

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

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4000 SUPPORT STAFF MEMBERS

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Updated 08/2014

## THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

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Concept and Roles in Personnel

### 4000 CONCEPT AND ROLES IN PERSONNEL

The personnel policies of a school district are an essential part of the program of public education in a community. The philosophy of a school district and the community is generally reflected in these policies.

Through its personnel policies, the Board of Education wishes to establish conditions that will attract and hold the highest qualified personnel for all positions who will devote themselves to the education and welfare of our students.

Policy development must be approached with attitudes of mutual faith and good will. Cooperation and participation of the employees' association(s), administration, and the Board are essentials in the implementation of personnel policies. If the predominant values and standards are based upon a philosophy of mutual respect, the personnel policies and procedures will add to the dignity of each individual.

Provisions for the implementation of adopted personnel policies should include channels of communication and procedures for the handling of professional and ethical problems, through which all persons or groups affected may voice their opinions.

To keep its personnel policies, and the corresponding administrative regulations, in the highest state of effectiveness to achieve the above purposes, the Superintendent is directed to establish the procedures needed.

The primary role of non-certificated personnel is to support and enhance the efforts of certificated personnel to achieve the Board's adopted purposes and goals of the schools.

All personnel policies and regulations, including the specifics of employee agreements, pertaining to non-certificated personnel must be written in harmony with that primary role.

The Board of Education shall, upon recommendation of the Superintendent, classify all employees not requiring certification according to the provisions of the job assignment in effect at the time of employment.

#### Goals and Objectives

The personnel employed by the school district constitute the most important resource for effectively conducting a quality educational program. Important contributions to a successful education program are made by all staff members. The district's program will function best when the District employs highly qualified personnel, conducts appropriate staff development activities, and establishes policies and working conditions which are conducive to high morale and which enable each staff member to make the fullest contribution to district programs and services.

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Concept and Roles in Personnel

The goals of the district's personnel program shall include the following:

1. To develop and implement those strategies and procedures for personnel recruitment, screening, and selection which will result in employing the best available candidates, i.e., those with highest capabilities, strongest commitment to quality education, and greatest probability of effectively implementing the district's educational program.
2. To develop general deployment strategy for greatest contribution to the learning program, and to utilize it as the primary basis for determining staff assignments.
3. To develop a climate in which optimum staff performance, morale, and satisfaction are produced.
4. To provide positive programs of staff development designed to contribute to the improvement of the learning program and to each staff member's development.
5. To provide for a genuine team approach to education, including staff involvement, under the direction of the chief school administrator, in planning and evaluation.
6. To provide attractive compensation and benefits as well as other provisions for staff welfare.
7. To develop and utilize for personnel evaluation positive processes which contribute to the improvement of both staff capabilities and the educational program.

N.J.A.C.6:8-3.2

Cross References: 3000, 3010

First Reading: March 12, 2001

Second Reading: March 19, 2001

Adopted: April 2, 2001

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SUPPORT STAFF MEMBERS  
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Creating Positions

4111 CREATING POSITIONS

The Board of Education recognizes its authority to establish support staff positions that, when filled by qualified employees, will assist the district in the achievement of educational goals set by the Board.

The Board will create new positions as required, approve a job title appropriate to the position, and determine the number of persons required to staff adequately each such position.

The Superintendent shall recommend to the Board such new positions or additional staffing in existing positions as may be required by pupil enrollments and the operational needs of the district.

N.J.S.A. 18A:16-1; 18A:17-24; 18A:28-1

Cross Reference: 3111

First Reading: March 12, 2001  
Second Reading: March 19, 2001  
Adopted: April 2, 2001

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Employment Contract

4124 EMPLOYMENT CONTRACT

The Board of Education requires every tenured and non-tenured support staff member annually sign an employment contract for a term of not more than one year.

The employment contract shall include the date; name of the employee; position title (with reference to the appropriate job description); the beginning and ending dates of service (fixed term appointment); the salary to be paid and the manner of payment; and such other terms and conditions as may be necessary to a complete statement of the employment relationship.

The contract may include a provision for a probationary employment period with a provision providing the Board the right to terminate the employment of the non-tenured support staff member at the completion of the probationary employment period. The contract will include a provision for the termination of the non-tenured support staff's member's contract on 60 days' notice duly given by either party.

In the event the salary entered on the written contract differs from that formally approved by the Board, the salary approved by the Board shall be the salary paid.

Cross Reference: 3124

Initial Adoption: January 27, 2003

First Reading: September 16, 2013

Second Reading: October 21, 2013

Latest Adoption: October 21, 2013

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4125/Employment of Support Staff Members  
(M)

4125 EMPLOYMENT OF SUPPORT STAFF MEMBERS

The Board of Education believes that it is vital to the successful operation of the district that support staff positions created by the Board be filled with highly qualified and competent professionals.

In accordance with the provisions of N.J.S.A. 18A:27-4.1, the Board shall appoint, transfer, remove, or renew a certificated or non-certificated officer or employee only upon the recommendation of the Superintendent of Schools and by a recorded roll call majority vote of the full membership of the Board. The Board shall not withhold its approval for arbitrary and capricious reasons. The Board shall approve the employment, fix the compensation, and establish the term of employment for every support staff member employed by this district.

The Board will employ substitutes for absent support staff members in order to ensure continuity in a program and will annually approve a list of substitutes and rate of pay. The Superintendent or designee shall select substitutes from the list approved by the Board to serve in the place of an absent support staff member.

The Board may use a private contractor to secure a substitute support staff member.

The Board of Education shall not employ for pay or contract for the paid services of any support staff member or any other person serving in a position which involves regular contact with students unless the Board has first determined consistent with the requirements and standards of N.J.S.A. 18A:6-7.1 et seq. that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify the individual from being employed or utilized in such capacity or position.

An individual employed by the Board or a school bus contractor holding a contract with the Board, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements as outlined in N.J.S.A. 18A:39-19.1.

The Board will employ paraprofessional school aides and/or classroom aides to assist in the supervision of student activities under the direction of a Principal, teacher, or other designated certified professional personnel. Aides will serve the needs of students by performing nonprofessional duties and may work only under the direct supervision of a teaching staff member(s).

In accordance with the requirements of No Child Left Behind Act of 2001, paraprofessionals hired after January 8, 2002, who work in a program supported with Title I, Part A funds, with certain exceptions, must meet one of the following criteria:

1. Completed at least two years of study at an institution of higher education;
2. Obtained an associate's (or higher) degree; or
3. Met a rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).

Paraprofessional staff working in a Title I school, and whose salary is paid for in whole or in part with Title I funds, must have met one of the criteria listed above by the end of the 2005-2006 school year. The Superintendent will ensure paraprofessionals working in a program supported with Title I funds meet the above stated requirements.

An individual employed by the Board in any substitute capacity or position shall be required to undergo a criminal history record check in accordance with the provisions of N.J.S.A. 18A:6-7.1b.

An individual, except as provided in N.J.S.A. 18A:6-7.1g, shall be permanently disqualified from employment or service in the school district if the criminal history record check reveals a record of conviction for any crime or offense as defined in N.J.S.A. 18A:6-7.1 et seq.

The Board or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal history record check if the Board or contracted service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment as prescribed in N.J.S.A. 18A:6-7.1c. In the event the criminal history record check is not completed for an emergent hired employee within three months, the Board or contracted service provider may petition the Commissioner for an extension of time, not to exceed two months, in order to retain the employee.

