of the director, and, if FMLA is applicable, subject to the certification or recertification provisions contained in policy – CLASSIFIED PERSONNEL FAMILY MEDICAL LEAVE, the cooperative may require a written statement from the employee’s physician documenting the employee’s illness. Failure to provide such documentation of illness may result in sick leave not being paid, or up to and including termination in discipline.

Should a teacher be absent frequently during a school year, and said absences are not subject to FMLA leave, and if such a pattern of absences continues, or is reasonably expected to continue, the director may relieve the teacher of his assignment (with board approval) and assign the teacher substitute duty at the teacher’s daily rate of pay. Should the teacher fail, or otherwise be unable, to report for substitute duty when called, the teacher will be charged a day of sick leave, if available. If unavailable, the teacher will lose a day’s wages at his/her daily rate of pay.

Temporary reassignment may also be offered or required in certain circumstances as provided in 3.32-Licensed Personnel Family Medical Leave.

If the employees’ absences are not subject to the FMLA or are in excess of what is protected under the FMLA, absenteeism, to the extent that the employee is not carrying out his assigned duties to an extent that the education of students is substantially adversely affected (at the determination of the director) may result in termination.

Employees who are adopting or seeking to adopt a minor child or minor children may use up to 15 sick leave days in any school year for absences relating to the adoption, including time needed for travel, time needed for home visits, time needed for document translation, submission or preparation, time spent with legal or adoption agency representatives, time spent in court and bonding time. See also, 3.32 – LICENSED PERSONNEL FAMILY MEDICAL LEAVE which also applies. Except for bonding time, documentation shall be provided by the employee upon request. Additional bonding time days may be requested if desired.

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

When an employee takes sick leave, the co-op shall determine if the employee is eligible for FMLA leave and if the leave qualifies for FMLA leave. The co-op may request additional information from the employee to help make the applicability<sup>3</sup> determination. If the employee is eligible for FMLA leave and if the leave qualifies under the FMLA, the co-op will notify the employee in writing, of the decision within five (5) workdays. If the circumstances for the leave as defined in policy 3.32—CLASSIFIED PERSONNEL FAMILY MEDICAL LEAVE don’t change, the co-op is only required to notify the employee once of the determination regarding the applicability of sick leave and/or FMLA leave within any applicable twelve (12) month period. To the extent the employee has accumulated sick leave, any sick leave taken that qualifies for FMLA leave shall be paid leave and charged against the employee’s accrued leave including, once an employee exhausts his/her accumulated sick leave, vacation or personal leave. See 3.32—CLASSIFIED PERSONNEL FAMILY MEDICAL LEAVE .

### **Sick Leave and Outside Employment**

Sick leave related absence from work (e.g. sick leave for personal or family illness or accident, Workers Comp, and FMLA) inherently means the employee is also incapable of working at any source of outside employment. Except as provided in policy 3.44, if an employee who works a non-district job while taking district sick leave for personal or family illness or accident, Workers Comp, or FMLA shall be subject to discipline up to and including termination.

### **Donation of Sick Days**

Cooperative staff members may voluntarily transfer their earned sick leave days to another staff member whose personal illness extends beyond his/her accumulated sick and vacation/personal leave and thereby limit or avoid a salary deduction. A maximum of twenty (20) days may be transferred to one individual's sick leave account during anyone (1) contract year.

### **Retirement – Sick Days**

Upon retirement employees will be compensated for unused sick leave under the following conditions:

- a. Payment of unused sick leave will be at the rate of 20% of the daily pay of the employee with a fifty-dollar (\$50.00) maximum.
- b. The fund from which the employee is paid must be sufficient to allow the necessary amount, and the payment must not be prohibited by the provisions of the grant under which the person is employed.
- c. The employee must be an approved applicant for teacher retirement benefits and must have ten (10) years total service credited with the Arkansas Teacher Retirement System and the O.U.R. Educational Cooperative.

### **Military Leave**

According to Act 586 of 1989, members of the National Guard or reserved branches of the armed forces will be granted leave at the rate of fifteen (15) days per calendar year plus necessary travel time for annual training requirement time. If leave is not used in a calendar year, it will accumulate in the succeeding year until it totals fifteen (15) days at the beginning of the calendar year. Leave will be granted without a loss of pay in addition to regular vacation time.

A staff member who is drafted or called to active duty in the armed forces or who volunteers for military services and is not gone more than four years from date of entry, (unless at the convenience of the government, not more than five years), is entitled to reemployment in a job of like seniority, pay and status as if the individual had never left. The cooperative shall place such an individual on extended leave without pay and upon release, the person has 90 days to apply for reemployment. The cooperative has two weeks from the date of request to reinstate the individual. The staff member may not be terminated without cause for a period of one year from the date of reinstatement.

A staff member who enlists or re-enlists for a second consecutive term of military duty forfeits his/her re-employment rights. Personnel called to duty in emergency situations by the governor or president shall be granted leave with pay not to exceed thirty (30) working days after which leave without pay will be granted. This leave is in addition to regular vacation time.

### **Maternity Leave**

A pregnant staff member may continue work as long as she and her physician think it is medically safe, as evidenced by her physician's written statement, and her performance is satisfactory.

The cooperative's sick leave policy will apply to pregnancy and childbirth on the same terms and conditions as for temporary disabilities for the employee and for a paternal employee. The employee shall return to her assignment when it is medically safe after the termination of the pregnancy as reflected in a physician's written statement.

If an individual is absent from her assignment longer than her accumulated sick leave, the director may recommend to the board of directors that she be given an extended leave of absence without pay.

### **Holidays**

Those employees who work during designated break times (such as spring or Christmas break) may take equivalent time off at another time subject to the approval of their immediate supervisor. Such accumulated days may not be carried beyond the current year.

### **Bereavement**

Bereavement leave of three (3) days is granted to full-time employees upon the death of an immediate family member or at the discretion of the director. Bereavement leave in excess of three (3) days may be granted at the discretion of the director and be charged as sick leave.

### **Vacation**

Twelve (12) month (240 days) staff accumulates vacation days at the rate of one day per month accumulative to twelve (12) total days annually. Although staff members are encouraged to use their vacation days, unused vacation time may carryover annually subject to the discretion of the director. Vacation leave in excess of a maximum of five (5) days carryover days must be used before October 1.

Beginning with the fourth year of employment O.U.R. full-time staff members will acquire an additional day of vacation. An additional day of leave will be added beginning with the eighth year of employment and the twelfth year of employment until a maximum of fifteen (15) days is acquired.

Vacation days are to be approved at least one week in advance or at the discretion of the director. If vacation is requested, but not approved, and the employee is absent from work in spite of the vacation denial, disciplinary action will be taken against the employee, which may include termination or nonrenewal. They should be scheduled with consideration given to when they least interfere with delivery of services to schools. In no instance shall paid leave in excess of allotted vacation days be granted to an employee who is absent from work while receiving remuneration from another source as compensation for the reason for their absence.

Earned but unused vacation will be paid upon resignation, retirement, termination, or nonrenewal at the employee's current daily rate of pay.

### **Personal**

Full-time staff who are contracted for fewer than twelve (12) months (240 days) and who do not receive vacation days, and any other employee who works at least 190 days but less than 240 days in a year are granted two (2) personal leave days annually. These personal days are prorated when an employee works less than 190 days per year. An employee may take personal leave when he must be absent from work for reasons which do not entitle the employee to take sick leave. Any employee desiring to take personal leave may do so by making a written request to his supervisor at least twenty-four hours prior to the time of the requested leave. The twenty-four hour requirement may be waived by the supervisor when he deems it appropriate. Unused personal leave days are not accumulative as personal days but may be accumulated and carried over as accumulated sick days. In no instance shall paid leave in excess of allotted personal days be granted to an employee who is absent from work while receiving remuneration from another source as compensation for the reason for their absence.

**The chart noted below will be used to offer opportunities for employees to use some accrued sick days as personal days.**

<u>Employee Accrued Sick Days as of July 1 of Current Year</u>	<u>Personal Days Allowed</u>
0-18	2 (only those allocated for year)
19-36	3 (one accrued sick day in addition to the two personal days allotted)
37-54	4 (two accrued sick days in addition to the two personal days)
55-	5 (three accrued sick days in addition to the two personal days)

### **Leave of Absence Without Pay**

The board of directors upon recommendation by the director may grant a leave of absence without pay for a specified period of time for such reasons as continued education and personal emergency. The individual would be reinstated into the same or equivalent position upon returning to the cooperative.

### **Leave of Absence with Pay (Jury Duty)**

Leave of absence with pay shall be granted for jury duty within the current fiscal contract year. The staff member shall notify the cooperative as soon as it is known that he/she is to serve. Other such leaves may be granted at the discretion of the board as recommended by the director.

### **Professional Leave**

“Professional Leave” is leave granted for the purpose of enabling an employee to participate in professional activities (e.g., teacher workshops or serving on professional committees) which can serve to improve the co-op’s instructional program or enhances the employee’s ability to perform his duties.

Professional leave will also be granted when a co-op employee is subpoenaed for a matter arising out of the employee’s employment with the school district. Budgeting concerns and the potential benefit for the co-op will be taken into consideration in reviewing a request for professional leave.

Applications for professional leave should be made as soon as possible following the employee’s discerning a need for such leave, but, in any case, no less than two (2) weeks before the requested leave is to begin, if possible.

If the employee does not receive or does not accept remuneration for their participation in the professional leave activity and a substitute is needed for the employee, the district shall pay the full cost of the substitute. If the employee receives and accepts remuneration for their participation in the professional leave activity (e.g. scholastic audits or praxis assessments), the employee shall forfeit his/her daily rate of pay from the district for the time the employee misses.

- (1) A.C.A. 6-17-1206 (B)(2) requires that leave transferred from prior public school employment be used first. In addition, 1206(B)(3) the leave, if any remains, must be included in the total count of accumulated sick leave if the co-ops pay out unused sick leave upon retirement.

Date Adopted: Spring 2003

Date Revised: Spring of 2016

## 8.9 – Public Office

An employee of the co-op who is elected to the Arkansas General Assembly or any elective or appointive public office (not legally constitutionally inconsistent with employment by a public school district or co-op) shall not be discharged or demoted as a result of such service.

No sick leave will be granted for the employee's participation in such public office. The employee may take pay for personal leave or vacation (if applicable), if approved in advance by the director, during his absence.

Prior to taking leave, and as soon as possible after the need for such leave is discerned by the employee, he must make written request for leave to the director, setting out, to the degree possible, the dates such leave is needed.

An employee who fraudulently requests sick leave for the purpose of taking leave to serve in public office may be subject to nonrenewal or termination of his employment contract.

Cross Reference: Policy # 8.17—Noncertified Personnel Political Activity

Legal Reference: A.C.A. § 6-17-115

Date Adopted: Spring 2008

Last Revised: Spring 2012

## 8.11 – Overtime, Comp Time, and Complying with FLSA

### **OVERTIME, COMPTIME, AND COMPLYING WITH FLSA**

The O.U.R. Cooperative shall comply with those portions of the Fair Labor Standards Act that relates to the operation of public schools. The FLSA requires that covered employees receive compensation for each hour worked at greater than or equal to the applicable minimum wage for workweeks of less than or equal to forty (40) hours. It also requires that employees be compensated for work weeks of greater than forty (40) hours at 1 ½ times their regular hourly rate of pay either monetarily or through compensatory time.

### **Definitions**

Exempt Employees are those employees who are not covered under the FLSA because the employee's

- A. Primary job duties are considered to be exempt eligible due to being administrative or professional in nature. Examples include teachers, counselors, registered nurses, and supervisors; and
- B. Salary meets or exceeds a minimum weekly/annual amount.

Any employee who is unsure of their coverage status should consult with the Co-op's Administration.

“Overtime is hours worked in excess of forty (40) per workweek. Compensation given for hours not worked such as for holidays or sick days do not count in determining hours worked per workweek.

Regular Rate of Pay includes all forms of remuneration for employment and shall be expressed as an hourly rate. For those employees previously paid on a salary basis, the salary shall be converted to an hourly equivalent. Employees shall be paid for each and every hour worked.

“Straight time pay” is the amount of hourly compensation an employee receives for each hour worked during that week.

Workweek is the seven (7) day consecutive period of time from 12:00 AM on Sunday to midnight on the following Saturday. Each workweek is independent of every other workweek for the purpose of determining the number of hours worked and the remuneration entitled to by the employee for that week.

### **Employment Relationships**

The O.U.R. Cooperative does not have an employment relationship in the following instances:

1. Between the cooperative and student teachers.
2. Between the cooperative and its students.
3. Between the cooperative and individuals who, as a public service volunteer or donate their time to the cooperative without expectation or promise of compensation.

The cooperative does not have a joint employment relationship in the following instances:

1. Between the cooperative and off-duty policeman or deputies who are hired on a part-time basis for security purposes or crowd control. The cooperative is separate from and acts independently of other governmental entities.
2. Between the cooperative and any agency contracted with to provide transportation services, security services, substitute teachers or other temporary employees, or other services.

## **Hours Worked**

Employees shall be compensated for all the time they are required to be on duty and shall be paid for all hours worked each workweek. Employees shall accurately record the hours they work each week.

The cooperative shall determine the manner to be used by employees to accurately record the hours they work. Each employee shall record the exact time they commence and cease work, including meal breaks. Employees arriving early may socialize with fellow workers who are off the clock but shall not commence working without first recording their starting time.

Employees shall sign in/clock in where they start work and sign/clock out at the site where they cease working. Employees who do not start and end their workday at the same site shall carry a timecard or sheet with them to accurately record their times. They shall turn in their time sheets or cards to their immediate supervisor no later than the following Monday morning after the pay period. Employee must review their time sheets to assure that they accurately reflect their hours worked for that week before submitting them to their immediate supervisor.

Each employee is to personally record his or her own times. Any employee who signs in or out (or who punches a time clock) for another employee or who asks another employee to do so for him or her will be dismissed.

Employees whose normal workweek is less than forty (40) hours and who work more than their normal number of hours in a given workweek may, at the Cooperative's option, be given compensatory time for the hours they worked in excess of their normal workweek in lieu of their regular rate of pay. Compensatory time given in this manner shall be subject to the same conditions regarding accumulation and use as compensatory time given in lieu of overtime pay.

## **Breaks and Meals**

Each employee working more than twenty (20) hours per week shall be provided two (2), paid 15minute duty free breaks per workday.

Meal periods that are less than 30 minutes in length or in which the employee is not relieved of duty are compensable. Employees with a bona fide meal period shall be completely relieved of their duty to allow them to eat their meal which they may do away from their work site, in the break area.

The employee shall not engage in any work for the cooperative during meal breaks except in rare and infrequent emergencies.