No criminal history record check shall be performed unless the applicant shall have furnished written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check. The district will deny employment to an applicant if the applicant is required and refuses to submit to a criminal history record check.

The Board of Education prohibits any relative of a Board member or the Superintendent of Schools from being employed in an office or position in the school district in accordance with the provisions of N.J.A.C. 6A:23A-6.2 and Board Policy 0142.1 – Nepotism.

A support staff member's misstatement of fact material to his/her qualifications for employment or the determination of his/her salary will be considered by the Board to constitute grounds for dismissal.

N.J.S.A. 18A:6-5; 18A:6-6; 18A:6-7.1; 18A:6-7.1b;  
18A:6-7.1c; 18A:6-7.2; 18A:16-1 et seq.;  
18A:26-1 et seq.; 18A:27-1 et seq.; 18A:27-4.1;  
18A:27-7; 18A:27-8; 18A:39-19.1

Cross References: 3125, 4415, 8630

Initial Adoption: April 2, 2001

First Reading: June 16, 2014

Second Reading: July 28, 2014

Latest Adoption: July 28, 2014



THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

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Termination

4140 TERMINATION

The Board of Education will enter a contract with each non-tenured support staff member providing, in part, for the termination of employment by either party. When the Board terminates a non-tenured support staff member, notice will be duly given in writing and will state the reason(s) therefor. However, the Board reserves the right to summarily dismiss a non-tenured employee without notice for good cause.

The Board may terminate an employment contract with a non-tenured support staff member only upon the recommendation of the Superintendent and by a recorded roll call majority vote of the full membership of the Board. The Board will not withhold its approval for arbitrary and capricious reasons. N.J.S.A. 18A:27-4.1.

A permanent support staff member may request in writing, upon receipt of the notification of dismissal, a hearing before the Board. The Board may, in its discretion, grant a hearing. Any such hearing will include notice to the employee of the date, time, and place at which it will be held and an opportunity for the employee to be heard and to present witnesses on his or her behalf. The decision of the Board will be rendered in writing and will be final.

An employee who offers insufficient notice of termination will be paid only through the last day of his or her service.

The Board may temporarily suspend an employee with or without pay and without notice when his or her continued services may be inimical to the interests of the District.

N.J.S.A. 18A:6-10; 18A:17-2; 18A:17-3; 18A: 27-4.1

Cross References: 3142, 3143

First Reading: March 12, 2001

Second Reading: March 19, 2001

Adopted: April 2, 2001

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

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Reduction in Force

4145 REDUCTION IN FORCE

In the event that it is necessary for the South Orange-Maplewood Board of Education to reduce the force of the South Orange-Maplewood Public Schools due to depressed economic conditions, decreased enrollment, insufficient funding, or causes other than the evaluation of the work performances of employees, it will be the policy of the South Orange-Maplewood School District to accommodate such reduction through the normal attrition of staff. Should it not be possible to accomplish the necessary reduction in force through attrition, the Board of Education will reduce tenured and non-tenured personnel according to provisions of the New Jersey State Statutes and the rules and regulations of the New Jersey State Board of Education.

Further, the Superintendent of Schools is directed to formulate administrative rules and regulations to conform to this policy. Such rules and regulations shall be made available to all school district employees.

N.J.S.A. 18A:6-10; 18A:17-4

Cross Reference: 3146

First Reading: March 12, 2001  
Second Reading: March 19, 2001  
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Reduction in Force

R 4145 REDUCTION IN FORCE

When a reduction in force is required, due to depressed economic conditions, decreased enrollment, insufficient funding, or causes other than the evaluation of the work performance of employees, where possible, a reduction of staff will be accomplished through normal attrition; i.e., retirement or resignation. However, in addition, unpaid leaves of absence will be restricted to up to one (1) year.

The uncertainty of conditions that resulted in the need for a reduction in force make unpaid leaves of absence of more than one (1) year inappropriate and possibly detrimental to the staffing needs of the district.

NJSA 18A: 6-10; 18A:17-4

Cross Reference: R3146

Issued: November 3, 2003

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Nonrenewal of Nontenured Support  
Staff Employment Contracts

4146 NONRENEWAL OF NONTENURED SUPPORT STAFF  
EMPLOYMENT CONTRACTS

The Board will renew the employment contract of a nontenured support staff member only upon the recommendation of the Superintendent and by a recorded roll call majority vote of the full membership of the Board. The Board will not withhold its approval for arbitrary and capricious reasons. A nontenured support staff member who is not recommended for renewal by the Superintendent is deemed nonrenewed.

The Superintendent shall notify the Board of the recommendation not to renew the support staff member's contract and the reasons for the recommendation. The support staff member whose contract is not renewed has the right to a written statement for the reasons for nonrenewal. The Board may also provide any nontenured support staff member with an opportunity to meet informally with the Board, provided that a request for such an appearance is received within ten days after the support staff member receives the statement of reasons provided by the Board.

This policy does not apply to the contract renewal of the treasurer of school moneys, board auditor, board attorney or board secretary, except a board secretary who performs business administrator's functions.

N.J.S.A. 18A:27-4.1.

Cross Reference: 3142

First Reading: March 12, 2001

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Discipline

4150 DISCIPLINE

The Board of Education directs the Superintendent to ensure that all support staff members comply with common law, statutes of the United States, rules of the State Board of Education, policies of this Board, and duly promulgated administrative rules and regulations governing staff conduct. Violations of that law and those statutes, rules, policies, and regulations will be subject to discipline.

The Superintendent or designee shall deal with disciplinary matters on a case by case basis. Discipline will include, as appropriate, verbal and written warnings, transfer, suspension, freezing wages, and dismissal; discipline will provide, whenever possible, for progressive penalties for repeated violations.

In the event disciplinary action is contemplated, notice will be given to the employee in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based. The process delineated in the collective bargaining agreement will be implemented as negotiated.

N.J.S.A. 18A:25-7; 18A:27-4  
N.J.S.A. 34-13A-1 et seq.; 34:19-1

Cross Reference: 3150

First Reading: March 12, 2001  
Second Reading: March 19, 2001  
Adopted: April 2, 2001

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Freezing or Reducing Wages

4152 FREEZING OR REDUCING WAGES

The Board of Education recognizes that any advancement on a salary schedule, including annual increments and raises, is not automatic but rests within the discretion of the Board.

Advancement on any salary schedule shall require favorable reports covering the employee's competence and thoroughness in the performance of assigned duties as well as the employee's record of attendance and compliance with district law, rules, policies and regulations.

The Superintendent or designee shall base a recommendation for wage freeze or reduction on evaluations of the employee's performance and conduct. The Superintendent or designee must also show to the satisfaction of the Board that the standards by which an employee has been evaluated are not exceptional or unusual and are expected of all employees in a similar classification or are otherwise justified.

Cross Reference:	3152
First Reading:	March 12, 2001
Second Reading:	March 19, 2001
Adopted:	April 2, 2001

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SUPPORT STAFF MEMBERS

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Physical Examination-M

4160 PHYSICAL EXAMINATION

The Board of Education requires each newly employed support staff member undergo a physical examination. The physical examination shall include, but is not limited to, a health history to include past serious illnesses and injuries; current health problems; allergies; and a record of immunizations. The physical examination shall also include a health screening to include height and weight; blood pressure; pulse and respiratory rate; vision screening; hearing screening; and Mantoux test for tuberculosis.