## **Overtime**

Covered employees shall be compensated at not less than 1.5 times his or her regular rate of pay for all hours worked over forty (40) in a workweek. Overtime compensation shall be computed on the basis of the hours worked in each week and may not be waived by either the employee or the cooperative. Overtime compensation shall be paid on the next regular payday for the period in which the overtime was earned.

The rate of overtime pay for employees who work two (2) or more jobs for the District at different rates of pay shall be determined by creating a weighted average of the different rates (a.k.a. blended rate).<sup>O</sup> The weighted average will be calculated by multiplying the number of hours worked during that week for each position by the position's rate of pay, combining the resulting amounts for each position (straight time pay), and dividing the straight time pay by the total number of hours the employee worked in that week. The weighted average will then be multiplied by one half (0.5), which will then be multiplied by the number of hours the employee worked that week over forty (40).<sup>6</sup>

Provided the employee and the cooperative have a written agreement or understanding before the work is performed, compensatory time off may be awarded in lieu of overtime pay for hours worked over forty (40) in a workweek and shall be awarded on a one-and-one half (1 ½) time basis for each hour of overtime worked. The cooperative reserves the right to determine if it will award compensatory time in lieu of monetary pay for the overtime worked. The maximum number of compensatory hours an employee may accumulate at a time is twenty (20). The employee must be able to take the compensatory time off within a reasonable period of time that is not unduly disruptive to the cooperative.

An employee whose employment is terminated with the cooperative, whether by the Cooperative or the employee shall receive monetary compensation for unused compensatory time. Of the following methods, the one that yields the greatest money for the employee shall be used.

1. The average regular rate received by the employee during the last three (3) years of employment, or
2. The final regular rate received by the employee.

### **Overtime Authorization**

There will be instances where the cooperative's needs necessitate that an employee work overtime. It is the board's desire to keep overtime worked to a minimum. To facilitate this, employees shall receive authorization from their supervisor in advance of working overtime except in the rare instance when it is unforeseen or unavoidable.

All overtime worked will be paid in accordance with the provisions of the FLSA, however, unless the overtime was pre-approved or fit into the exceptions noted previously, disciplinary action must be taken for failure to follow the Cooperative's policy. In extreme and repeated cases, disciplinary action could include termination of the employee.

### **Leave Requests**

All covered employees shall submit a leave request form prior to taking the leave if possible. If a request for leave was not possible in advance due to unforeseen or emergency circumstances, the leave form shall be turned in the day the employee returns to work. Unless specifically granted by the Board for special circumstances, the reason necessitating the leave must fall within the cooperative's policy.

Payment for leave could be delayed or not occur if an employee fails to turn in the required leave form.

Leave may be taken in minimum increments of 15 minutes.

### **Record Keeping and Postings**

The cooperative shall keep and maintain records as required by FLSA for the period of time required by the Act.

The cooperative shall display minimum wage posters where employees can readily observe them.

## **Cooperation with Enforcement Officials**

All records relating to the FLSA shall be available for inspection by, and cooperative employees shall cooperate fully with, officials from the DOL and/or its authorized representatives in the performance of their jobs relating to:

1. Investigating and gathering data regarding the wages, hours, and other conditions and practices of employment.
2. Entering, inspecting, and/or transcribing the premises and its records.
3. Questioning employees and investigating such facts, as the inspectors deem necessary to determine whether any person violated any provision of the FLSA.

Last Revised: Spring 2017

## 8.12 – Personnel Outside Employment

An employee of the cooperative may not be employed in any other capacity during regular working hours.

An employee may not accept employment outside of his cooperative employment which will interfere, or otherwise be incompatible with the co-op employment, including normal duties outside the regular work day; nor shall an employee accept other employment which is inappropriate for an employee of a public school or cooperative.

The director or his designee shall be responsible for determining whether outside employment is incompatible, conflicting or inappropriate.

### **Sick Leave and Outside Employment**

Sick leave related absence from work (e.g. sick leave for personal or family illness or accident, Workers Comp, and FMLA) inherently means the employee is also incapable of working at any source of outside employment. Except as provided in policy 8.26, if an employee who works a non-district job while taking district sick leave for personal or family illness or accident, Workers Comp, or FMLA shall be subject to discipline up to and including termination.

Cross References:   8.5—CLASSIFIED EMPLOYEES SICK LEAVE  
                          8.23—CLASSIFIED PERSONNEL FAMILY MEDICAL LEAVE  
                          8.36—CLASSIFIED PERSONNEL WORKPLACE INJURIES AND WORKERS’  
                          COMPENSATION

Date Adopted:

Last Revised: Spring 2014

## 8.13 – Personnel Employment

O.U.R. Cooperative staff will be appointed by the board of directors on nomination by the director as deemed necessary to carry out the successful operation of the cooperative.

All prospective employees must fill out an application form provided by the cooperative. All information, in addition to any resume' provided, will be placed in the personnel file of those employed.

If the employee provides false or misleading information, or if he withholds information to the same effect, it may be grounds for dismissal. In particular, it will be considered a material misrepresentation and grounds for termination of contract of employment if an employee's application information is discovered to be other than as was represented by the employee, either in writing on application materials or in the form of representations made to the cooperative.

It is grounds for termination of contract of employment if an employee fails a criminal background check or receives a true report on the Child Maltreatment Central Registry check. All classified employees shall complete, at co-op expense, a criminal records background check and Child Maltreatment Central Registry check at least one (1) time every five (5) years.

An employee who receives notification of a failure to pass a criminal background check or a true result on the Child Maltreatment Central Registry check shall have thirty (30) days following the notification to submit to the director, or designee, a written request for a hearing before the Board to request a waiver. The written request should include any documentation, such as police reports, or other materials that are related to the event giving rise to the failed background check or true result on the Child Maltreatment Registry as well as information supporting your request for the waiver. Employees requesting a board hearing to request a waiver should be aware that this hearing is subject to the Arkansas Freedom of Information Act and it must be fully open to the public as a result.

Before the director may make a recommendation to the Board that an individual be hired by the co-op, the director shall check the Arkansas Educator Licensure System to determine if the individual has a currently suspended or revoked teaching license or a current Level 3 or Level 4 public notification of ethics violation. An individual with a currently suspended license or whose license has been revoked by the State Board of Education is not eligible to be employed by the co-op; this prohibition includes employment as a substitute teacher, whether directly employed by the co-op or providing substitute teaching services under contract with an outside entity. An individual with a current Level 3 or Level 4 public notification of ethics violation shall not be recommended for employment by the co-op.

The O.U.R. Cooperative is an equal opportunity employer and shall not discriminate on the grounds of race, color, religion, national origin, sex, age, or disability.

Inquiries on nondiscrimination may be directed to the director of the co-op who may be reached at 870-302-3100 or at the mailing address of P.O. Box 610, Valley Springs, AR 72682. For further information on notice of non-discrimination or to file a complaint, visit <http://wdcrobcop01.ed.gov/CFAAPPS/OCR/contactus.cfm>; for the address and phone number of the office that serves your area, or call 1-800-421-3481

In accordance with Arkansas law, the co-op provides a veteran preference to applicants who qualify for one of the following categories:

1. a veteran without a service-connected disability.
2. a veteran with a service-connected disability.

3. a deceased veteran's spouse who is unmarried throughout the hiring process.

For purposes of this policy, "veteran" is defined as:

- a. A person honorably discharged from a tour of active duty, other than active duty for training only, with the armed forces of the United States; or
- b. Any person who has served honorably in the National Guard or reserve forces of the United States for a period of at least six (6) years, whether or not the person has retired or been discharged.

In order for an applicant to receive the Veterans preference, the applicant must be a citizen and resident of Arkansas, be substantially equally qualified as other applicants and do all of the following:

1. Indicate on the employment application the category the applicant qualifies for.
2. Attach the following documentation, as applicable, to the employment application:
  - Form DD-214 indicating honorable discharge.
  - A letter dated within the last six months from the applicant's command indicating years of service in the National Guard or Reserve Forces as well as the applicant's current status.
  - Marriage license
  - Death certificate
  - Disability letter from the Veteran's Administration (in the case of an applicant with a service-related disability).

Failure of the applicant to comply with the above requirements shall result in the applicant not receiving the veteran preference; in addition, meeting the qualifications of a veteran or spousal category does not guarantee either an interview or being hired.

Legal References:     A.C.A. § 6-17-414  
                              A.C.A. § 21-3-302  
                              A.C.A. § 21-3-303  
                              A.C.A. § 25-19-101 et seq.

Date Adopted: Spring of 2007  
Last Revised: July of 2019

## 8.14 - Travel

### **O.U.R. Travel Procedures**

Travel is reimbursable within limitations of budget approval. Expenditures are documented on a TR-1 and must be approved by the program coordinator and the director. If a private vehicle is used for business purposes, mileage will be reimbursed at the current ADE rate. Mileage from home to the official station and from the official station to home is not reimbursable. The following are also reimbursable purchases that would be recorded on the TR-1 provided that itemized documentation is presented by the employee. Reimbursement claims must be supported by appropriate original receipts. Copies of receipts or other documentation are not acceptable, except in extraordinary circumstances.

- Hotel or lodging expenses related to co-op business are reimbursable expenses provided approval has been given for overnight travel. Reimbursement is limited to the single room rate unless more than one employee shares the same room. Overnight lodging for business travel shall be reimbursed at the GSA rate for the location where you are traveling. If the rates are below GSA, then actual costs will be reimbursed. Room rates exceeding the GSA rates must have prior approval and include a justification why it was in the best interests of the O.U.R. Cooperative. At times, it may be justifiable for employees to stay at the conference hotel using the conference room rate though it is higher than GSA. However, if so, it must be carefully justified on a pre-approval form. Other options for lodging rates that are above the GSA rates include the following:

1. Doubling up, with one-half the bill being charged to each party
2. Making up the difference between the GSA rate and actual charge with personal funds

- Taxi or other transportation approved before the trip.
- Parking/toll fees.

No reimbursement will be allowed for personal entertainment, tips, valet, service, flowers, alcoholic beverages, personal telephone calls, laundry, or other items not considered to be official business charges. When a registration payment includes the cost of meals and lodging, the traveler must not claim those items separately.

### **Transportation Other Than Private Vehicles**

In cases where an employee travels to a destination without the use of a private vehicle, the first consideration for on-site travel should be public transportation, shuttles, and taxi service. The employee is generally expected to take the less expensive option between a taxi and an airport shuttle service to the hotel or meeting site. When circumstances dictate that a rental vehicle is necessary and/or the most economical approach to the travel requirements, the least expensive vehicle that will accomplish the job should be rented. The traveler and director should agree upon details on rentals before travel occurs.

Travelers using commercial air shall utilize coach/economy accommodations unless there are special occasions where an economical advantage would result in other arrangements. These special occasions must be pre-approved by the director.

## Meal Reimbursement

No reimbursement for meals will be made unless overnight travel is involved. The maximum full day meal per diem will be based on the actual expenses of meals up to a maximum per diem rate of \$41 for in-state trips and \$46 for out-of-state trips. Individual gratuities will not be reimbursed.

For travel days on overnight trips, the per diem meal breakdown will be as follows and will be recorded on the TR-1.

	In-State	Out-of-State	
• Breakfast	\$10	\$12	
• Lunch	\$13	\$14	Lunch is allowed if your departure time is before 11:00 a.m. For your return trip it may be claimed if you arrive back at the workstation after 1:00 p.m.
• Dinner	\$18	\$20	Dinner is normally allowed for your departure trip to the destination.

## Mileage Reimbursement Information

### A. Local Travel to a temporary/alternate work location from home

- Local/district travel is that which occurs in the co-op area including Mt. Home.
- The employee shall be reimbursed if the number of miles between the employee's home and the temporary/alternate work location exceeds the normal commuting miles driven from the home to the official workstation. For example, if the employee's assigned office is 10 miles from the employee's home, and he/she must travel to an alternate worksite 15 miles from home, the traveler would only be reimbursed each way for five (5) miles (15-10=5).

### B. Travel to the official workstation then to alternate sites

If the employee is at the assigned official workstation for part of the day but finishes the day at an alternate site, the reimbursable amount is determined by using the mileage chart from the official workstation to the alternate site. The return trip to home is reimbursable only if the mileage back home is greater than the mileage from home

to official workstation. If it is greater, than the home to official workstation mileage is subtracted from the alternate work site to home.

*Example: distance from home to official workstation is 10 miles, distance traveled from the official workstation to alternate site is 15 miles, and the mileage from alternate site to home is 22 miles - The following equation would be used to determine the reimbursable mileage amount.*

The 15 miles from official workstation to alternate site is reimbursable. The reimbursable mileage back to home would be  $22-10=12$  miles. The total reimbursable miles would be  $15 + 12 =27$  miles.

#### C. Itinerant staff

- Itinerant employees will be assigned one of the following options which best fits his/her situation.
  1. Use 1<sup>st</sup> stop and last stop as reference points - Mileage from home to their first assignment or from their last assignment to home would not be reimbursable.
  2. Assigned official workstation
  3. Assigned location as beginning and ending mileage reimbursements as approved by director

#### D. Travel to Conferences and Other Business Related Activities Out of Co-op Area

- If traveling out of the co-op area, mileage reimbursement will be provided for the lesser of the distance from your home or official workstation to the destination and likewise for the return trip.

E. In some cases, employees may be paid a travel stipend per salary schedule for local travel instead of mileage reimbursements. Such employees would only be reimbursed for out-of-co-op area travel.

F. Non-essential, elected travel to the co-op for staff whose workstation is elsewhere is not reimbursable. This may include the following:

- elected summer workshop attendance,
- visits to business office for inquiries,
- pickup/return paperwork or equipment,
- and other errands.

Date Adopted: Spring 2003

Last Updated: Summer 2017

## 8.15 – Use of Tobacco, Electronic Nicotine Delivery Systems, and Related Products

Smoking or the use of tobacco or products containing tobacco in any form (including but not limited to cigarettes, cigars, chewing tobacco, and snuff) in or on any property owned or leased by the cooperative is prohibited.

With the exception of recognized tobacco cessation products, this policy's prohibition includes any tobacco or nicotine delivery system or product. Specifically, the prohibition includes any product that is manufactured, distributed, marketed, or sold as e-cigarettes, e-cigars, e-pipes, or under any other name or descriptor.

Violation of this policy by employees shall be grounds for disciplinary action up to, and including, dismissal.

Legal Reference: A.C.A. 6-21-609

Date Adopted: 2006

Last Revised: Spring 2020

## 8.16 – Dress of Employees

Employees shall ensure that their dress and appearance are professional and appropriate to their positions.