The Board of Education may include testing for controlled dangerous substances, as defined in N.J.S.A. 2C:35-2, as part of any physical examination required of a candidate who has received a conditional offer of employment. Such testing shall be conducted in accordance with guidelines developed by the Department of Education in consultation with the Department of Health. Any testing shall be conducted by a physician or institution designated by the Board of Education. Costs shall be paid by the Board of Education.

A support staff member may provide health status information, including medications, which may be of value to medical personnel in the event of an emergency requiring treatment. School employee physicals, examinations and/or annual medical updates do not require screening or disclosure of HIV status. The staff member may also choose to share with the Principal and, if desired, with the certified school nurse, information regarding current health status to assure ready access in a medical emergency.

Physical examinations required by this policy shall be limited to those assessments or information necessary to determine the individual's physical and mental fitness to perform with reasonable accommodation in the position he/she seeks or currently holds and to detect any health risks to pupils or other employees. The pre-employment physical examination shall not be used to determine a candidate's disabilities. Such examination shall be used only to determine whether the applicant is able to perform, with or without reasonable accommodation, job functions pursuant to the Americans with Disabilities Act.

If the result of any such examination indicates mental abnormality or communicable disease, the employee shall be ineligible for further service until proof of recovery, satisfactory to the Board of Education, is furnished. Employees under contract or tenured may be granted sick leave with compensation as provided by law and shall, upon satisfactory recovery, be permitted to complete the term of his/her contract, if under contract, or be reemployed with the same tenure, unless the absence exceeds a period of two years.

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SUPPORT STAFF MEMBERS

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Physical Examination-M

All records and reports relating to any such examination shall be the property of the Board of Education, and shall be filed with its medical inspector as confidential information but shall be open for inspection by officers of the New Jersey Department of Health and the local board of health. All staff members' medical and health records, including computerized records, will be secured and maintained separately from other personnel files. The information contained in medical records will be kept confidential. Except as set forth herein, only the staff member, the Superintendent, and the school medical inspector shall have access to medical information regarding an individual employee, except as follows: (1) records of an employee having HIV infection or AIDS may be disclosed only as authorized by the employee; and (2) the section of the medical record that contains the health history may be shared with the staff member's Building Principal and the school nurse with the consent of the staff member.

Additional individual psychiatric or physical examinations of any staff member may be required by the Board whenever, in the judgment of the Board, a staff member shows evidence of deviation from normal physical or mental health. Any additional individual examinations will be pursuant to the requirements of N.J.A.C. 6:3-4A.4. Additional examinations and/or certifications may be required to verify fitness in accordance with Policy 4161 or disability in accordance with Policy 4425.

Americans with Disabilities Act, 42 U.S.C.A. 12101 et seq.  
N.J.S.A. 18A:16-2 et seq; 18A:16-2 through 16.5  
N.J.A.C. 2C:35-2; 6:3-4A.1 et seq.

Cross References: 4160, 3161, 3425

First Reading: September 8, 2003  
Second Reading: November 3, 2003  
Adopted: November 3, 2003



**R 4160 PHYSICAL EXAMINATION**

A. Definitions

1. "Assurance statement" means a written document signed by the subject employee certifying that the information contained in the document is true to the best of the employee's knowledge and belief.
2. "Employee" means the holder of any full-time or part-time position of employment.
3. "Health history" means a written record of a person's past health events and history, completed by the person or the person's physician.
4. "Health screening" means a testing, by various appropriate diagnostic tools, to determine the presence or precursors of disease or debilitating condition.
5. "Medical evaluation" means the examination of a person's body by a physician licensed to practice medicine. Medical evaluation includes a record of immunizations.
6. "Medication" means a drug or other agent prescribed by a physician.
7. "Physical examination" means the assessment of a person's health by health history, health screening, and medical evaluation.
8. "Psychiatric examination" means an examination conducted for the purpose of diagnosing mental disorders by a person licensed to conduct psychological or psychiatric examinations.
9. "Psychological assessment" means the evaluation of a person's mental health by a person licensed to conduct psychological examinations.

B. Employees' Initial Physical Examination

Each candidate for employment who has received a conditional offer of employment to be a support staff member shall be required to undergo a physical examination that consists of a health history, health screenings, and medical evaluation.

1. A health history shall be completed by the employee or by his or her physician and shall include the employee's:
  - a. Past serious illnesses and injuries,
  - b. Current health problems,
  - c. Allergies, and
  - d. Record of immunizations.

2. The employee shall submit to health screenings which consist of the measurement of his or her:
  - a. Height and weight,
  - b. Blood pressure,
  - c. Pulse and respiration rate,
  - d. Vision, and
  - e. Hearing ability.
3. Health screening shall also include the conduct of a Mantoux test for the presence of tuberculosis infection.
  - a. A newly employed member will be exempt from the Mantoux test if he or she presents satisfactory documentation of a test
    - (1) Administered in a New Jersey school district from which the member has transferred, or
    - (2) Administered in any place within the six months previous to the member's initial employment in this district.
  - b. Procedures for the administration of the Mantoux test, interpretation of reactions, follow-up procedures, and reporting shall be conducted in accordance with the guidelines issued by the State Department of Health and titled School Tuberculin Testing in New Jersey.
  - c. If the results of the Mantoux test so indicate, the employee shall be referred for a chest X-ray and medical evaluation to determine the presence of tuberculosis at the employee's expense. The employee shall submit the report of the X-ray and evaluation to the school medical inspector. If the school medical inspector does not receive the report within four weeks of the referral or is unwilling to accept the findings of the report, he or she may direct the employee to submit to a chest X-ray examination at Board expense, the results of which will be reported directly to the school medical inspector.
  - d. An employee who presents a physician's documentation, acceptable to the school medical inspector, showing significant tuberculin reaction and a subsequent negative chest X-ray will be exempt from the Mantoux test.
4. The medical evaluation shall consist of the examination of the employee's body to the extent necessary to determine the employee's fitness to function in the position he or she holds and to detect any health risks to pupils and other employees. The employee's medical evaluation shall include, but not be limited to, a record of immunizations. Guidance regarding immunizations for adults may be found in "Adult Immunization: Recommendations of the Immunization Practices Advisory Committee (ACIP)", available from the Immunization Program, Centers for Disease Control, Public Health, U. S. Department of Health and Human Services, Atlanta GA 30333.

C. Health Records

1. All employee medical records, including computerized records, shall be secured, and shall be stored and maintained separate from other personnel files.
2. Only the employee, the Superintendent, and the school medical inspector shall have access to the medical information in that individual's file.
3. The portion of the employee's medical record containing a health history may be shared with the Principal and the school nurse with the consent of the employee.

D. Examination of School Bus Drivers

1. School bus drivers employed by this district are subject to Policy No. 41-60 and this regulation generally.
2. School bus drivers employed by a contractor supplying transportation services to this district shall be tested for tuberculosis in accordance with ¶B3 of this regulation.

E. Employees' Physical Examination and Medical Updates

School employee physicals, examinations and/or annual medical updates shall not require disclosure of HIV status.

1. Candidates for support staff member positions, who have received a conditional offer of employment must complete testing, conducted at the Board's expense, for the usage of controlled dangerous substances as they are defined in N.J.S.A. 2C:35-2.
  - a. Candidates will be allowed privacy during specimen collection. Control and accountability of specimens will be maintained with a chain of custody in accordance with accepted practices and as recommended by the approved laboratory. The laboratory will be selected by the Board and approved by the New Jersey Department of Health.
  - b. The laboratory will conduct an initial or screening test and a confirmatory test. Refusal of employment will not be based on the results of a screening test alone. An initial test is an immunoassay test to eliminate negative test results from further consideration and to identify the potentially positive specimens for the purpose of further testing and confirmation. A confirmatory test is a second analytical procedure to identify the presence of a specific drug which uses more sophisticated technique to ensure reliability and accuracy.