Date Adopted: Spring 2007  
Last Revised:

## 8.17 – Political Activity

Employees are free to engage in political activity outside of work hours and to the extent that it does not affect the performance of duties or adversely affect important working relationships.

It is specifically forbidden for employees to engage in political activities on the work site or during work hours. The following activities are forbidden on the work site.

1. Using students for preparation or dissemination of campaign materials.
2. Distributing political materials
3. Distributing or otherwise seeking signatures on petitions of any kind
4. Posting political materials
5. Discussing political matters with students, in or out of the classroom, in other than circumstances appropriate to the nature of the class.

Legal References: A.C.A. 7-1-103  
A.C.A. 7-1-111

Date Adopted: Spring 2008  
Date Revised:

## 8.18 – Classified Personnel Debt

For the purposes of this policy, "garnishment" of a co-op employee is when the employee has lost a lawsuit to a judgment creditor who brought suit against an employee for an unpaid debt, has been awarded money damages as a result, and these damages are recoverable by filing a garnishment action against the employee's wages. For the purposes of this policy, the word "garnishment" excludes such things as child support, student loan or IRS liens or deductions levied against an employee's wages.

All employees are expected to meet their financial obligations. If an employee writes "hot" checks or has his income garnished by a judgment creditor, dismissal may result.

An employee will not be dismissed for having been the subject of one (1) garnishment. However, a second or third garnishment may result in dismissal.

At the discretion of the director, he or his designee may meet with an employee who has received a second garnishment for the purpose of warning the employee that a third garnishment will result in a recommendation of dismissal to the Board.

At the discretion of the director, a second garnishment may be used as a basis for a recommended dismissal. The director may take into consideration other factors in deciding whether to recommend dismissal based on a second garnishment. Those factors may include, but are not limited to, the amount of the debt, the time between the first and the second garnishment, and other financial problems which come to the attention of the co-op.

Date Adopted: Spring 2013

Last Revised:

## 8.19 - Grievances

The purpose of this policy is to provide an orderly process for employees to resolve, at the lowest possible level, their concerns related to the personnel policies or salary payments of this district.

### **Definitions**

“Employee” means any person employed under a written contract by this educational cooperative.

“Grievance” means a claim or concern raised by an individual employee of this cooperative related to the interpretation, application, or claimed violation of the personnel policies, including salary schedules; federal laws and regulations; state laws and rules; or terms or conditions of employment. Other matters for which the means of resolution are provided or foreclosed by statute or administrative procedures shall not be considered grievances. Specifically, no grievance may be entertained against a supervisor for directing, instructing, reprimanding, or “writing up” an employee under his/her supervision.<sup>1</sup> A group of employees who have the same grievance may file a group grievance.

“Group Grievance” means a grievance that may be filed as a group if all of the following criteria are met and the group’s issue is a subject that may be grieved under this policy’s definition of grievance:

1. More than one individual has interest in the matter, and
2. The group has a well-defined common interest in the facts and/or circumstances of the grievance; and
3. The group has designated an employee spokesperson to meet with administration and/or the board; and
4. All individuals within the group are requesting the same relief.

Simply meeting all of the criteria above alone does not ensure that the subject presented by the group is eligible to be grieved.

“Immediate Supervisor” means the person immediately superior to an employee who directs and supervises the work of that employee.

“Working day” means any weekday other than a holiday whether or not the employee under the provisions of their contract is scheduled to work or whether they are currently under contract.

### **Process**

Level One: An employee who believes that he/she has a grievance shall inform that employee’s immediate supervisor that the employee has a potential grievance. Except for a grievance concerning back pay, the employee must inform his/her immediate supervisor of the existence of a potential grievance within five (5) working days of the occurrence of the grievance. The supervisor shall schedule a conference with the employee to hear the employee’s potential grievance that shall be held no later than five (5) working days after the supervisor is informed of the existence of the potential grievance and offer the employee an opportunity to have a witness or representative who is not a member of the employee’s immediate family present at their conference. If the grievance is not advanced to Level Two within five (5) working days following the conference, the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

If the grievance cannot be resolved by the immediate supervisor, the employee can advance the grievance to Level Two. To do this, the employee must complete the top half of the Level Two Grievance Form within five (5) working days of the discussion with the immediate supervisor, citing the manner in which the specific personnel policy was violated that has given rise to the grievance, and submit the Grievance Form to his/her immediate supervisor. The supervisor will have ten (10) working days to respond to the grievance using the

bottom half of the Level Two Grievance Form which he/she will submit to the program coordinator or, in the event that the employee's immediate supervisor is the building principal, the superintendent.

Level Two (when appeal is to the program coordinator): Upon receipt of a Level Two Grievance Form, the program coordinator will have ten (10) working days to schedule a conference with the employee filing the grievance. The program coordinator shall offer the employee an opportunity to have a witness or representative who is not a member of the employee's immediate family present at their conference. After the conference, the program coordinator will have ten (10) working days in which to deliver a written response to the grievance to the employee. If the grievance is not advanced to Level Three within five (5) working days from the date of the program coordinator's written response, the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

Level Two (when appeal is to the director): Upon receipt of a Level Two Grievance Form, the director will have ten (10) working days to schedule a conference with the employee filing the grievance. The director shall offer the employee an opportunity to have a witness or representative who is not a member of the employee's immediate family present at their conference. After the conference, the director will have ten (10) working days in which to deliver a written response to the grievance to the employee.

Level Three: If the proper recipient of the Level Two Grievance was the program coordinator, and the employee remains unsatisfied with the written response to the grievance, the employee may advance the grievance to the director by submitting a copy of the Level Two Grievance Form and the program coordinator's reply to the director within five (5) working days of his/her receipt of the program coordinator's written reply. The director will have ten (10) working days to schedule a conference with the employee filing the grievance. The director shall offer the employee an opportunity to have a witness or representative who is not a member of the employee's immediate family present at their conference. After the conference, the director will have ten (10) working days in which to deliver a written response to the grievance to the employee.

Appeal to the Board of Directors: An employee who remains unsatisfied by the written response of the director may appeal the director's decision to the Board of Directors within five (5) working days of his/her receipt of the director's written response by submitting a written request for a board hearing to the director<sup>2</sup>. If the grievance is not appealed to the Board of Directors within five (5) working days of his/her receipt of the director's written response, the matter will be considered resolved and the employee shall have no further right with respect to said grievance.

The board will address the grievance at the next regular meeting of the board unless the employee agrees in writing to an alternate date for the hearing. Based on a review of the Level Two Grievance Form and the director's reply, the board shall:

- a) For a grievance filed as an individual, determine if the grievance, on its face, is a subject that may be grieved under district policy.
- b) For a grievance that is filed as a group grievance, review the composition of the group and either:
  - Rule that the group has met the requirements to qualify as a group grievance and then determine whether the matter of the grievance is, on its face, a subject that may be grieved under co-op policy; or
  - Rule that the composition of the group does not meet the definition of a group grievance under co-op policy.

If the Board rules that the grievance, whether filed as an individual or as a group, is not a subject that may be grieved, the matter shall be considered closed. If the Board rules that the composition of the group does not meet the definition of a group grievance under co-op policy, employees who had filed a grievance as part of a group grievance that the Board ruled to not meet the policy's definition of a group grievance may choose to

subsequently file an individual grievance by starting with Level One of the process; in such cases, a grievance will be considered to be timely filed if the notification of the employee's supervisor requirement under Level 1 is made within five (5) work days of the Board meeting where the Board ruled that the proposed group grievance did not meet the policy's definition of a group grievance.

If the Board rules the grievance to be a subject that may be grieved, they shall immediately commence a hearing on the grievance. All parties have the right to representation at the appeal hearing by a person of their own choosing except that no party shall be represented by an individual who is a member of the employee's immediate family. The employee shall have no less than ninety (90) minutes to present his/her grievance, unless a shorter period is agreed to by the employee, and both parties shall have the opportunity to present and question witnesses. The hearing shall be open to the public unless the employee requests a private hearing. If the hearing is open to the public, the parent or guardian of any student under the age of eighteen (18) years who gives testimony may elect to have the student's testimony given in closed session. At the conclusion of the hearing, if the hearing was closed, the Board of Directors may excuse all parties except board members and deliberate, by themselves, on the hearing. At the conclusion of an open hearing, board deliberations shall also be in open session unless the board is deliberating the employment, appointment, promotion, demotion, disciplining, or resignation of the employee. A decision on the grievance shall be announced no later than the next regular board meeting.

### **Records**

Records related to grievances will be filed separately and will not be kept in, or made part of, the personnel file of any employee.

### **Reprisals**

No reprisals of any kind will be taken or tolerated against any employee because he/she has filed or advanced a grievance under this policy.

### **Notes:**

<sup>1</sup> It is important to understand the implications of the language contained in this paragraph. Only matters specified in the first sentence of the paragraph are, in fact, subjects that may be grieved, but that cannot prohibit an employee from filing a grievance which the administration does not deem to be a subject that may be grieved and nonetheless advancing it through the grievance process. Ultimately, it is the board that determines whether or not the matter is actually a subject that may be grieved by comparing the written grievance to the definition of grievance in the grievance policy, and continuing on with the hearing only if the grievance is determined to be within the definition. This is addressed in the "Appeal to the Board of Directors" section.

<sup>2</sup> It is suggested that you date stamp the request for a board hearing upon receipt.

Legal References: A.C.A. § 6-17-208, 210

Date Adopted: Spring 2003

Last Revised: Spring 2020

# 8.19F--PERSONNEL LEVEL TWO GRIEVANCE FORM

Name: \_\_\_\_\_

Date submitted to supervisor: \_\_\_\_\_

Personnel Policy grievance is based upon:

\_\_\_\_\_

Grievance (be specific):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What would resolve your grievance? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Supervisor's Response

Date submitted to recipient: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Adopted: Spring 2003

Last Revised:

## 8.20 – Sexual Harassment

The O.U.R. Educational Cooperative is committed to having a work environment in which all employees are treated with respect and dignity. Amicable working relationships are best attained in an atmosphere of equal educational and employment opportunity that is free of discrimination. Sexual harassment is a form of discrimination that undermines the integrity of the educational environment and will not be tolerated.

It shall be a violation of this policy for any student or employee to be subjected to, or to subject another person to, sexual harassment as defined in this policy. Any employee found, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action up to and including termination.

Sexual harassment refers to unwelcome sexual advances, requests for sexual favors, or other personally offensive verbal, visual, or physical conduct of a sexual nature made by someone under any of the following conditions:

1. Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's education or employment.
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting that individual; and/or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

The words "intimidating", "hostile", and "offensive" include conduct of a sexual nature which has the effect of humiliation or embarrassment and is sufficiently severe, persistent, or pervasive that it limits the employee's ability to participate in, or benefit from their employment environment.

Within the educational or work environment, sexual harassment is prohibited between any of the following: students; employees and students; non-employees and students; employees; employees and non-employees.

Actionable sexual harassment is generally established when an individual is exposed to a pattern of objectionable behaviors or when a single, serious act is committed. What is, or is not, sexual harassment will depend upon all the surrounding circumstances. Depending upon such circumstances, examples of sexual harassment include, but are not limited to: unwelcome touching; crude jokes or pictures; discussions of sexual experiences; pressure for sexual activity; intimidation by words, actions, insults or name calling; teasing related to sexual characteristics or the belief or perception that an individual is not conforming to expected gender roles or conduct or is homosexual, regardless of whether or not the individual self-identifies as homosexual; and spreading rumors related to a person's alleged sexual activities.

Employees who believe they have been subjected to sexual harassment are encouraged to file a complaint by contacting their immediate supervisor or administrator who will assist them in the complaint process. Under no circumstances shall an employee be required to first report allegations of sexual harassment to a contract person if that person is the individual who is accused of the harassment. To the extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation.

Employees who file a complaint of sexual harassment will not be subjected to retaliation or reprisal in any form.

Employees who knowingly fabricate allegations of sexual harassment shall be subject to disciplinary action up to and including termination.

Individuals who withhold information, purposely inaccurate facts, or otherwise hinder an investigation of sexual harassment shall be subject to disciplinary action up to and including termination.

After an investigation, any employee found to have engaged in sexual harassment will be subject to disciplinary action up to, and including, termination.

Date Adopted:  
Date Revised: Spring 2011

## 8.21 – Classified Personnel Supervision of Students

All personnel are expected to conscientiously execute their responsibilities to promote the health, safety, and welfare of the students under their care.

Date Adopted: Spring 2007

Last Revised

## 8.22 – Computer Use Policy

The O.U.R. Educational Cooperative provides computers and/or computer Internet access for many employees to assist employees in performing work related tasks. Employees are advised that they enjoy no expectation of privacy in any aspect of their computer use, including email, and that under Arkansas law, both email and computer use records maintained by the district are subject to disclosure under the Freedom of Information Act.

Consequently, no employee or student-related reprimands or other disciplinary communications should be made through email.

Passwords or security procedures are to be used as assigned, and confidentiality of student records relating to personnel is to be maintained at all times. Employees must not disable or bypass security procedures, compromise, attempt to compromise, or defeat the district's technology network security, alter data without authorization, disclose passwords to other staff members or students, or grant students access to any computer not designated for student use.

Employees who misuse district-owned computers in any way, including excessive personal use, using computers for personal use during instructional time, using computers to violate any other policy, knowingly or negligently allowing unauthorized access, or using the computers to access or create sexually explicit or pornographic text or graphics, will face disciplinary action, up to and including termination or non-renewal of the employment contract.

Legal References: (Children's Internet Protection Act; PL 106-554)

20 USC 6777

47 USC 254(h)

A.C.A. § 6-21-107

A.C.A. § 6-21-111

Date Adopted: Spring 2004

Last Revised: Spring 2010

## 8.22F—CLASSIFIED PERSONNEL EMPLOYEE INTERNET USE AGREEMENT

Name (Please Print) \_\_\_\_\_

Work Place \_\_\_\_\_ Date \_\_\_\_\_

The O.U.R. Educational Cooperative agrees to allow the employee identified above (“Employee”) to use the district’s technology to access the Internet under the following terms and conditions:

1. Conditional Privilege: The Employee’s use of the co-op’s access to the Internet is a privilege conditioned on the Employee’s abiding by this agreement.
  
2. Acceptable Use: The Employee agrees that in using the co-op’s Internet access he/she will obey all federal laws and regulations and all state laws and rules. Internet access is provided as an aid to employees to enable them to better perform their job responsibilities. Under no circumstances shall an Employee’s use of the co-op’s Internet access interfere with, or detract from, the performance of his/her job-related duties.
  
3. Penalties for Improper Use: If the Employee violates this agreement and misuses the Internet, the Employee shall be subject to disciplinary action up to and including termination.
  