- c. A Medical Review Officer, who is a licensed physician employed by the laboratory certified and qualified to complete drug testing will review the final results of positive drug tests, scrutinizing them for possible alternative medical explanations. The Medical Review Officer will review the candidate's medical history and will conduct a medical interview to determine the other relevant factors contributing to the results of the test. The Medical Review Officer will communicate the results of a positive drug test to the applicant and to the Superintendent.
- d. The American with Disabilities Act (ADA) prohibits employment discrimination against qualified individuals with disabilities. Persons who use drugs illegally (the use of controlled dangerous substances (CDS) and the illegal use of prescription drugs) are not protected by the ADA.
- e. After a conditional offer of employment, the school district may ask questions concerning present drug or alcohol use; however, information obtained may not be used to exclude an individual with a disability, based on the disability, unless it can be shown that the reason for exclusion meets the following three tests:
  - (1) It must be job-related and cannot be met with reasonable accommodation;
  - (2) It must be consistent with the demonstrated necessity of conducting business; and
  - (3) It must be related to legitimate job criteria.
- f. The school district may refuse to hire an applicant based upon a test result that indicates the illegal use of drugs. This action may be taken even if the applicant claims he/she recently stopped illegally using drugs.
- g. The school district would incur liability under ADA if a person is excluded from a job if the school district erroneously regarded the candidate to be an addict currently using drugs illegally when the drug test showed the presence of a lawfully prescribed drug. The Superintendent will confer with the Medical Review Officer regarding all positive tests to prevent any ADA liability.
- h. All records regarding pre-employment physicals and drug tests will be maintained in separate medical files and treated as confidential medical records. These records will be:
  - (1) Kept separate from a candidate's personnel file;
  - (2) Kept in a locked cabinet in a central school district location; and
  - (3) Accessible only to the Superintendent and/or designee.

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Physical Examination

2. The records of a candidate's physical examination will be submitted to the school medical inspector, who will determine the candidate's physical and mental fitness to function with reasonable accommodation in the position for which he or she has made application. That determination will be made a part of the candidate's application.
3. A candidate's medical records will be maintained separately from his or her application and will be kept confidential in accordance with ¶D.
  - a. If and when the candidate is employed by this district, the records will be kept in the person's medical file.
  - b. If the candidate is not employed by this district within ninety days, the records will be destroyed.

First Reading: January 28, 2002  
Second Reading: February 4, 2002  
Adoption: February 4, 2002

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Physical Examination for Cause

4161 PHYSICAL EXAMINATION FOR CAUSE

The Board of Education may, in accordance with law, require the psychiatric or physical examination of any support staff member who shows evidence of deviation from normal physical or mental health.

The Superintendent shall recommend to the Board the examination of any support staff member whose physical or mental condition so departs from normal health as to adversely affect the performance of the member's duties. Any such recommendation must be accompanied by competent evidence. If the Board determines that deviation from normal health has been demonstrated, it may require that the member submit to a physical or mental examination.

A requirement for physical or mental examination shall be made known to the employee by written notice setting forth the nature of the examination required, the reasons for the requirement, and a statement offering the member the opportunity to appear before the Board to explain or refute those reasons, provided any such hearing is requested in writing within ten working days of the receipt of the notice.

A support staff member who fails to request an appearance before the Board within the time permitted or, having appeared before the Board, fails to persuade the Board that he/she should not be required to submit to the required examination shall be ordered to submit to an appropriate examination by a physician or institution designated by the Board and at the Board's expense.

The support staff member may, at his/her option, submit names of physicians or institutions to the Board for consideration to complete the appropriate examination(s). The Board is not required to designate a physician or institution submitted for consideration by the teaching staff member, but the Board will not act unreasonably in withholding its approval of a physician or institution submitted by a support staff member. The cost of the examination will be borne by the Board if the Board designates a physician or institution from the names submitted from the support staff member.

If the support staff member's request is denied, or if the support staff member does not request the Board to consider a physician or institution, the staff member may elect to submit to an appropriate examination conducted by a physician or institution of the support staff member's own choosing and at his/her expense, provided the physician or institution so chosen is approved by the Board, pursuant to N.J.S.A. 18A:16-3, and is authorized and directed by the member to report the results of the examination to the Board.

If the results of the examination show mental illness or communicable disease, as defined in Policy 8451, the support staff member shall be placed on sick leave and compensated in accordance with his or her sick leave entitlement, if any, until proof of recovery, satisfactory to the Board, is furnished. No leave of absence granted under this policy shall exceed the term of the contract of a nontenured support staff member or a period of two years in the case of a tenured support staff member.

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Examination for Cause

A support staff member who refuses to submit to the examination required by the Board and has exhausted the hearing procedures established by law and this policy shall be subject to discipline, which may include the certification of tenure charges to the Commissioner of Education.

42 U.S.C.A. 12101

N.J.S.A. 18A:6-10; 18A:16-2 et seq.;  
18A:16-4; 18A:25-7; 18A:28-5;  
18A:30-1 et seq.

N.J.A.C. 6:29-7.4

N.J.A.C. 6:29-7.4 (f)

N.J.A.C. 8:57-1.16

Cross References: 3161, 4160, 8451

First Reading: March 12, 2001

Second Reading: March 19, 2001

Adopted: April 2, 2001

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Attendance

4211 ATTENDANCE

Employee attendance is an important factor in the successful operation of any school district and in the maintenance of the continuity of the educational program. The Board of Education is vitally and continually interested in the attendance of each employee and considers satisfactory attendance an important criterion of satisfactory job performance.

The privilege of district employment imposes on each employee the responsibility to be on the job on time. This responsibility requires that the employee maintains good health standards, take intelligent precautions against accidents both on and off the job, and manage his/her personal affairs to avoid conflict with district responsibilities.

The Board is required by the high costs of absences and disrupted work schedules to give continuing attention to the maintenance of regular attendance by employees. Chronic absenteeism and tardiness are subject to discipline and may be cause for dismissal.

The Superintendent shall develop regulations to implement this policy.

Cross Reference: 3212  
First Reading: March 12, 2001  
Second Reading: March 19, 2001  
Adopted: April 2, 2001



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Consulting Outside the District

4211.3 CONSULTING OUTSIDE THE DISTRICT

The Board of Education recognizes that support staff members will have expertise and knowledge in areas that other school districts, agencies, and other entities may desire. Recognizing that the school district will request the expertise from support staff members from other school districts, agencies and other entities, the Board may support the sharing of its support staff members with other school districts, agencies, and other entities to the extent it does not interfere with the efficient operation of the school district.

The Superintendent may recommend to the Board a support staff member's attendance in another school district, agency or other entity without additional remuneration to the support staff member or school district, upon a written request from the agency or from the support staff member.

The Board of Education recognizes support staff members will have expertise and knowledge in areas that other school districts, public and private agencies, and private business organizations may desire to compensate as a paid consultant. The support staff member must normally complete any paid consulting activities on his/her own time which would include personal days, vacation days, evenings, weekends, and/or school holidays.

The support staff member must comply with the New Jersey School Ethics Act N.J.S.A. 18A:12-21 et seq. and, if required, must comply with financial disclosure requirements of N.J.S.A. 18A:12-24 and 12-25.