4. “Misuse of the cooperative’s access to the Internet” includes, but is not limited to, the following:
  - a. using the Internet for any activities deemed lewd, obscene, vulgar, or pornographic as defined by prevailing community standards,
  - b. using abusive or profane language in private messages on the system; or using the system to harass, insult, or verbally attack others,
  - c. posting anonymous messages on the system,
  - d. using encryption software other than when required by the employee’s job duties
  - e. wasteful use of limited resources provided by the school including paper,
  - f. causing congestion of the network through lengthy downloads of files other than when required by the employee’s job duties
  - g. vandalizing data of another user,
  - h. obtaining or sending information which could be used to make destructive devices such as guns, weapons, bombs, explosives, or fireworks,
  - i. gaining or attempting to gain unauthorized access to resources or files,
  - j. identifying oneself with another person’s name or password or using an account or a password of another user without proper authorization,
  - k. using the network for financial or commercial gain without district permission,
  - l. theft or vandalism of data, equipment, or intellectual property,
  - m. invading the privacy of individuals other than when required by the employee’s job duties
  - n. using the Internet for any illegal activity, including computer hacking and copyright or intellectual property law violations,

- o. introducing a virus to, or otherwise improperly tampering with, the system,
- p. degrading or disrupting equipment or system performance,
- q. creating a web page or associating a web page with the cooperative without proper authorization,
- r. attempting to gain access or gaining access to student records, grades, or files of a student not under their jurisdiction,
- s. providing access to the District's Internet Access to unauthorized individuals,
- t. taking part in any activity related to Internet use that creates a clear and present danger of the substantial disruption of the orderly operation of the district or any of its schools,
- u. making unauthorized copies of computer software,
- v. personal use of computers during instructional time; or
- w. installing software on district computers without prior approval of technology director or his/her designee except for co-op technology personnel as part of their job duties

5. Liability for debts: Staff shall be liable for any and all costs (debts) incurred through their use of the District's computers or the Internet including penalties for copyright violations.

6. No Expectation of Privacy: The Employee signing below agrees that in using the Internet through the District's access, he/she waives any right to privacy the Employee may have for such use. The Employee agrees that the district may monitor the Employee's use of the District's Internet Access and may also examine all system activities the Employee participates in, including but not limited to e-mail, voice, and video transmissions, to ensure proper use of the system.

7. Signature: The Employee, who has signed below, has read this agreement and agrees to be bound by its terms and conditions.

Employee's Signature: \_\_\_\_\_ Date \_\_\_\_\_

Date Adopted: Spring 2004

Last Revised: July 2019

## 8.23 – Classified Personnel Family Medical Leave Act

The Family and Medical Leave Act (FMLA) offers job protection for leave that might otherwise be considered excessive absences. Employees need to carefully comply with this policy to ensure they do not lose FMLA protection due to inaction or failure to provide the District with needed information. The FMLA provides up to twelve (12) work weeks (or, in some cases, twenty-six (26) weeks) of job-protected leave to eligible employees with absences that qualify under the FMLA. While an employee can request FMLA leave and has a duty to inform the District, as provided in this policy, of foreseeable absences that may qualify for FMLA leave, it is the District's ultimate responsibility to identify qualifying absences as FMLA or non-FMLA. FMLA leave is unpaid, except to the extent that paid leave applies to any given absence as governed by the FMLA and this policy.

### **SECTION ONE – FMLA LEAVE GENERALLY**

#### **Definitions**

In the reading of the policy, the word “district” is synonymous with the word “co-op.” “Eligible Employee” is an employee who has:

1. Been employed by the District for at least twelve (12) months, which are not required to be consecutive; and
2. Performed at least 1250 hours of service during the twelve (12) month period immediately preceding the commencement of the leave.<sup>1</sup>

“FMLA” is the Family and Medical Leave Act

“Health Care Provider” means:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices;
- b. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;
- c. Nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law.
- d. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement; or
- e. Any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.

“Instructional Employee” is an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting and includes athletic coaches, driving instructors,

preschool teachers, and special education assistants such as signers for the hearing impaired. The term does not include, and the special rules related to the taking of leave near the end of a semester do not apply to: teacher assistants or aides who do not have as their principal job actual teaching or instructing, administrators, counselors, librarians, psychologists, and curriculum specialists.

“Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee’s schedule for a period of time, normally from full-time to part-time.

“Next of Kin”, used in respect to an individual, means the nearest blood relative of that individual.

“Parent” is the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or a daughter. This term does not include parents “in-law.”

“Serious Health Condition” is an injury, illness, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider.

“Son or daughter”, for numbers 1, 2, or 3 below: is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.<sup>2</sup>

“Year” the twelve (12) month period of eligibility shall begin on July first of each schoolyear.<sup>3</sup>

### **Policy**

The provisions of this policy are intended to be in line with the provisions of the FMLA. If any conflict(s) exist, the Family and Medical Leave Act of 1993, as amended, shall govern.

### **Leave Eligibility**

The District will grant up to twelve (12) weeks of leave in a year in accordance with the FMLA, as amended, to its eligible employees for one or more of the following reasons:

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
2. Because of the placement of a son or daughter with the employee for adoption or foster care.
3. To care for the spouse, son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee; and
5. Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. (See Section Two)

6. To care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury. (See Section Two)

The entitlement to leave for reasons 1 and 2 listed above shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement. Legally married couple who are both eligible employees employed by the District may not take more than a combined total of twelve (12) weeks of FMLA leave for reasons 1, 2, or to care for a parent under number 3.

## **Provisions Applicable to both Sections One and Two**

### **District Notice to Employees**

The District shall post, in conspicuous places in each school within the District where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor.<sup>4</sup>

### **Designation Notice to Employee**

When an employee requests FMLA leave or the District determines that an employee's absence may be covered under the FMLA, the District shall provide written notice within five (5) business days (absent extenuating circumstances) to the employee of the District's determination of his/her eligibility for FMLA leave.<sup>5</sup> If the employee is eligible, the District may request additional information from the employee and/or certification from a health care provider to help make the applicability<sup>6</sup> determination. After receiving sufficient information as requested, the District shall provide a written notice within five (5) business days (absent extenuating circumstances) to the employee of whether the leave qualifies as FMLA leave and will be so designated.<sup>7</sup>

If the circumstances for the leave don't change, the District is only required to notify the employee once of the determination regarding the designation of FMLA leave within any applicable twelve (12) month period.

Employees who receive notification that the leave request does not qualify under the FMLA are expected to return to work; further absences that are not otherwise excused could lead to discipline for excessive absences, or termination for job abandonment.

### **Concurrent Leave Under the FMLA**

All FMLA leave is unpaid unless substituted by applicable accrued leave. The District requires employees to substitute any applicable accrued leave (in the order of sick, personal, or vacation leave as may be applicable) for any period of FMLA leave.<sup>6</sup>

An employee who does not have enough accrued leave to cover the number of days of FMLA leave taken shall not have his/her number of contract days altered because some of the FMLA leave taken was unpaid.

### **Working at another Job while Taking FMLA for Personal or Family Serious Medical Condition**

No employee on FMLA leave for their own serious medical condition may perform work at another, non-district job while on FMLA leave. Except as provided in policy 3.44, employees who do perform work at another, non-district job while on FMLA leave for their own serious medical condition will be subject to discipline, which could include termination or nonrenewal of their contract of employment.

No employee on FMLA leave for the serious medical condition of a family member may perform work at another, non-district job while on FMLA leave. Employees who do perform work at another, non-district job while on FMLA leave for the serious medical condition of a family member will be subject to discipline, which could include termination or nonrenewal of their contract of employment.

### **Health Insurance Coverage**

The District shall maintain coverage under any group health plan for the duration of FMLA leave the employee takes at the level and under the conditions coverage would have been provided if the employee had continued in active employment with the District. Additionally, if the District makes a change to its health insurance benefits or plans that apply to other employees, the employee on FMLA leave must be afforded the opportunity to access additional benefits and/or the same responsibility for changes to premiums. Any changes made to a group health plan that apply to other District employees, must also apply to the employee on FMLA leave. The District will notify the employee on FMLA leave of any opportunities to change plans or benefits. The employee remains responsible for any portion of premium payments customarily paid by the employee. When on unpaid FMLA leave, it is the employee's responsibility to submit his/her portion of the cost of the group health plan coverage to the district's business office on or before it would be made by payroll deduction.<sup>8</sup>

The District has the right to pay an employee's unpaid insurance premiums during the employee's unpaid FMLA leave to maintain the employee's coverage during his/her leave. The District may recover the employee's share of any premium payments missed by the employee for any FMLA leave period that the District maintains health coverage for the employee by paying his/her share. Such recovery shall be made by offsetting the employee's debt through payroll deductions or by other means against any monies owed the employee by the District.

An employee who chooses to not continue group health plan coverage while on FMLA leave, is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of preexisting conditions, etc.<sup>9</sup>

If an employee gives unequivocal notice of an intent not to return to work, or if the employment relationship would have terminated if the employee had not taken FMLA leave, the District's obligation to maintain health benefits ceases.

If the employee fails to return from leave after the period of leave the employee was entitled has expired, the District may recover the premiums it paid to maintain health care coverage unless:

1. The employee fails to return to work due to the continuation, reoccurrence, or onset of a serious health condition that entitles the employee to leave under reasons 3 or 4 listed above; and/or
2. Other circumstances exist beyond the employee's control.

Circumstances under "a" listed above shall be certified by a licensed, practicing health care provider verifying the employee's inability to return to work.

### **Reporting Requirements During Leave**

Unless circumstances exist beyond the employee's control, the employee shall inform the district every two (2) weeks<sup>10</sup> during FMLA leave of his/her current status and intent to return to work.

### **Return to Previous Position**

An employee returning from FMLA leave is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An equivalent position must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, and authority. Specifically, upon returning from FMLA leave, a teacher may be assigned to another position that is not necessarily the same as the teacher's former job assignment. The employee may not be restored to a position requiring additional licensure or certification.

The employee's right to return to work and/or to the same or an equivalent position does not supersede any actions taken by the District, such as conducting a RIF, that the employee would have been subject to had the employee not been on FMLA leave at the time of the District's actions.

### **Leave Acquired Through Fraud**

If it is discovered that an employee engaged in fraud or otherwise provided the District with documentation that includes a material misrepresentation of fact in order to receive FMLA leave, the District may discipline the employee up to and including termination.

## **Provisions Applicable to Section One**

### **Employee Notice to District**

#### **Foreseeable Leave**

When the need for leave is foreseeable for reasons 1 through 4 listed above, the employee shall provide the District with at least thirty (30) days' notice, before the date the leave is to begin, of the employee's intention to take leave for the specified reason. An eligible employee who has no reasonable excuse for his/her failure to provide the District with timely advance notice of the need for FMLA leave may have his/her FMLA coverage of such leave delayed until thirty (30) days after the date the employee provides notice.

If there is a lack of knowledge of approximately when the leave will be required to begin, a change in circumstances, or an emergency, notice must be given as soon as practicable. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case.

When the need for leave is for reasons 3 or 4 listed above, the eligible employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the District subject to the approval of the health care provider of the spouse, son, daughter, or parent of the employee.

If the need for FMLA leave is foreseeable less than thirty (30) days in advance, the employee shall notify the District as soon as practicable. If the employee fails to notify as soon as practicable, the District may delay granting FMLA leave for the number of days equal to the difference between the number of days in advance that the employee should have provided notice and when the employee actually gave notice.

### **Unforeseeable Leave**

When the approximate timing of the need for leave is not foreseeable, an employee shall provide the District notice of the need for leave as soon as practicable given the facts and circumstances of the particular case.

Ordinarily, the employee shall notify the District within two (2) working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. Notice may be provided in person, by telephone, fax, email, or other electronic means. If the eligible employee fails to notify the District as required, unless the failure to comply is justified by unusual circumstances, the FMLA leave may be delayed or denied.

### **Medical Certification**

Second and Third Opinions: In any case where the District has reason to doubt the validity of the initial certification provided, the District may require, at its expense, the employee to obtain the opinion of a second health care provider designated or approved by the employer. If the second opinion differs from the first, the District may require, at its expense, the employee to obtain a third opinion from a health care provider agreed upon by both the District and the employee. The opinion of the third health care provider shall be considered final and be binding upon both the District and the employee.

**Recertification:** The District may request, either orally or in writing, the employee obtain a recertification in connection with the employee's absence, at the employee's expense, no more often than every thirty (30) days unless one or more of the following circumstances apply:

- The original certification is for a period greater than thirty (30) days. In this situation, the District may require a recertification after the time of the original certification expires, but in any case, the District may require a recertification every six (6) months.
- The employee requests an extension of leave.
- Circumstances described by the previous certification have changed significantly; and/or
- The district receives information that casts doubt upon the continuing validity of the certification.

The employee must provide the recertification within fifteen (15) calendar days after the District's request.

No second or third opinion on a recertification may be required.

The District may deny FMLA leave if an eligible employee fails to provide a requested certification.

### **Substitution of Paid Leave**

When an employee's leave has been designated as FMLA leave for reasons 1 (as applicable), 2, 3, or 4 above, the District requires employees to substitute accrued sick, vacation, or personal leave for the period of FMLA leave.<sup>11</sup>

To the extent the employee has accrued paid vacation or personal leave, any leave taken that qualifies for FMLA leave for reasons 1 or 2 above shall be paid leave and charged against the employee's accrued leave.

**Workers Compensation:** FMLA leave may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. To the extent that workers' compensation benefits and FMLA leave run concurrently, the employee will be charged for any paid leave accrued by the employee at the rate necessary to bring the total amount of combined income up to 100% of usual contracted daily rate of pay. If the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job," but is unable to return to the employee's same or equivalent job, the employee may decline the District's offer of a "light duty job." As a result, the employee may lose his/her workers' compensation payments, but for the duration of the employee's FMLA leave, the employee will be paid for the leave to the extent that the employee has accrued applicable leave.

### **Return to Work<sup>12</sup>**

If the District's written designation determination that the eligible employee's leave qualified as FMLA leave under reason 4 above stated that the employee would have to provide a "fitness-for duty" certification from a health care provider for the employee to resume work, the employee must provide such certification prior to returning to work. The employee's failure to do so voids the District's obligation to reinstate the employee under the FMLA and the employee shall be terminated.

If the District's written designation determination that the eligible employee's leave qualified as FMLA leave under reason 4 above stated that the employee would have to provide a "fitness-for duty" certification from a health care provider for the employee to resume work and the designation determination listed the employee's essential job functions, the employee must provide certification that the employee is able to perform those functions prior to returning to work. The employee's failure to do so or his/her inability to perform his/her job's essential functions voids the District's obligation to reinstate the employee under the FMLA and the employee shall be terminated.

### **Failure to Return to Work**

In the event that an employee is unable or fails to return to work within FMLA's leave timelines, the superintendent will make a determination at that time regarding the documented need for a severance of the employee's contract due to the inability of the employee to fulfill the responsibilities and requirements of his/her contract.

## **Intermittent or Reduced Schedule Leave**

To the extent practicable, employees requesting intermittent or reduced schedule leave shall provide the District with not less than thirty (30) days' notice, before the date the leave is to begin, of the employee's intention to take leave.

Eligible employees may only take intermittent or reduced schedule leave for reasons 1 and 2 listed above if the District agrees to permit such leave upon the request of the employee. If the District agrees to permit an employee to take intermittent or reduced schedule leave for such reasons, the agreement shall be consistent with this policy's requirements governing intermittent or reduced schedule leave. The employee may be transferred temporarily during the period of scheduled intermittent or reduced leave to an alternative position that the employee is qualified for and that better accommodates recurring periods of leave than does the employee's regular position. The alternative position shall have equivalent pay and benefits but does not have to have equivalent duties.

Eligible employees may take intermittent or reduced schedule FMLA leave due to reasons 3 or 4 listed above when the medical need is best accommodated by such a schedule. The eligible employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider.

When granting leave on an intermittent or reduced schedule for reasons 3 or 4 above that is foreseeable based on planned medical treatment, the District may temporarily transfer noninstructional, eligible employees for the period of scheduled intermittent or reduced leave to an alternative position that the employee is qualified for and that better accommodates recurring periods of leave than does the employee's regular position. The alternative position shall have equivalent pay and benefits but does not have to have equivalent duties. When the employee is able to return to full-time work, the employee shall be placed in the same or equivalent job as he/she had when the leave began. The employee will not be required to take more FMLA leave than necessary to address the circumstances requiring the need for the leave.

If an eligible employee who meets the definition of an instructional employee requests intermittent or reduced schedule leave for reasons 3 or 4 above that is foreseeable based on planned medical treatment and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period during which the leave would extend, the district may require the employee to elect either to:

1. Take medical leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
2. Transfer temporarily to an available alternative position offered by the employer that the employee is qualified for, has equivalent pay and benefits, and better accommodates recurring periods of leave than the regular employment position of the employee.

If the employee chooses to transfer to an alternative position, the alternative position shall have equivalent pay and benefits but does not have to have equivalent duties. When the employee is able to return to full-time work, the employee shall be placed in the same or equivalent job as he/she had when the leave began. The employee will not be required to take more FMLA leave than necessary to address the circumstances requiring the need for the leave.

An eligible instructional employee who needs intermittent leave or leave on a reduced leave schedule for reasons 3 or 4 above may not be transferred to an alternative position during the period of the employee's

intermittent or reduced leave schedule if, based on the foreseeable planned medical treatment, the employee would be on leave for twenty percent (20%) or less of the total number of working days over the period the leave would extend.

Instructional employees are not required to request intermittent leave when the instructional employee's FMLA leave spans a period when school is closed, such as for winter, spring, or summer breaks; in addition, the time the school is closed is not counted when calculating the amount of FMLA leave the instructional employee has used.

### **Leave taken by eligible instructional employees near the end of the semester**

In any of the following scenarios, if the District chooses to require the eligible, instructional employee to stay on leave until the end of the semester, only the portion of the leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The required non-FMLA leave will not be considered excessive absenteeism.

### **Leave more than five (5) weeks prior to end of the semester**

If the eligible, instructional employee begins leave, due to reasons 1 through 4 listed above, more than five (5) weeks prior to the end of the academic term, the District may require the employee to continue taking leave until the end of the semester, if:

1. The leave is of at least three (3) weeks duration; and
2. The return to employment would occur during the three (3) - week period before the end of the semester.

### **Leave less than five (5) weeks prior to end of the semester**

If the eligible, instructional employee begins leave, due to reasons 1, 2, or 3 listed above, during the period that commences five (5) weeks prior to the end of the academic term, the District may require the employee to continue taking leave until the end of the semester, if:

1. The leave is of greater than two (2) weeks duration; and
2. The return to employment would occur during the two (2) - week period before the end of the semester.

### **Leave less than three (3) weeks prior to end of the semester**

If the eligible, instructional employee begins leave, due to 1, 2, or 3 listed above, during the period that commences three (3) weeks prior to the end of the semester and the duration of the leave is greater than five (5) working days, the District may require the employee to continue to take leave until the end of the semester.

## **SECTION TWO - FMLA LEAVE CONNECTED TO MILITARY SERVICE**

### **Leave Eligibility**

The FMLA provision of military associated leave is in two categories. Each one has some of its own definitions and stipulations. Therefore, they are dealt with separately in this Section of the policy. Definitions different than those in Section One are included under the respective reason for leave. Definitions that are the same as in Section One are NOT repeated in this Section.

### **Qualifying Exigency**

An eligible employee may take FMLA leave for any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. Examples include issues involved with short-notice deployment, military events and related activities, childcare and school activities, the need for financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and other activities as defined by federal regulations.<sup>13</sup>

### **Definitions**

“Covered active duty” means:

- in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the armed forces to a foreign country; and
- in the case of a member of a reserve component of the Armed Forces, duty during deployment of the member with the armed forces to a foreign country under a call to order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

“Son or daughter on active duty or call to active duty status” means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

### **Certification<sup>14</sup>**

The District may require the eligible employee to obtain certification to help the district determine if the requested leave qualifies for FMLA leave for the purposes of a qualifying exigency. The District may deny FMLA leave if an eligible employee fails to provide the requested certification.

## **Employee Notice to District**

### **Foreseeable Leave:**

When the necessity for leave for any qualifying exigency is foreseeable, whether because the spouse, son, daughter, or parent of the employee is on covered active duty, or because of notification of an impending call or order to covered active duty, the employee shall provide such notice to the District as is reasonable and practicable regardless of how far in advance the leave is foreseeable. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case.

### **Unforeseeable Leave**

When the approximate timing of the need for leave is not foreseeable, an employee shall provide the District notice of the need for leave as soon as practicable given the facts and circumstances of the particular case. Ordinarily, the employee shall notify the District within two (2) working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible.

Notice may be provided in person, by telephone, fax, email, or other electronic means. If the eligible employee fails to notify the District as required unless the failure to comply is justified by unusual circumstances, the FMLA leave may be delayed or denied.

### **Substitution of Paid Leave**

When an employee's leave has been designated as FMLA leave for any qualifying exigency, the District requires employees to substitute accrued vacation, or personal leave for the period of FMLA leave.

### **Intermittent or Reduced Schedule Leave**

Eligible employees may take intermittent or reduced schedule leave for any qualifying exigency. The employee shall provide the district with as much notice as is practicable.

### **Leave taken by an eligible instructional employee more than five (5) weeks prior to end of the semester**

If an eligible, instructional employee begins leave due to any qualifying exigency more than five (5) weeks prior to the end of the semester, the District may require the employee to continue taking leave until the end of the semester, if:

1. The leave is of at least three (3) weeks duration; and
2. The return to employment would occur during the three (3) - week period before the end of the semester.

If the District chooses to require the eligible, instructional employee to stay on leave until the end of the semester, only the portion of the leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement.

### **Serious Illness**

An eligible employee is eligible for leave to care for a spouse, child, parent or next of kin who is a covered service member with a serious illness or injury under the following conditions and definitions.

#### **Definitions:**

"Covered Service Member" is:

1. a member of the Armed Forces, including a member of the National Guard or 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; or
2. a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

"Outpatient Status", used in respect to a covered service member, means the status of a member of the Armed Forces assigned to:

1. A military medical treatment facility as an outpatient; or

2. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Parent of a covered servicemember” is a covered servicemember’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.”

“Serious Injury or Illness”:

1. In the case of a member of the Armed Forces, including the National Guard or Reserves, it means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
2. In the case of a veteran who was a member of the Armed Forces, including a member of the National Guard of Reserves, at any time during a period as a covered service member defined in this policy, it means a qualifying (as defined by the U.S. Secretary of Labor) injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

“Son or daughter of a covered servicemember” means a covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.<sup>2</sup>

“Year”, for leave to care for the serious injury or illness of a covered service member, the twelve (12) month period begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends twelve (12) months after that date.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of twenty-six (26) weeks of leave during one twelve (12) - month period to care for the service member who has a serious injury or illness as defined in this policy. An eligible employee who cares for such a covered service member continues to be limited for reasons 1 through 4 in Section One and for any qualifying exigency to a total of twelve (12) weeks of leave during a year as defined in this policy. For example, an eligible employee who cares for such a covered service member for sixteen (16) weeks during a twelve (12) month period could only take a total of ten (10) weeks for reasons 1 through 4 in Section One and for any qualifying exigency. An eligible employee may not take more than twelve (12) weeks of FMLA leave for reasons 1 through 4 in Section One and for any qualifying exigency regardless of how little leave the eligible employee may take to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury.

If a legally married couple are both eligible employees employed by the District, the legally married couple are entitled to a combined total of twenty-six (26) weeks of leave during one twelve (12) month period to care for their spouse, son, daughter, parent, or next of kin who is a covered service member with a serious injury or illness, as defined in this policy. The leave taken by a legally married couple who care for such a covered

service member continues to be limited to a total of twelve (12) weeks of FMLA leave for reasons 1 through 4 in Section One and for any qualifying exigency during a year, as defined in this policy, regardless of whether or not the legally married couple uses less than a combined total of fourteen (14) weeks to care for a covered service member with a serious injury or illness; moreover, the legally married couple's twelve (12) weeks are combined when taken for reasons 1, 2, or to care for a parent under reason 3 in Section One.

For example, a legally married couple who are both eligible employees and who care for such a covered service member for sixteen (16) weeks during a twelve (12) month period could:

1. Each take up to ten (10) weeks for reason 4 in section 1 or a qualifying exigency;
2. Take a combined total of ten (10) weeks for reasons 1, 2, or to care for a parent under reason 3 in Section One; or
3. Take a combination of numbers 1 and 2 that totals ten (10) weeks of leave.

### **Medical Certification**<sup>15</sup>

The District may require the eligible employee to obtain certification of the covered service member's serious health condition to help the District determine if the requested leave qualifies for FMLA leave. The District may deny FMLA leave if an eligible employee fails to provide the requested certification.

## **Employee Notice to District**

### **Foreseeable Leave:**

When the need for leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury is clearly foreseeable at least thirty (30) days in advance, the employee shall provide the District with not less than thirty (30) days' notice before the date the employee intends for the leave to begin for the specified reason. An eligible employee who has no reasonable excuse for his/her failure to provide the District with timely advance notice of the need for FMLA leave may have his/her FMLA coverage of such leave delayed until thirty (30) days after the date the employee provides notice.

If the need for FMLA leave is foreseeable less than thirty (30) days in advance, the employee shall notify the District as soon as practicable. If the employee fails to notify as soon as practicable, the District may delay granting FMLA leave for an amount of time equal to the difference between the length of time that the employee should have provided notice and when the employee actually gave notice.

When the need for leave is to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury, the employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the district subject to the approval of the health care provider of the spouse, son, daughter, or parent of the employee.

### **Unforeseeable Leave**

When the approximate timing of the need for leave is not foreseeable, an employee shall provide the District notice of the need for leave as soon as practicable given the facts and circumstances of the

particular case. Ordinarily, the employee shall notify the District within two (2) working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. Notice may be provided in person, by telephone, fax, email, or other electronic means. If the eligible employee fails to notify the District as required, unless the failure to comply is justified by unusual circumstances, the FMLA leave may be delayed or denied.

### **Substitution of Paid Leave**

When an employee's leave has been designated as FMLA leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury, the District requires employees to substitute accrued sick, vacation, or personal leave for the period of FMLA leave.

### **Intermittent or Reduced Schedule Leave**

To the extent practicable, employees requesting intermittent or reduced schedule leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury shall provide the District with at least thirty (30) days' notice, before the date the leave is to begin, of the employee's intention to take leave.

Eligible employees may take intermittent or reduced schedule FMLA leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury when the medical need is best accommodated by such a schedule. The eligible employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider.

When granting leave on an intermittent or reduced schedule to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury that is foreseeable based on planned medical treatment, the District may temporarily transfer non-instructional eligible employees for the period of scheduled intermittent or reduced leave to an alternative position that the employee is qualified for and that better accommodates recurring periods of leave than does the employee's regular position. The alternative position shall have equivalent pay and benefits but does not have to have equivalent duties. When the employee is able to return to full-time work, the employee shall be placed in the same or equivalent job as he/she had when the leave began. Specifically, upon returning from FMLA leave, an employee may be assigned to another position that is not necessarily the same as the employee's former job assignment. The employee will not be required to take more FMLA leave than necessary to address the circumstances requiring the need for the leave.

If an eligible employee who meets the definition of an instructional employee requests intermittent or reduced schedule leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury that is foreseeable based on planned medical treatment and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period during which the leave would extend, the District may require the employee to choose either:

1. Take medical leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
2. Transfer temporarily to an available alternative position offered by the employer that the employee is qualified for, has equivalent pay and benefits, and better accommodates recurring periods of leave than the regular employment position of the employee.

If the employee chooses to transfer to an alternative position, the alternative position shall have equivalent pay and benefits but does not have to have equivalent duties. When the employee is able to return to full-time work, the employee shall be placed in the same or equivalent job as he/she had when the leave began. Specifically, upon returning from FMLA leave, a teacher may be assigned to another position that is not necessarily the same as the teacher's former job assignment. The employee will not be required to take more FMLA leave than necessary to address the circumstances that required the need for the leave.

An eligible instructional employee, who needs intermittent leave or leave on a reduced leave schedule to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury, may not be transferred to an alternative position during the period of the employee's intermittent or reduced leave schedule if, based on the foreseeable planned medical treatment, the employee would be on leave for twenty percent (20%) or less of the total number of working days over the period the leave would extend.

Leave taken by eligible instructional employees near the end of the academic semester in any of the following scenarios, if the district chooses to require the eligible, instructional employee to stay on leave until the end of the semester, only the portion of the leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The excess non-FMLA leave will not be considered excessive absenteeism.

#### **Leave more than five (5) weeks prior to end of the semester**

If the eligible, instructional employee begins leave, for any qualifying exigency or to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury more than five (5) weeks prior to the end of the semester, the District may require the employee to continue taking leave until the end of the semester, if:

1. The leave is of at least three (3) weeks duration; and
2. The return to employment would occur during the three (3) - week period before the end of the semester.