N.J.S.A. 18A:12-21 et seq.

Cross References: 3211.3, 3211

First Reading: March 12, 2001

Second Reading: March 19, 2001

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Conflict of Interest

4214 CONFLICT OF INTEREST

No support staff member of the Board of Education shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity which is in conflict with the proper discharge of the support staff member's duties.

No support staff member shall use or attempt to use his/her position to secure unwarranted privileges or advantages.

No support staff member of the Board shall act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest.

No staff member shall act in his/her official capacity to contract with any individual organization or entity to which his/her immediate family has any financial or other business relationship without prior approval of the Superintendent or his/her designee.

No support staff member of the Board shall accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing the support staff member in the discharge of his/her duties.

It is understood that no school employee is to accept any commission or gift from individuals or companies seeking to sell equipment or materials required in the operation of our public schools. The operation of the schools includes the purchase of materials for the construction, repair and maintenance of the school plant, for the conducting of student classes, for materials and supplies used in school organizations, such as clubs, senior class, and for comparable items.

No staff member shall communicate or distribute, or permit another person to communicate or distribute, to any school any commercial notice, except for designated bulletin board displays.

The staff member shall not permit the subscription or collection of money on school premises, or allow any article to be exhibited thereon for the purpose of sale or otherwise, or permit any person to enter the school for the purpose of commercially photographing pupils with the exception of school photographs, securing the names of pupils, or transacting any private business.

No employee of this district may lend his or her support as an employee of this district to commercial or other organizations seeking to promote or generate interest in a product or service. Endorsement of a product or service by an employee is not permitted when the connection between the district and the employee is made part of such endorsement.

The Board of Education discourages the presentation of gifts to support staff members by pupils and their parents or legal guardians, because it may embarrass pupils with limited means and give the appearance of currying favor. The Board shall consider the writing of letters to support staff members, expressing gratitude or appreciation, as always welcome.

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Conflict of Interest

The Board directs that support staff members requests pupils express their appreciation by means other than gifts.

Support staff members may receive gifts of only nominal value from pupils or their parents or legal guardians.

The Superintendent may approve an act or gift of appreciation to an individual support staff member when special circumstances warrant.

Unless permitted by federal and State law concerning disclosure of pupil records, no staff member shall use any information obtained in the course of employment, including names, addresses and telephone numbers for any purpose outside of their official duties, including but not limited to, communicating or in any way contacting students or their parents or guardians to support any job actions, or in soliciting for participation in the employee's own commercial efforts.

N.J.S.A. 18A:6-8; 18A:11-1

Cross Reference: 3214

First Reading: March 12, 2001

Second Reading: March 19, 2001

Adopted: April 2, 2001

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Code of Ethics

4215 CODE OF ETHICS

All support staff employees will:

- Represent themselves honestly in the application and selection procedure;
- Report to work as scheduled;
- Discuss complaints with their immediate superior, or through approved channels;
- Not advise or counsel pupils except in special cases with the knowledge and consent of the Principal;
- Complete thoroughly their assigned tasks;
- Endeavor to establish good working relationships with other employees, professional as well as non-professional;
- Commit themselves to providing the best possible services for pupils;
- Uphold all rules and regulations as set by the Board, the Superintendent, and the principals;
- Keep the trust under which confidential information may be given;
- Adhere to all the conditions of a contract;
- Give prompt notice of any change in availability for continued employment; and
- Protect and care for district property.

Cross Reference:       3211  
First Reading:         March 12, 2001  
Second Reading:       March 19, 2001  
Adopted:                April 2, 2001

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Dress and Grooming

4216 DRESS AND GROOMING

The Board of Education believes that the appearance and dress of support staff members contribute to the educational environment of this school district. The attitude of support staff members about their professional responsibilities and the importance of education in the lives of their pupils is reflected in their dress and appearance. Accordingly, in order to create an atmosphere of respect for support staff and an environment conducive to discipline and learning, the Board establishes the following rules for the dress of support staff members in the performance of their professional duties:

1. The clothing and appearance of all support staff members shall be clean, neat and professional;
2. No clothing may be worn that constitutes a danger to health or safety to the wearer or to others, and no clothing may be worn that interferes with the employee's responsibilities;
3. A support staff member may request a waiver of this dress code for the performance of particular duties; such waivers may be granted by the Superintendent or his/her designee;
4. The building principal or the support staff member's supervisor, as appropriate, shall determine whether a violation of this dress code has occurred and shall discuss the violation with the support staff member concerned. Where a single violation so warrants or violations recur, the Principal or supervisor may enter a reprimand in the support staff member's file and may recommend more stringent disciplinary measures.

N.J.S.A. 18A:27-4

Cross Reference: 3216

First Reading: March 12, 2001

Second Reading: March 19, 2001

Adopted: April 2, 2001

4218 SUBSTANCE ABUSE

The Board of Education recognizes a support staff member who reports to work under the influence of drugs or alcohol poses a significant threat to their health, safety, and welfare and the health, safety, and welfare of others, including students and other staff members. The Board strongly advises any support staff member that has a dependency on a substance as defined in this Policy to seek appropriate treatment. The Board has an obligation and the right to maintain a safe and healthy work environment and adopts this Policy as an important component toward maintaining a safe environment in the school district. A support staff member is prohibited from possession, use, distribution, or being under the influence of any substance during work hours.

For the purposes of this Policy, "substance" or "substances" means alcoholic beverages, any controlled dangerous substances, including anabolic steroids as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2, or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in N.J.S.A. 2C:35-10.4, and over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

Any support staff member who reports to work under the influence of or in possession of any substance will be subject to appropriate discipline, which may include termination or the filing of tenure charges for a tenured support staff member in accordance with law.

A support staff member shall be required to submit to an immediate medical examination to include a substance test if the support staff member's supervisor has reasonable suspicion to believe a support staff member is under the influence of a substance during work hours. Refusal of a support staff member to consent to the medical examination and substance test will be determined to be a positive result.

In the event a support staff member's medical examination and substance test results are negative for a substance, any documents or records pertaining to the requirement for the examination and test and results will not be maintained by the school district. Any required examination and testing shall be paid for by the Board. The support staff member will be afforded the opportunity to have any test results confirmed using acceptable test confirmation practices. This confirming test shall be paid for by the support staff member.

In accordance with the requirements of N.J.A.C. 6A:16-6.3(a), any support staff member who, in the course of their employment, has reason to believe a school staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall report the matter as soon as possible to the Principal, or in the absence of the Principal, to the staff member responsible at the time of the alleged violation. Either the Principal or the staff member shall notify the Superintendent of Schools who shall notify, as soon as possible, the County Prosecutor or other law enforcement official designated by the County Prosecutor to receive such information. The Superintendent or designee shall provide to the County Prosecutor or designee all known information concerning the matter, including the identity of the staff member involved.

In accordance with the provisions of N.J.A.C. 6A:16-6.3(a)3, the Superintendent or designee shall not disclose the identity of a support staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or drug abuse problem, provided the support staff member is not reasonably believed to be involved or implicated in drug-distribution activities. An admission by a support staff member in response to questioning initiated by the Principal or designee or following the discovery by the Principal or designee of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.