#### **Leave less than five (5) weeks prior to end of the semester**

If the eligible, instructional employee begins leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury during the period that commences five (5) weeks prior to the end of the semester, the District may require the employee to continue taking leave until the end of the semester, if:

1. The leave is of greater than two (2) weeks duration; and
2. The return to employment would occur during the two (2) - week period before the end of the semester.

#### **Leave less than three (3) weeks prior to end of the semester**

If the eligible, instructional employee begins leave to care for a spouse, child, parent or next of kin who is a covered servicemember with a serious illness or injury during the period that commences three (3) weeks prior to the end of the semester and the duration of the leave is greater than five (5) working days, the District may require the employee to continue to take leave until the end of the semester.

Notes: This policy is similar to Policy 8.23. If you change this policy, review 8.23 at the same time to ensure applicable consistency between the two.

Determining whether an absence qualifies as FMLA leave is a **DISTRICT** responsibility and not the employees. While much of the statutes' language refers to an employee's request for FMLA leave, the employee has **NO** mandatory responsibility for initiating the exchange of information that might relate his/her absence to that of the FMLA. The District has the right and the duty to ask for enough information concerning an employee's absence to make a determination. The employee has the responsibility and duty to respond to questions asked in an effort for the District to make the initial determination. Any issue of medical certification to be provided by the employee is secondary to that of informal questioning to determine whether the absence does in fact, fall under the FMLA umbrella. The District must fulfill its responsibility for the posting of employee FMLA notice requirements to make those requirements enforceable. This is done through posting the notices available at the link in footnote #4 **AND** by the employee's receipt of this policy in the employee handbook.

<sup>1</sup> It is possible for a fulltime employee to be eligible for FMLA leave one year and not the next. For example, if an employee on a 190day contract takes the full twelve (12) weeks of FMLA leave in year one, that would mean the employee only worked 130 days. Assuming the employee is credited for eight (8) hours per workday, the employee would have only worked 1040 hours during that time (130 x 8=1040), which would make the employee ineligible for FMLA leave for the year following the year that the employee took the leave.

<sup>2</sup> The Wage and Hour Division of the Department of Labor has issued a Guidance to help interpret the scope of the definition of "son or daughter" as it applies to an employee standing "in loco parentis" to a child. The following quote from the Guidance is offered to give an idea of the complexity of the definition. (The Guidance, in full, is available by calling the ASBA office or at the link in footnote #4.)

*Congress intended the definition of "son or daughter" to reflect "the reality that many children in the United States today do not live in traditional 'nuclear' families with their biological father and mother. Increasingly, those who find themselves in need of workplace accommodation of their child care responsibilities are not the biological parent of the children they care for, but their adoptive, step, or foster parents, their guardians, or sometimes simply their grandparents or other relatives or adults." Congress stated that the definition was intended to be "construed to ensure that an employee who actually has day-to-day responsibility for caring for a child is entitled to leave even if the employee does not have a biological or legal relationship to that child."*<sup>3</sup> Districts can choose one of four (4) possible "twelve (12) - month periods." Each one has possible advantages and disadvantages. Choose the one that will work best for your district. The four (4) options are:

- 1) the calendar year,
- 2) Any fixed twelve (12) - month leave year such as a fiscal year or a year starting on an employee's "anniversary" date,
- 3) The twelve (12) - month period measured forward from the date any employee's first FMLA leave for reasons 1 through 5 begins,
- 4) A rolling twelve (12) - month period measured backward from the date an employee uses any FMLA leave for reasons 1 through 5.

- <sup>4</sup> A Department of Labor poster along with several additional forms that are necessary to fulfill FMLA's requirements are available at <http://www.dol.gov/whd/fmla/index.htm>. Please note that the DOL forms lack the disclaimer required by the Genetic Information Nondiscrimination Act (GINA). We suggest that you include the following language taken from the final rule implementing the GINA:

*The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.*

- <sup>5</sup> We suggest you use the Department of Labor's *Notice of Eligibility and Rights and Responsibilities* form (otherwise known as WH-381) to help you fulfill the requirements of this section. It's available at the link in footnote #4 or by calling the ASBA office. When making the determination, we suggest initially erring on the side of granting it. Retroactively designating leave as FMLA has more potential liability for the district if the employee can demonstrate the initial failure to grant the leave under FMLA caused him/her harm or injury. If due to receipt of the medical certification, it turns out that the leave does not qualify, you will need to readjust the available FMLA leave accordingly.
- <sup>6</sup> As used in this policy, "applicable" is a very important word. Some leave taken under FMLA also applies to sick leave and therefore, the employee will get paid for the leave to the extent the employee has sick leave accrued. Other leave taken under FMLA is not applicable to sick leave and therefore the FMLA leave is unpaid. For instance, "applicable leave" in terms of time taken under FMLA due to the birth of a child will vary depending on the language in your District's policy on sick leave. For instance, if sick leave may be taken "for reason of personal illness or illness in the immediate family" (based on the statutory definition in A.C.A. § 6-17-1202, and an employee gives birth to a child, she may take sick leave for the amount of time that her personal physician deems it necessary for her to physically recover from childbirth. Once the medically necessary time has passed, sick leave is no longer appropriate and cannot be used. While under the FMLA, the employee could take additional time off work, she would need to take unpaid FMLA leave for this purpose, unless she had personal days or vacation days available. However, if your district has a much more liberal definition of sick leave in District policy, the results could be entirely different. Another example would be the potential for overlap between pregnancy complications that arise to the level of a "serious health condition". For instance, pregnancy complications that rose to the level of a "serious health condition" would qualify for both, while missing work for a dentist's appointment would qualify for sick leave but would not qualify for FMLA leave. Consult policy 8.5—CLASSIFIED PERSONNEL SICK LEAVE when making the determination of what sick leave qualifies under both policies.

<sup>7</sup> There are several issues that must be addressed in the written notice. The *Designation Notice* (WH-382) available from the Wage and Hour Division of the US Department of Labor is a good way to both give your employee written notice and help ensure you have included the necessary information in the notice. The *Designation Notice* is available at the link contained in footnote #4 or by calling the ASBA office.

<sup>8</sup> The District cannot cancel an employee's insurance for the employee's failure to pay his/her share of the premium until the payment is thirty (30) or more days late. The District must give prior, written notice to the employee at least fifteen (15) days prior to the cancellation of the policy stating that the policy will be terminated on a given date if payment is not received by that date, which must be at least fifteen (15) days from the date of the letter.

<sup>9</sup> Due to the district's liability for meeting the requirement of this paragraph and similar obligations for life insurance premiums or other benefits, the District needs to consider picking up the costs of such premiums during an employee's **unpaid** FMLA leave **if** the employee fails to pay his/her share of the costs. If the District elects to maintain such benefits during the leave, at the conclusion of leave the District is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work. To help you decide if you should choose to pay premium costs in such a situation, the following excerpt from 29 CFR 825.212(c):

*If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employer must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See § 825.215(d)(1) through (5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage. If an employer terminates an employee's insurance in accordance with this section and fails to restore the employee's health insurance as required by this section upon the employee's return, the employer may be liable for benefits lost by reason of the violation, for other actual monetary losses sustained as a direct result of the violation, and for appropriate equitable relief tailored to the harm suffered.*

<sup>10</sup> You may choose the time interval of the required duty to report, but it must be reasonable.

<sup>11</sup> ASBA model policy 8.5—CLASSIFIED PERSONNEL SICK LEAVE includes language entitling employees with up to fifteen (15) days of sick leave in a school year for issue relating to the adoption of a child. If you have not adopted this provision, delete #2 from this sentence. Include reason #1 if you have a liberal sick leave policy that would permit leave to be taken for bonding with a newborn son or daughter.

<sup>12</sup> The Department of Labor's *Designation Notice* has entries that address this section's requirements. It's very helpful. For this section, you will need both the *Designation Notice* (WH-382) and the appropriate *Medical Certification form* (WH-380-E or WH380-F); the *Designation Notice* to fulfill your notice requirements and the medical certification form to

enable you to determine if the employee's leave is actually covered under the FMLA. They are available at the link in footnote #4 or by calling the ASBA office.

<sup>13</sup> The types and amounts of leave available for a particular type of qualifying exigency are covered in 29 C.F.R. § 825.126. Call the ASBA office for a copy.

<sup>14</sup> You can use WH-384, *Certification of Qualifying Exigency for Military Family Leave* to obtain the certification. It is available at the link in footnote #4 or by calling the ASBA office.

<sup>15</sup> You can use WH-385, *Covered Service Member Serious Injury* form to obtain the certification. It is available at the link in footnote #4 or by calling the ASBA office.

Cross References: 3.8—LICENSED PERSONNEL SICK LEAVE

3.18—LICENSED PERSONNEL OUTSIDE EMPLOYMENT

3.44—LICENSED PERSONNEL WORKPLACE INJURIES AND  
WORKERS' COMPENSATION

Legal References: 29 USC §§ 2601 et seq.  
29 CFR part 825

Date Adopted:

Last Revised: Spring 2020

## 8.28 – Drug Free Workplace

The conduct of co-op staff plays a vital role in the social and behavioral development of our students. It is equally important that the staff have a safe, healthful, and professional environment in which to work. To help promote both interests, the co-op shall have a drug free workplace. It is, therefore, the co-op's policy that employees are prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, alcohol, as well as inappropriate or illegal use of prescription drugs. Such actions are prohibited both while at work or in the performance of official duties while off district and co-op property; violations of this policy will subject the employee to discipline, up to and including termination.

To help promote a drug free workplace, the co-op shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the district's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance abuse programs, and the penalties that may be imposed upon employees for drug abuse violations.

### **Substance abuse resources include the following organizations.**

Alcoholics Anonymous: 306 Cherry St., Harrison, AR 72601 870-688-8352

NA (Narcotics Anonymous): 1315 Hwy 62/65N, Harrison, AR 72601

Alcohol & Drug Helpline: 800-821-4357

Region II Prevention Resource Center: 303 N. Main St., Durand Center, Harrison, 72601 870-365-6518

Boone County Health Office: 1622 Campus Dr., Harrison, AR 72601 870-743-5244

Should any employee be found to have been under the influence of, or in illegal possession of, any illegal drug or controlled substance, whether or not engaged in any school or school-related activity, and the behavior of the employee, if under the influence, is such that it is inappropriate for a school employee in the opinion of the director, the employee may be subject to discipline, up to and including termination.

Possession use or distribution of drug paraphernalia by any employee, whether or not engaged in co-op or school-related activities, may subject the employee to discipline, up to and including termination. Possession in one's vehicle or in an area subject to the employee's control will be considered to be possession as though the substance were on the employee's person.

It shall not be necessary for an employee to test at a level demonstrating intoxication by any substance in order to be subject to the terms of this policy. Any physical manifestation of being under the influence of a substance may subject an employee to the terms of this policy. Those physical manifestations include but are not limited to; unsteadiness; slurred speech; dilated or constricted pupils; incoherent and/or irrational speech; or the presence of an odor associated with a prohibited substance on one's breath or clothing.

Should an employee desire to provide the cooperative with the results of a blood, breath or urine analysis, such results will be taken into account by the co-op only if the sample is provided within a time range that could provide meaningful results and only by a testing agency chosen or approved by the cooperative. The cooperative shall not request that the employee be tested, and the expense for such voluntary testing shall be borne by the employee.

Any incident at work resulting in injury to the employee requiring medical attention shall require the employee to submit to a drug test, which shall be paid at the co-op's worker's compensation carrier's expense. Failure for the employee to submit to the drug test or a confirmed positive drug test indicating the use of illegal substances or the misuse of

prescription medications shall be grounds for the denial of worker's compensation benefits in accordance with policy 8.36—CLASSIFIED PERSONNEL WORKPLACE INJURIES AND WORKERS' COMPENSATION.<sup>2</sup>

Any employee who is charged with a violation of any state or federal law relating to the possession, use or distribution of illegal drugs, other controlled substances or alcohol, or of drug paraphernalia, must notify his immediate supervisor within five (5) week days (i.e., Monday through Friday, inclusive, excluding holidays) of being so charged. The supervisor who is notified of such a charge shall notify the director immediately. If the supervisor is not available to the employee, the employee shall notify the director within the five (5) day period.

Any employee so charged is subject to discipline, up to and including termination. However, the failure of an employee to notify his supervisor or the director of having been so charged shall result in that employee being recommended for termination by the director.

Any employee convicted of any criminal drug statute violation for an offense that occurred while at work or in the performance of official duties while off district or co-op property shall report the conviction within 5 calendar days to the director. Within 10 days of receiving such notification, whether from the employee or any other source, the cooperative shall notify federal granting agencies from which it receives funds of the conviction. Compliance with these requirements and prohibitions is mandatory and is a condition of employment.

Any employee convicted of any state or federal law relating to the possession, use or distribution of illegal drugs, other controlled substances or alcohol, or of drug paraphernalia, shall be recommended for termination.

Any employee who must take prescription medication at the direction of the employee's physician, and who is impaired by the prescription medication such that he cannot properly perform his duties shall not report for duty. Any employee who reports for duty and is so impaired, as determined by his supervisor, will be sent home. The employee shall be given sick leave, if owed any. The co-op or employee will provide transportation for the employee, and the employee may not leave campus while operating any vehicle. It is the responsibility of the employee to contact his physician in order to adjust the medication, if possible, so that the employee may return to his job unimpaired. Should the employee attempt to return to work while impaired by prescription medications, for which the employee has a prescription, he will, again, be sent home and given sick leave, if owed any. Should the employee attempt to return to work while impaired by prescription medication a third time the employee may be subject to discipline, up to and including a recommendation of termination.

Any employee who possesses, uses, distributes or is under the influence of a prescription medication obtained by a means other than his own current prescription shall be treated as though he was in possession, possession with intent to deliver, or under the influence, etc. of an illegal substance. An illegal drug or other substance is one which is (a) not legally obtainable; or (b) one which is legally obtainable, but which has been obtained illegally. The cooperative may require an employee to provide proof from his physician and/or pharmacist that the employee is lawfully able to receive such medication. Failure to provide such proof, to the satisfaction of the director, may result in discipline, up to and including a recommendation of termination.

A report to the appropriate licensing agency shall be filed within seven (7) days of:

1. A final disciplinary action taken against an employee resulting from the diversion, misuse, or abuse of illicit drugs or controlled substances; or
2. The voluntary resignation of an employee who is facing a pending disciplinary action resulting from the diversion, misuse, or abuse of illicit drugs or controlled substances.

The report filed with the licensing authority shall include, but not be limited to:

- The name, address, and telephone number of the person who is the subject of the report; and
- A description of the facts giving rise to the issuance of the report.

When the employee is not a healthcare professional, law enforcement will be contacted regarding any final disciplinary action taken against an employee for the diversion of controlled substances to one (1) or more third parties.

Legal References: 41 USC § 8101, 8103, 8104 & A.C.A. 11-19-102

Date Adopted: Spring 2004  
Last Revised: Spring 2018

## **8.28F—DRUG FREE WORKPLACE POLICY ACKNOWLEDGEMENT**

### **CERTIFICATION**

I, hereby certify that I have been presented with a copy of the O.U.R. Educational Cooperative's drug-free workplace policy, that I have read the statement, and that I will abide by its terms as a condition of my employment with the cooperative.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## 8.29 – Personnel Video Surveillance & Other Monitoring

The Board of Directors has a responsibility to maintain discipline, protect the safety, security, and welfare of its students, staff, and visitors while at the same time safeguarding co-op facilities, vehicles, and equipment. As part of fulfilling this responsibility, the board authorizes the use of video/audio surveillance cameras, automatic identification, data compilation devices, and technology capable of tracking the physical location of district equipment, students, and/or personnel.

The placement of video/audio surveillance cameras shall be based on the presumption and belief that students, staff and visitors have no reasonable expectation of privacy anywhere on or near school property, facilities, vehicles, or equipment, with the exception of places such as rest rooms or dressing areas where an expectation of bodily privacy is reasonable and customary.

Signs shall be posted on property and in or on co-op vehicles to notify students, staff, and visitors that video cameras may be in use. Violations of school personnel policies or laws caught by the cameras and other technologies authorized in this policy may result in disciplinary action.

The co-op shall retain copies of video recordings until they are erased, which may be accomplished by either deletion or copying over with a new recording.

Videos, automatic identification, or data compilations containing evidence of a violation of co-op personnel policies and/or state or federal law shall be retained until the issue of the misconduct is no longer subject to review or appeal as determined by board policy or staff handbook; any release or viewing of such records shall be in accordance with current law.

Staff who vandalize, damage, defeat, disable, or render inoperable (temporarily or permanently) surveillance cameras and equipment, automatic identification, or data compilation devices shall be subject to appropriate disciplinary action and referral to appropriate law enforcement authorities.

Video recordings and automatic identification or data compilation records may become a part of a staff member's personnel record.

Date Adopted: Spring 2011

Date Revised:

## 8.30 – Reduction in Force

### **SECTION ONE**

The Board of Directors of the Ozark Unlimited Resources (OUR) acknowledges its authority to conduct a reduction in force (RIF) when a decrease in enrollment, changes in needs of member districts, or other reason(s) make such a reduction necessary or desirable. A RIF will be conducted when the need for a reduction in the work force exceeds the normal rate of attrition for that portion of the staff that is in excess of the needs of the cooperative as determined by the co-op director.

In effecting a reduction in force, the primary goals of OUR shall be, what is in the best interests of the member districts of the cooperative requirements for applicable licensing or accrediting organizations, and the overall needs of the cooperative. A reduction in force will be implemented when the co-op director determines it is advisable to do so and shall be affected through non-renewal, termination, or both. Any reduction in force will be conducted by evaluating the needs and long and short-term goals of the cooperative and its programs, and its member districts, and by examining the staffing of the cooperative at each department, site, program, grant-funded program, and in each licensure areas.

#### **Definitions:**

**Department:** Department means an administrative unit of the cooperative. The staff that administers the cooperative as a whole shall constitute a department excluding the director/assistant director/teacher center coordinator and/or teacher center coordinator. Typically, a department has its own distinctive funding stream or source.

**Site:** Site means the school district where a program is located, or, if the program is not located at a school district, site shall mean the administrative offices of OUR, the O.U.R. Children’s Center or the Montessori ABC Classroom.

**Program:** Program means a separate organizational unit of O.U.R. that requires licensure and/or expertise and training in a specific disciplinary area. For the purposes of this policy, organizational units include but are not limited to each site where a preschool program exists, and distinct specialist, consultant, and coordinator position(s) for a discipline or support area.

**Grant-funded Program:** Grant-funded program refers to a program that is supported in whole or in part from specific funds entrusted to the cooperative to perform specific functions or to implement particular programs.

**Program Elimination or Program Site Elimination:** No seniority shall apply in situations where program elimination occurs or is recommended, program funding is lost, site or program licensure or accreditation is lost, or the site of a program is recommended for closure, elimination or curtailment.

**Reduction by assignment area, skill set, training or expertise, RIF due to program size reduction at a site, or program:** If a reduction in force becomes necessary in a department, program, or site, or due to the need to reduce the size of a department, program, or at a site, or department grant loss, program grant loss or reduction, or due to department, program, or site redesign, or by a need to reduce the number of employees with a particular skill set, training or expertise as determined by the cooperative director, the employee’s total number of points shall be the determining factor. The employee with the most points as compared to other classified employees assigned to the same site and/or department or program or, if not assigned to a specific program, with the same skill set, training or expertise shall prevail.

In the event that two employees subject to a RIF have the same length of service, the employee with the highest number of points as determined by the schedule contained in this policy shall be retained. The employee with the fewest points will be laid off first. In the event two or more employees have the same number of points, the employee(s) shall be retained whose name(s) appear first in the board's minutes of the date of hire. There is no right or implied right for any employee to "bump" or displace any other employee.

### **Points**

- Years of service in the cooperative—1 point per year
- All classified position years in the cooperative count including non-continuous years.
- Working fewer than 160 days in a school year shall not constitute a year.

All points awarded must be verified by documents on file with the cooperative by October 15, of the current school year. Each employee's points shall be totaled with comparable employees in an area considered for RIF, ranked by the total points from highest to lowest. All employees employed in an area considered for RIF for a reason other than department, program elimination or program site elimination shall receive a listing of classified personnel with corresponding point totals. Upon receipt of the list, each employee has ten (10) working days within which to appeal his or her assignment of points with the cooperative director whose decision shall be final.

A RIF of any part or portion of a contract of employment, or to reduce salary may also be conducted.

There is no right to recall for any licensed employee who is subject to RIF under this policy.

Legal Reference: A.C.A. § 6-17-2407

Date Adopted: Spring 2004

Last Revised: Spring 2014

## 8.31 – Personnel Dismissal & Nonrenewal

For procedures relating to the termination and non-renewal of noncertified employees, please refer to the Public School Employee Fair Hearing Act A.C.A 6-17-1701 through 1705. The Act specifically is not made a part of this policy by this reference.

A copy of the code is available for review in the office of the director.

Date Adopted: Spring 2004  
Last Revised:

## 8.32 – Personnel Assignments

The director shall be responsible for assigning and reassigning noncertified personnel.

Date Adopted: Spring 2007

Last Revised:

## 8.34 – Mandated Child Abuse, Maltreatment, or Neglect Reporting

It is the statutory duty of classified school district employees who are mandated reporters<sup>1</sup> to:

- If the classified employee has reasonable cause to suspect child abuse or maltreatment, then the classified employee shall directly and personally report these suspicions to the Arkansas Child Abuse Hotline, by calling 1-800-482-5964; by calling the child maltreatment hotline at 1-800-482-5964 and submitting a report through fax to the child maltreatment hotline; or if the employee can demonstrate that the child maltreatment, neglect, or abuse is not an emergency, the employee may notify the child maltreatment hotline through submission of a fax only. Failure to report suspected child abuse, maltreatment, or neglect through the Hotline can lead to criminal prosecution and individual civil liability of the person who has this duty. Notification of local or state law enforcement does not satisfy the duty to report; only notification by means of the Child Abuse Hotline discharges this duty.
- If the classified employee has a good faith belief that there is a serious and imminent threat to the public based on a threat made by an individual regarding violence in or targeted at a school that has been communicated to the classified employee in the ordinary course of his/her professional duties, then the classified employee shall make every attempt to immediately notify law enforcement of the serious and imminent threat to the public and have notified law enforcement within twenty-four (24) hours of learning of the serious and imminent threat to the public.

The duty of mandated reporters to report suspected child abuse or maltreatment or serious and imminent threats to the public is a direct and personal duty and cannot be assigned or delegated to another person. There is no duty to investigate, confirm or substantiate statements a student may have made which form the basis of the reasonable cause to believe that the student may have been abused or subjected to maltreatment by another person or that form the basis of the serious and imminent threat to the public; however, a person with a duty to report may find it helpful to make a limited inquiry to assist in the formation of a belief that child abuse, maltreatment, or neglect has occurred that a serious and imminent threat to the public exists; or to rule out such a belief<sup>2</sup>.

Employees and volunteers who call the Child Abuse Hotline or who report serious and imminent threats to the public to law enforcement in good faith are immune from civil liability and criminal prosecution.

By law, no school district or school district employee may prohibit or restrict an employee or volunteer who is a mandated reporter from directly reporting suspected child abuse, maltreatment, or a serious and imminent threat to the public, or require that any person notify or seek permission from any person before making a report to the Child Abuse Hotline or law enforcement.

<sup>1</sup> For a listing of who qualifies as mandated reporters, refer to A.C.A. § 6-18-110(a) and A.C.A. § 12-18-402(b).

<sup>2</sup> This is a delicate matter and the district would be wise to avail itself of professional development in this area available from DHS and other sources. A.C.A. § 6-61-133; requires professional development related to child maltreatment for licensed employees and includes school nurses, school social workers, and school psychologists in the list of “licensed employees” who must receive the required PD.

Legal References:     A.C.A. § 6-18-110  
                           A.C.A. § 12-18-107  
                           A.C.A. § 12-18-201 et seq.  
                           A.C.A. § 12-18-402

Date Adopted:

Last Revised: Spring 2020

## 8.36 – Workplace Injuries & Workers Compensation

The cooperative provides Workers' Compensation Insurance, as required by law. Employees who sustain any injury at work must immediately notify their immediate supervisor and director, or in the absence of the director notify the business manager. An injured employee must fill out a Form N and the employee's supervisor will determine whether to report the claim or to file the paperwork if the injury requires neither medical treatment or lost work time. While many injuries will require no medical treatment or time lost at work, should the need for treatment arise later, it is important that there be a record that the injury occurred. All employees have a duty to provide information and make statements as requested for the purposes of the claim assessment and investigation.

For injuries requiring medical attention, the co-op will exercise its right to designate the initial treating physician and an injured employee will be directed to seek medical attention, if necessary, from a specific physician or clinic. In addition, employees whose injuries require medical attention shall submit to a drug test, which shall be paid at the co-op's workers' compensation carrier's expense. Failure for the employee to submit to the drug test or a confirmed positive drug test indicating the use of illegal substances or the misuse of prescription medications shall be grounds for the denial of workers' compensation benefits. (2)

A Workers' Compensation absence may run concurrently with FMLA leave (policy 3.32) when the injury is one that meets the criteria for a serious health condition. To the extent that workers' compensation benefits and FMLA leave run concurrently, the employee will be charged for any paid leave accrued by the employee at the rate necessary to bring the total amount of combined income up to 100% of usual contracted daily rate of pay. If the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job," but is unable to return to the employee's same or equivalent job, the employee may decline the District's offer of a "light duty job." As a result, the employee may lose his/her workers' compensation payments, but for the duration of the employee's FMLA leave, the employee will be paid for the leave to the extent that the employee has accrued applicable leave.

Employees who are absent from work in the school district due to a Workers' Compensation claim may not work at a non-district job until they have returned to full duties at their same or equivalent district job; those who violate this prohibition may be subject to discipline up to and including termination. This prohibition does NOT apply to an employee who has been cleared by his/her doctor to return to "light duty" but the District has no such position available for the employee and the employee's second job qualifies as "light duty".

To the extent an employee has accrued sick leave and a WC claim has been filed: an employee

- Will be charged for a day's sick leave for the all days missed until such time as the WC claim has been approved or denied,
- Whose WC claim is accepted by the WC insurance carrier as compensable and who is absent for eight or more days shall be charged sick leave at the rate necessary, when combined with WC benefits, to bring the total amount of combined income up to 100% of the employee's usual contracted daily rate of pay,
- Whose WC claim is accepted by the WC insurance carrier as compensable and is absent for 14 or more days will be credited back that portion of sick leave for the first seven (7) days of absence that is not necessary to have brought the total amount of combined income up to 100% of the employee's usual contracted gross pay.
- <sup>2</sup> Requiring employees who need medical treatment for injuries at work to be drug tested is optional but is recommended. A.C.A. § 11-9-102 states that an injury resulting while the employee is under the influence of alcohol or illegal drugs is not a compensable injury. Requiring all employees to be drug tested for work injuries resulting in

medical treatment will allow the district to abide the prohibition against paying workers' comp for a drug related injury.

Cross Reference:

- 8.5—CLASSIFIED EMPLOYEES SICK LEAVE
- 8.12—CLASSIFIED PERSONNEL OUTSIDE EMPLOYMENT
- 8.23—CLASSIFIED PERSONNEL FAMILY MEDICAL LEAVE
  
- Legal References: Ark. Workers Compensation Commission RULE 099.33 - MANAGED CARE
- A.C.A. § 11-9-508(d)(5)(A)
- A.C.A. § 11-9-514(a)(3)(A)(i)

Date Adopted: Spring 2010

Last Revised: Spring 2016

## 8.39 – Depositing Collected Funds

From time to time, staff members may collect funds in the course of their employment. It is the responsibility of any staff member to forward funds for deposits to the business manager at least weekly and preferably daily. The director or business manager shall be responsible for determining the need for receipts for funds collected and other record keeping requirements and of notifying staff of the requirements.

Staff that use any funds collected in the course of their employment for personal purposes, or who deposit such funds in a personal account, may be subject to discipline up to and including termination.

Date adopted: Spring 2011

Last Revised:

## 8.40- Personnel Weapons on Campus

### **Firearms**

Except as permitted by this policy, no employee of the co-op, including those who may possess a “concealed carry permit”, shall possess a firearm on any co-op or district school campus.

Employees who meet one or more of the following conditions are permitted to bring a firearm onto co-op or school property.

- He/she is participating in a school-approved educational course or program involving the use of firearms such as ROTC programs, hunting safety or military education, or before or after-school hunting or rifle clubs,
- The firearms are securely stored and located in an employee’s on-campus personal residence and/or immediately adjacent parking area,<sup>2</sup>
- He/she is a registered, commissioned security guard acting in the course and scope of his/her duties.
- He/she is a certified law enforcement officer, either on or off duty,
- He/she has a valid conceal carry license and leaves his/her handgun in his/her locked vehicle in the co-op parking lot.

Possession of a firearm by a school district employee who does not fall under any of the above categories anywhere on co-op or school property, including parking areas and in or upon a school bus, will result in disciplinary action being taken against the employee, which may include termination or nonrenewal of the employee.