42 CFR Part 2  
N.J.A.C. 6A:16-6.3; 6A:32-6.3

Cross Reference: 3218  
Initial Adoption: April 2, 2001  
First Reading: July 20, 2015  
Second Reading: August 24, 2015  
Latest Adoption: August 24, 2015

4219 COMMERCIAL DRIVER CONTROLLED SUBSTANCE AND ALCOHOL USE TESTING

The Board of Education is committed to maintaining a safe, efficient and alcohol and drug-free workplace that protects the district's pupils as well as the health and safety of its employees and the general public. The Board requires all drivers performing any safety-sensitive function are free of drugs and alcohol and will test those employees who operate a commercial motor vehicle in accordance with 49 C.F.R. 382 et seq. and 49 C.F.R. 40 et seq. Safety-sensitive function as defined by 49 C.F.R. 382.107 means all time from the time a driver begins work or is required to be in readiness to work until the time the driver is relieved from work and from all responsibility for performing work. Safety-sensitive function shall include:

- a. All time at the terminal facility or any public property waiting to be dispatched unless relieved from duty;
- b. All time inspecting equipment;
- c. All time spent at the driving controls of a commercial motor vehicle in operation;
- d. All time other than driving time in or upon the commercial vehicle except in an area defined as a sleeping berth;
- e. All time loading and unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded and unloaded;
- f. All time spent performing driver requirements related to accidents; and
- g. All time repairing, obtaining assistance, or remaining in attendance with the vehicle.
- h. All time spent providing a breath sample or urine specimen, including travel time to and from the collections site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing required by 49 C.F.R. part 382 when directed by a motor carrier;
- i. All time performing any other work in the capacity, employ or service of a motor carrier; and
- J. All time performing any compensated work for a person who is not a motor carrier.

The Omnibus Transportation Employee Testing Act requires all operators of commercial motor vehicles subject to the Commercial Drivers License requirements to be tested for controlled substances and alcohol. Federal regulations of the U.S. Department of Transportation require that school bus drivers as well as drivers of private carriers of passengers contracted by the Board be required to submit to alcohol and controlled substance testing in accordance with 49 C.F.R. Part 40. The Board may contract with a service agent to provide the testing services as required by Federal Regulations. The Board directs the Superintendent or his/her designee to serve as the Designated Employer Representative (DER) of the Board of Education and to oversee the implementation of this policy.



### Definitions

- a. **"Alcohol"** means the drinking or swallowing of any beverage, liquid mixture or preparation (including medication) containing alcohol.
- b. **"Confirmatory Drug Test"** means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.
- c. **"Confirmed Drug Test"** means a confirmation drug test received by a Medical Review Officer (MRO) from a certified laboratory.
- d. **"Controlled substances"** means those substances identified in 49 C.F.R. 40.85.
- e. **"CCF"** means the Federal Drug Testing Custody and Control Form.
- f. **"Designated Employer Representative" (DER)** is an employee of the district authorized to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER shall receive test results and other communications for the employer, consistent with the requirements of this policy and 49 C.F.R. 40. Service agents cannot act as a DER.
- g. **"FMCSA"** means Federal Motor Carrier Safety Administration.
- h. **"Initial Drug Test"** means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
- i. **"Initial Validity Screening"** means the first test used to determine if a specimen is adulterated, diluted or substituted.
- j. **"Medical Review Officer"** is a licensed physician responsible for receiving and reviewing laboratory results generated by the district's drug testing program and evaluating medical explanations for certain drug test results.
- k. **"Possess"** means either in or on the driver's person, personal effects, motor vehicle or areas substantially entrusted to the control of the driver.
- l. **"Service agent"** is any person or entity, other than an employee of the Board, who provides services specified under 49 C.F.R. 40 to the Board.
- m. **"Substance Abuse Professional"** is a person who evaluates employees who have violated a drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare. Individuals permitted to act as Substance Abuse Professionals must possess the credentials as outlined in 49 C.F.R. 40.281.
- N. **"Work Site"** means any motor vehicle, office, building, yard or other location at which the driver is to perform work.

### Prohibited Substances

As evidenced by the results of the initial screening and subsequent confirmatory analysis provided in this policy, the presence of any of the controlled substances as defined in this policy is prohibited for any employee assigned to a classification covered by this policy. All cutoff concentrations are as per 49 C.F.R. 40.87. Except for alcohol, they are expressed in nanograms per milliliter (ng/mL). Alcohol is expressed as a percentage.

Type of Drug or Metabolite	Initial Test	Confirmation Test
Marijuana metabolites	50	15
Delta-9-tetrahydrocanna-Binol-9-carboxylic acid (THC)		
Cocaine metabolites (Benzoylecgonine)	300	150
Phencyclidine (PCP)	25	25
Amphetamines	1,000	
Amphetamine		500
Methamphetamine		500*
Opiate metabolites	2,000	
Codeine		2,000
Morphine		2,000
6-acetylmorphine (6-AM)		10**
Alcohol	.02 or higher	.02 or higher

(\*Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/mL.)

(\*\*Test for 6-AM in the specimen. Conduct this test only when specimen contains morphine at a concentration greater than or equal to 2000 ng/mL.)

No driver at any work site will possess, manufacture, use, sell, or distribute any quantity of any controlled substance, lawful or unlawful, which in sufficient quantity could result in impaired performance. A limited exception may be made for possession of substances administered by or under the instructions of a physician. No driver shall perform safety-sensitive functions within four hours after using alcohol and the district will not permit a driver that used alcohol within four hours of performing safety-sensitive functions to perform such functions if the district has actual knowledge of the use.

**Violations**

Any violation of this policy may result in discipline, up to and including termination.

**Testing Procedures**

All testing for controlled dangerous substances will be conducted in accordance with 49 C.F.R. Part 40, Subparts A, B, C, D, E, F, G, H and I. The district will only test for the above stated five drugs or classes of drugs in accordance with 49 C.F.R. 40.85. Testing for alcohol will be conducted in accordance with as 49 C.F.R. Part 40, Subparts J, K, L, M and N.

**Categories of Testing**

For the purpose of this policy, the occurrence of the following circumstances/instances shall require an employee to submit to a controlled substance and alcohol screening:

A. Pre-Employment Testing

An individual who has applied for and has been selected to operate a Board vehicle shall, before beginning employment with the Board, submit to a controlled substance screening in conjunction with any required physical examination as per Policy No. 4160. Such screening shall be conducted in

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accordance with the procedures set forth in this policy and 49 C.F.R. 40. No individual receiving a positive confirmed test result will be employed by the Board.

An exception to the pre-employment screening may be made if the prospective employee has participated in a controlled substance testing program that met the requirements of 49 C.F.R. 382 et seq. within the previous thirty days and while participating in that program either:

1. Was tested for controlled substances within the past six months (from the date of application to the district), or
2. Participated in the random controlled substances testing program for the previous twelve months (from the date of application to the district); and
3. The DER must ensure that no prior employer, to the DER's knowledge, has records of a violation of a controlled substance testing program within the previous six months.

If an individual is so exempted, the Superintendent or his/her designee shall contact the controlled substances testing program in which the driver participated and obtain the following information in accordance with 49 C.F.R. 382.301(c):

1. Name and address of the program;
2. Verification of the driver's participation;
3. Verification that the program conforms to federal guidelines;
4. Verification the driver qualified and did not refuse to be tested for controlled substances;
5. The date the driver was last tested for controlled substances; and
6. The results of any tests taken within the last six months and any other violations.

In accordance with 49 C.F.R. 382.301(d), the district will conduct pre-employment alcohol tests before the first performance of safety-sensitive functions by a new covered employee or someone who has transferred to a position involving the performance of safety-sensitive functions. The alcohol test will be conducted after making a contingent offer of employment or transfer, subject to the individual passing the pre-employment alcohol test. All alcohol testing will be completed in accordance with 49 C.F.R. 40 et seq. A covered employee will not be offered employment and/or the transfer unless the result of the test indicates an alcohol concentration of less than 0.04.]

An individual who has applied for and has been selected to operate a Board vehicle or any existing employee transferring into a new position now required to operate a Board vehicle, shall submit a written consent authorizing the district to obtain the following information from other employers who have employed the employee during any period during the two years before the date of the individual's application date or transfer into the new position. The written consent from the individual will permit the Designated Employer Representative (DER) to obtain the following information from previous DOT-regulated employers:

1. Alcohol tests with a result of 0.04 or higher alcohol concentration;
2. Verified positive drug tests;
3. Refusals to be tested (including verified adulterated or substituted drug test results);
4. Other violations of DOT agency drug and alcohol testing regulations; and
5. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If this information is not available from the previous employer, the DER must seek to obtain this information from the individual.

The DER will obtain and review this information before the employee first performs any driving and/or safety-sensitive functions. If this is not feasible, the DER will not permit the individual to work after thirty days from the individual's first date of employment in the position unless the DER has obtained or made and documented a good faith effort to obtain this information.

#### B. Random Testing

A covered employee shall be subject to submit to alcohol and controlled substance testing on an unannounced and random basis resulting from the selection by a random generation methodology in accordance with 49 C.F.R. 383.305 (i). Random testing will be spread reasonably throughout any given calendar year.

The minimum annual percentage rate for random alcohol testing shall be 10% of the average number of drivers. The minimum rate of random controlled substances testing shall be 50% of the average number of drivers. These rates may be adjusted as determined by the FHWA (Federal Highway Administration) Administrator in accordance with 49 C.F.R. 382.305.

Drivers shall only be random tested when performing safety-sensitive functions or immediately prior to or immediately following the performance of safety-sensitive functions.

#### C. Post-Accident Testing

The involvement by an employee in a motor vehicle collision while operating a Board vehicle when such accident results in property damage or personal injury, may trigger a post-accident drug and alcohol test.

As soon as practical following an occurrence, the DER will require post-accident alcohol screening for each of the surviving drivers:

1. Who was performing safety-sensitive functions with respect to a vehicle, if the accident involves the loss of human life; or
2. Who receives a citation within eight hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - a. Bodily injury to any person, who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or

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- b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
3. If the alcohol test is not administered within two hours following the accident, the DER will prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours following the accident, the DER shall cease attempts to administer the alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

As soon as possible following an occurrence, the district will require post-accident controlled substance screening for each of the surviving drivers:

1. Who was performing safety-sensitive functions with respect to a vehicle, if the accident involves the loss of human life; or
2. Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - a. Bodily injury to any person, who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or
  - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
3. If the controlled substance test is not administered within thirty-two hours following the accident, the DER shall cease attempts to administer the controlled substance test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

A driver who is subject to post-accident testing shall remain readily available for such testing or be deemed to have refused to submit for testing. A driver who is injured in an accident and requires medical care, shall submit to post-accident drug and controlled substance testing by the medical care facility providing the treatment or a designee of the Board if the facility is unable to provide the testing. Nothing herein shall be construed to prevent the driver from leaving the scene of the accident for the period required to obtain necessary assistance or to obtain emergency medical care.

D. Reasonable Suspicion Testing

The DER may require a driver to submit to an alcohol and/or controlled substance test when the driver is observed by a supervisor or school official who is trained in accordance with 49 C.F.R. 382.603 and causes the observer to have reasonable suspicion to believe the driver has violated 49 C.F.R. 382 et seq. Reasonable suspicion must exist to require the driver to undergo a test and must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Reasonable suspicion alcohol testing is authorized only if the required observations are made during, just preceding, or just after the period of the work day the driver is required to be in compliance with the testing requirements of 49 C.F.R. 382 et seq.

Reasonable suspicion testing may be required of a driver while the driver is performing, just before the driver will perform or just after the driver has ceased performing safety-sensitive functions. If the alcohol test is not administered within two hours following the determination a reasonable suspicion test is required, the DER will prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours following the determination, the DER shall cease attempts to administer the alcohol test and shall state in the record the reasons for not administering the test.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. The driver will also not be able to perform or continue to perform safety-sensitive functions until an alcohol test is administered and the driver's concentration measures less than 0.02 or twenty-four hours have elapsed following the determination that reasonable suspicion existed to require an alcohol test.

A written record of the observations leading to a reasonable suspicion test shall be made and signed by the supervisor and/or school official that made the observations. This record shall be made within twenty-four hours of the observed behavior or before the results of the test are released, whichever is earlier.

E. Return to Duty Testing

The district is not required to return an employee to a safety-sensitive position upon receipt of a confirmed drug and/or alcohol test. The Designated Employer Representative (DER) may recommend to the Superintendent of Schools the individual's employment be terminated depending on the circumstances.

In the event the DER does not recommend termination, DER shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function, the driver shall undergo a return to duty alcohol test indicating a breath alcohol concentration of less than 0.02 and a controlled-substances test with a result indicating a verified negative result for controlled-substances use as required in 49 C.F.R. 40.305.

Drivers permitted to return to duty are required to take return-to-duty tests and shall be evaluated by a Substance Abuse Professional (SAP). These individuals must participate in an assistance program prescribed by the SAP and as required in 49 C.F.R. 40 Subpart O.

The SAP will determine a written follow-up testing plan for any individual who has been permitted to return to work and has successfully complied with the SAP's recommendations for education and/or treatment. Such employees are subject to a minimum of six unannounced, follow-up drug screenings and alcohol tests over the following twelve months. The testing shall not exceed sixty months. Alcohol follow-up testing shall be performed only when the driver is performing safety-sensitive functions or immediately prior to performing or immediately after performing safety-sensitive functions. All follow-up testing will be completed in accordance with 49 C.F.R. 40.307. The SAP will comply with all reporting requirements of 49 C.F.R. 40.311.

### **Medical Review Officer (MRO) Notifications**

The Board shall employ or contract with a medical review officer who is a licensed physician (M.D. or D.O.) and shall designate the Medical Review Officer as the individual responsible for receiving laboratory results generated by the testing program. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate the individual's confirmed positive test together with his/her medical history and other biomedical data. The Medical Review Officer will perform all functions and responsibilities as required in 49 C.F.R. 49 Subpart G.

### **Employer Notification**

The Medical Review Officer may report controlled substances test results to the DER by any means of communication; however, a signed, written notification must be forwarded within three business days of the completion of the MRO's evaluation. The MRO must report all drug test results to the employer. The MRO may use a signed or stamped and dated legible photocopy of Copy 2 of the CCF to report test results or a written report that must include, at a minimum, the information required in 49 C.F.R. 40.163.

### **Split Specimen Tests**

Split specimen testing will be conducted in accordance with 49 C.F.R. 40 Subpart H. Under split-sample collection procedures, the driver has seventy-two hours from the time of notification of a positive result to request the MRO to order a test of the split specimen. If the driver does not request a split specimen test within seventy-two hours, the driver may present to the MRO information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the individual from making a timely request.

If the split specimen is unavailable or appears insufficient, the laboratory will continue the testing process of the primary specimen as the laboratory would normally. The laboratory will report the results for the primary specimen without providing the MRO information regarding the unavailable split specimen. In the event the MRO requests the split specimen be forwarded to another laboratory, the laboratory will report to the MRO the split specimen is unavailable for testing and the laboratory will provide the MRO with as much information as possible about the cause of the unavailability.