### **Other Weapons<sup>3</sup>**

#### **Option 2**

An employee may possess a pocketknife which for the purpose of this policy is defined as a knife that can be folded into a case and has a blade or blades three (3) inches or less. An employee may carry, for the purpose of self-defense, a small container of tear gas/pepper spray<sup>4</sup> or mace which for the purpose of this policy is defined as having a capacity of 150cc or less. Employees are expected to safeguard such items in such a way as to ensure they are not possessed by students. Such items are not to be used against students, parents or other school district employees. Possession of weapons, knives or self-defense items that do not comply with the limits contained herein, the failure of an employee to safeguard such items, or the use of such items against students, parents or other co-op employees may result in disciplinary action being taken against the employee, which may include termination or nonrenewal of the employee.

Employees who are participating in a Civil War reenactment may bring a Civil War era weapon onto campus with prior permission of the building principal. If the weapon is a firearm, the firearm must be unloaded.<sup>5</sup>

<sup>1</sup> The possession of handguns and firearms is a very hot topic. In Arkansas, the laws governing their possession on school grounds are both complicated and less than clear. The two statutes most directly affecting schools are A.C.A. § 5-73-119 (herein after 119) and A.C.A. § 5-73-306 (herein after 306).

119 governs firearms (including handguns) while 306 deals strictly with concealed handguns (those guns having a barrel length of 12" or less).

119 prohibits firearms on "developed school property" while 306 prohibits concealed handgun permit holders from carrying their handguns into school buildings or events but permits the concealed carry licensee to leave a handgun in his/her locked vehicle at a publicly owned parking lot.

119 permits those who are on a "journey beyond the county in which a person lives" to carry handguns and firearms on school property. Technically, this would allow those employees who commute from outside the county in which they teach to bring their firearms to school. While we accept that concealed carry licensees may leave their handgun in their locked vehicle in the parking lot, we see this as complicated to enforce and generally problematic. Also, as we interpret the statute, parents visiting the school for an athletic or other event can bring their handgun, though it must be left in their locked vehicle, with them. We cannot control that through policy.

<sup>2</sup> If your district has housing for any employee and that employee chooses to have any firearms in the house, they should be kept in a very secure place. It would be wise to keep them in a locked gun safe so that no one other than the employee has access to them.

<sup>3</sup> Select the option that works best for your district. In making your decision, note that in Option #2, you can choose to include only the first or the second sentence or you can keep both sentences. If you keep the first sentence, the length of the blade allowed is limited by A.C.A. § 5-73-120(b)(4) to less than 3". Also, A.C.A. § 5-73-120(a) prohibits individuals from carrying a weapon "with a purpose to employ the...weapon against a person". Presumably, an employee could possess a small pocketknife with no intent to use it against another person. Inherent in making the decision on either sentence in Option #2 is the possibility of a student taking the knife or the tear gas and misusing it.

<sup>4</sup> You can replace "tear gas" with "pepper spray" or leave "tear gas" in the policy and add "pepper spray."

<sup>5</sup> While the policy language only specifically covers employees, A.C.A. § 6-5-502 permits any person who is a Civil War reenactor to bring a Civil War era weapon onto campus with the prior permission of the principal.

Legal References:     A.C.A. § 5-73-119  
                              A.C.A. § 5-73-120  
  
                              A.C.A. § 5-73-124(a)(2)  
                              A.C.A. § 5-73-301  
                              A.C.A. § 5-73-306

Date Adopted: Spring 2013

Last Revised: July 2019

## 8.41 – Procurement

### **Written Code of Conduct for Employees Involved in Procurement with Federal Funds**

For purposes of this policy, “Family member” includes:

- An individual's spouse,
- Children of the individual or children of the individual's spouse,
- The spouse of a child of the individual or the spouse of a child of the individual's spouse,
- Parents of the individual or parents of the individual's spouse,
- Brothers and sisters of the individual or brothers and sisters of the individual's spouse,
- Anyone living or residing in the same residence or household with the individual or in the same residence or household with the individual's spouse; or
- Anyone acting or serving as an agent of the individual or as an agent of the individual's spouse.

No co-op employee, administrator, official, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds, including the District Child Nutrition Program funds, if a conflict of interest exists, whether the conflict is real or apparent. Conflicts of interest arise when one or more of the following has a financial or other interest in the entity selected for the contract:

1. The employee, administrator, official, or agent,
2. Any family member of the District employee, administrator, official, or agent,
3. The employee, administrator, official, or agent’s partner; or
4. An organization that currently employs or is about to employ one of the above.

Employees, administrators, officials, or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements including, but not limited to:

- a. Entertainment
- b. Hotel rooms
- c. Transportation
- d. Gifts
- e. Meals; or
- f. Items of nominal value (e.g. calendar or coffee mug).<sup>1</sup>

Violations of the Code of Conduct shall result in discipline, up to and including termination. The co-op reserves the right to pursue legal action for violations.

All District personnel involved in purchases with Federal funds, including child nutrition personnel training on the Code of Conduct. The training should include guidance about how to respond when a gratuity, favor, or item with monetary value is offered.<sup>2</sup>

**Notes:** This policy is similar to Policy 8.41. If you change this policy, review 8.41 at the same time to ensure applicable consistency between the two.

<sup>1</sup> Districts may set standards covering instances where the financial interest is not substantial and the gift is an unsolicited item of nominal value. If you do wish to set standards for these situations, delete this sentence and add a statement permitting such acceptance and the circumstances where it is acceptable.

<sup>2</sup> The training provided should cover instances where there is doubt concerning the appropriateness of accepting gifts, favors, etc., the employee should be instructed to consider the following questions:

- How would the public perceive this action of receiving the gift, favor, etc.?
- Will acceptance of the gift, favor, etc. possibly influence a future purchasing decision?

The training should cover the Rules Governing Ethical Guidelines and Prohibitions For Educational Administrators, Employees, Board Members And Other Parties including the contract disclosure forms checklists from Commissioner's Memo FIN 09-036.

Legal References: A.C.A. § 6-24-101 et seq.

Arkansas Department of Education Rules Governing the Ethical Guidelines and Prohibitions for Educational Administrators, Employees, Board Members And Other Parties

Commissioner's Memo FIN 09-036

Commissioner's Memo FIN-10-048

Commissioner's Memo FIN 15-074

2 C.F.R. § 200.318

7 C.F.R. § 3016.36

7 C.F.R. § 3019.42

Date Adopted: April 2016

Last Revised:

## 8.43 – Use of Personal Protective Equipment

Employees whose job duties require the use or wearing of Personal Protective Equipment (PPE) shall use or wear the prescribed PPE at all times while performing job duties that expose employees to potential injury or illness. Examples of PPE include, but are not limited to:<sup>1</sup>

- Head and face protection:
  - Hard hat
  - Bump cap
  - Welding helmet
  - Safety goggles
  - Safety glasses
  - Face shield
- Respiratory protection:
  - Dust/mist mask
  - Half-face canister respirators
- Hearing protection:
  - Ear plugs
  - Earmuffs
- Hand protection, which is based on hazard exposure(s) and type(s) of protection needed:
  - Leather
  - Latex
  - Rubber
  - Nitrile
  - Kevlar
  - Cotton
- Body protection:
  - Welding apron
  - Welding jackets
  - Coveralls/Tyvek suits
- Foot Protection:
  - Metatarsal protection
  - Steel toed boots/shoes
  - Slip resistant shoes
- Fall Protection:
  - Belts, harnesses, lanyards
  - Skylight protection
  - Safe ladders
  - Scissor lifts.

Employees operating a co-op-owned vehicle that is equipped with seat belts for the operator shall be secured by the seat belt at all times the employee is operating the vehicle. If the vehicle is equipped with seat belts for passengers, the employee operating the vehicle shall not put the vehicle into motion until all passengers are secured by a seat belt. Employees traveling in, but not operating, a co-op owned vehicle that is equipped with seat belts for passengers shall be secured by a seat belt at all times the vehicle is in motion.

Employees who fail to use or wear the prescribed PPE required by their job duties put themselves and co-workers at risk of sustaining personal injuries. Employees who are found to be performing job duties without using or wearing the necessary PPE required by the employee's job duties may be disciplined, up to and including termination.

A supervisor may be disciplined, up to and including termination, if the supervisor:

1. Fails to ensure the employee has the prescribed PPE before the employee assumes job duties requiring such equipment.
2. Fails to provide an employee replacement PPE when necessary, in order for the employee to continue to perform the job duties that require the PPE; or
3. Instructs the employee to perform the employee's job duties without the prescribed PPE required by those job duties.

An employee shall **not** be disciplined for refusing to perform job duties that require the employee to use/wear PPE if:

1. The employee has not been provided the prescribed PPE; or
2. The PPE provided to the employee is damaged or worn to the extent that the PPE would not provide adequate protection to the employee.

An employee's immediate Supervisor is responsible for providing the employee training on the proper use, care, and maintenance of any and all PPE that the employee may be required to use.

When designing employee schedules, be sure to account for the time employees spend putting on and taking off PPE. The time an employee spends putting on and taking off PPE at the worksite is compensable and may result in overtime issues for non-exempt employees under Policy 8.11.

<sup>1</sup> This is not intended to be an all-inclusive list, and you may add or remove items from the list based on what PPE your employees should be using.

Cross Reference: 8.11—OVERTIME, COMPTIME, and COMPLYING WITH FLSA

Date Adopted: Spring 2018

Last Revised:

## 8.44 – Classified Personnel Contract Return

An employee shall have thirty (30)<sup>1</sup> days from the date of the receipt of his contract for the following school year in which to return the contract, signed, to the office of the Superintendent. The date of receipt of the contract shall be presumed to be the date of a cover memo<sup>2</sup>, which will be attached to the contract.

Failure of an employee to return the signed contract to the office of the Superintendent within thirty (30) days of the receipt of the contract shall operate as a resignation by the employee. No further action on the part of the employee, the Superintendent, or the School Board shall be required in order to make the employee's resignation final.<sup>3</sup>

Date Adopted: July 2019

Date Revised

## 8.50 – Annual Calendar & Inclement Weather Schedule

### **Inclement Weather Schedule**

In periods of inclement weather, the cooperative's schedule will be consistent with the area school districts' schedules. Local radio station announcements will be used to announce any variance. If it is necessary for an individual to miss work due to inclement weather road conditions even though the cooperative is open, time can be made up without loss of salary upon approval of the immediate supervisor.

### **Annual Calendar/Holidays**

The cooperative policy is to remain open for the benefit of its constituents. The cooperative will observe legal holidays consistent with those scheduled by cooperative schools. These include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. For other school vacation days such as spring and Christmas breaks, the cooperative may close consistent with closing dates for schools or remain open, staffed with the minimum employees necessary to provide access and services to individuals.

Date Adopted: Spring 2003  
Date Revised: Spring 2008

## 8.60 – Telephone Usage

**Telephones at the workplace should be used for business purposes and in a professional manner. Long distance calls are to be made by using an ID code from the office. Cellular phone plans may be approved and audited on an individual basis at the discretion of the director. -Employees who are issued co-op owned cell phones due to the requirements of their position may use the phone for personal use on an “as needed” basis.**

Use of cell phones or other electronic communication devices by employees during instructional time for other than instructional purposes are strictly forbidden unless specifically approved in advance by the director or program supervisor, or their designees. Co-op staff shall not be given cell phones or computers for any purpose other than their specific use associated with co-op business. Employees who use a co-op issued cell phones and/or computers for non-co-op purposes, except as permitted by policy, shall be subject to discipline, up to and including termination.

All employees are forbidden from using co-op issued cell phones while driving any vehicle at any time. Violation may result in disciplinary action up to and including termination.

No employee shall use any device for the purpose of browsing the internet; composing or reading e-mails and text messages; or making or answering phone calls while driving a motor vehicle which is in motion and on school property. Violation may result in disciplinary action up to and including termination.

Reimbursement for business related expenses from an employee’s personal phone may be approved within the following guidelines.

1. Approval considerations for such reimbursement will be based upon need, responsibilities, and supervisory roles.
2. The maximum amount that employees will be reimbursed is \$50 per month.
3. Documentation of business use must always be provided.

Date Adopted: Spring 2003

Date Revised: Spring 2014

## 8.70 – Personnel Contracts & Return

Contracts may be approved by the board of directors for part-time, nine, ten, eleven, or twelve months. Contract renewals for the director and assistant director will be in January. The contracts of all other licensed and classified employees will renew as provided by law unless the employee is notified that renewal will not be recommended.

An employee shall have thirty (30) days from the date of receipt of his/her contract for the following school year in which to return the contract, signed, to the office of the director. The date of receipt of the contract shall be presumed to be the date of a cover memo which will be attached to the contract.

Failure of an employee to return the signed contract to the office of the director within thirty (30) days of the receipt of the contract shall operate as a resignation by the employee. No further action on the part of the employee, the director, or the cooperative board shall be required in order to make the employee's resignation final.

## 8.80 – Personnel Benefits

The O.U.R. Cooperative will offer benefits consistent with the needs of the staff and the resources of the cooperative.

### **Health Insurance Assistance:**

The state contributes a fixed amount for the state approved health insurance carrier premiums; the individual must pay the difference between the state contribution and the total premium. Employees must work 900 hours or more each year to be eligible for this benefit.

### **O.U.R. Benefit Package:**

In order to be eligible for the O.U.R. Benefit Package as noted below, employees must work at least a .5 f.t.e. and a minimum of 748 hours.

1. **Dental Insurance:** The cooperative pays the staff member portion of the dental insurance premium. If staff members wish to have family coverage, they are responsible for the additional premium as a payroll reduction.
2. **Vision Insurance -** Paid by cooperative for employee
3. **Life/AD&D –** Paid by cooperative for employee
4. **Hospital Care –** Paid by cooperative for employee

**Unemployment Insurance:** The cost for unemployment insurance is paid by the cooperative.

**Workers Compensation:** The cost for workers compensation is paid by the cooperative.

**Social Security:** The cooperative and all contracted cooperative staff participate in FICA contributions. FICA contributions for staff that participate in the Cafeteria Plan are based on gross salary less Cafeteria Plan reductions.

**Teacher Retirement:** All contracted staff are members of the Teacher Retirement system as a contributory or noncontributory member.

**Sick Days:** See leave policy

**Personal or Vacation Days:** See leave policy

**Cafeteria Plan:** The co-op offers an IRS 125 (Cafeteria Plan) that permits eligible benefits to be salary reduced prior to federal and state taxation.

Date Adopted: Spring 2003

Date Revised: Spring 2016

## 8.96 – Background Checks

All new employees will be responsible for payment for all required background checks and child maltreatment checks upon initial employment. After initial employment, payments for subsequent required checks, not linked to licensure renewal, will be paid either by state agencies or the co-op.

Adopted: Spring 2014

Revised