### **Designated Collection Facility**

The Board shall designate the facility to be used for the collection of the specimen; provided, however, that the designated facility shall possess all required licenses and permits. The collection site will take place in a facility meeting the requirements of 49 C.F.R. 40 Subpart D. The DER will ensure the collection site meets the security requirements of 49 C.F.R. 40.43.

### **Designated Screening Laboratory**

The Board shall designate the laboratory to which collected fluid samples will be forwarded for drug/alcohol screening. Drug testing must be certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP) for all testing required under 49 C.F.R. 40. The laboratory will perform all responsibilities as required in accordance with 49 C.F.R. 40 Subpart F.

### **Specimens**

The normal screening methodology for controlled substances shall be urinalysis, collected by a representative of the Board at a designated site. The presence of alcohol will be determined by an Alcohol Screening Device (ASD) or an Evidential Breath Testing Device administered by an individual certified in accordance with 49 C.F.R. 40.211 and 49 C.F.R. 40.213.

### **Refusal to Submit**

A driver will be deemed as refusing to take a drug test in accordance with the criteria described in with 49 C.F.R. 40.191. As per 49 C.F.R. 40.191, an individual refuses to take a drug test if he/she:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the DER, consistent with applicable DOT agency regulations, after being directed to do so by the DER;
2. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any drug test required by this policy. An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
4. Fails to permit the observation or monitoring of providing a specimen in the case of a directly observed or monitored collection in a drug test;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the DER or collector has directed the individual to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the individual is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or
9. If the MRO reports the driver had a verified adulterated or substituted test result.

If an individual refuses to participate in a part of the testing process, the collector or MRO, must terminate the portion of the testing process, document the refusal on the CCF (including in the case of the collector, printing the employee's name on Copy 2 of the CCF), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures that the refusal notification is immediately received. A referral physician (e.g., physician evaluating a "shy bladder" condition or a claim of a legitimate medical explanation in a validity testing situation), must notify the MRO, who in turn will notify the DER. In addition,



the collector must note the refusal in the "Remarks" line (Step 2), and sign and date the CCF. The MRO must note the refusal by checking the "refused to test because" box (Step 6) on Copy 2 of the CCF, and add the reason on the "Remarks" line. The MRO must then sign and date the CCF. When the driver refuses to take a non-DOT test or to sign a non-DOT form, the driver has not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test.

### **Record of Negative Screening**

An employee required to submit to an alcohol and/or controlled substance screening as provided in this policy and whose screening results are negative may, at their option, have their personnel file documented to reflect the negative result.

### **Prescription Drugs**

All bus drivers shall notify the DER of the use of any prescription drugs. The Board may require certification from the prescribing physician that the use of the prescription drug will not have an adverse effect on the driver's ability to properly perform safety-sensitive functions.

### **Consequences to Drivers Engaging in Prohibited Conduct**

An employee whose screening produces a positive result for a prohibited substance:

- A. Shall not be permitted to perform safety-sensitive functions;
- B. Shall be advised by the DER of resources available to them in evaluating and resolving problems associated with the misuse of alcohol or the use of controlled substances;
- C. Shall be evaluated by a substance abuse professional who shall determine what assistance, if any, is needed to resolve problems with alcohol or controlled substance use;
- D. Undergo, before returning to duty, a return to duty alcohol test indicating a breath level of less than 0.02 if the conduct involved alcohol or a controlled substance test with a verified negative result;
- E. If assistance was required, the employee must be evaluated by a substance abuse professional to determine that the driver has followed the rehabilitation program prescribed;
- F. Be subject to unannounced follow up alcohol and/or controlled substance abuse testing;
- G. Be subject to the disciplinary policy and regulations of the Board.

### **Return-to-Work Agreement**

An employee who has returned to work and who fails to comply with any of the terms of the Return to Work Agreement shall be subject to termination.

**Maintenance and Retention of Records**

The DER shall maintain and retain all records as required by federal regulation. Records shall include at least the following:

A. Records Related to the Collection Process

1. Collection logbooks (if used);
2. Documents related to the random selection process;
3. Calibration documentation for Evidential Breath Testing Devices (EBT's);
4. Documentation of Breath Alcohol Technician (BAT) training;
5. Documentation of reasoning for reasonable suspicion testing;
6. Documentation of reasoning for post-accident testing;
7. Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing; and
8. Consolidated annual calendar year summaries.

B. Records Related to the Driver's Test Results

1. Employer's copy of the alcohol test form, including results;
2. Employer's copy of the drug test chain of custody and control form;
3. Documents sent to the employer by the Medical Review Officer;
4. Documentation of any driver's refusal to submit to a required alcohol or controlled substance test; and
5. Documents provided by a driver to dispute results of test.

C. Documentation of any Other Violations of Controlled Substance Use or Alcohol Misuse Rules

D. Records Related to Evaluations and Training

1. Records pertaining to Substance Abuse Professional's (SAP's) determination of driver's need for assistance;
2. Records concerning a driver's compliance with SAP's recommendations, and records related to education and training;
3. Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol misuse;

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4. Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials;
  5. Documentation of supervisor training; and
  6. Certification that training conducted under this rule complies with all requirements of the rule.
- E. Records Related to Drug Testing
1. Agreements with collection site facilities, laboratories, Medical Review Officers (MRO's) and consortia;
  2. Names and positions of officials and their role in the employer's alcohol and controlled substance testing program;
  3. Monthly statistical summaries of urinalysis; and
  4. The employer's drug testing policy and procedures.
- F. Required Period of Retention

<u>Document to be maintained:</u>	<u>Period required to be maintained:</u>
Alcohol test results indicating a breath alcohol concentration of 0.02 or greater	5 Years
Verified positive controlled substance test results	5 Years
Refusals to submit to required alcohol or controlled substance tests (including substituted or adulterated test results)	5 Years
Required calibration of Evidential Breath Testing Devices (EBTs)	2 Years
All follow-up tests and schedules for follow-up tests	5 Years
Substance Abuse Professional's (SAP's) evaluations and referrals	5 Years
Annual calendar year summary	5 Years
Records related to the collection process (except calibration) and required training	2 Years
Negative and canceled controlled substance test results	1 Year
Alcohol test results indicating a breath alcohol concentration less than 0.02	1 Year
Records obtained from previous employers concerning alcohol and drug testing	3 Years

G. Location of Records

All required records shall be maintained in accordance with Policy No. 8320. Records shall be made available for inspection at the Board Offices within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

H. Annual Calendar Year Summary

The DER shall prepare and maintain an annual calendar year summary of the results of its alcohol and substance abuse testing programs. The summary shall be completed no later than March 15 of each year covering the previous calendar year. The DER upon request of the Federal Highway Administration (FHWA) will provide the annual summary to that agency in the required format.

I. Employee Information Program

The Board will provide an employee information program. The DER will be responsible for implementing the program and shall ensure that each driver receives information in the manner specified below:

1. By receiving a copy of this policy and any subsequent revisions.
2. Through attendance at a meeting at which a detailed discussion of the following is conducted:
  - a. The identity of the person designated by the employer to answer driver questions about the materials;
  - b. Which drivers are subject to the alcohol misuse and controlled substance requirements;
  - c. Explanation of what constitutes a safety-sensitive function, so as to make clear what period of the workday the driver is required to be in compliance;
  - d. Specific information concerning driver conduct that is prohibited;
  - e. The circumstances under which a driver will be tested for alcohol and/or controlled substances;
  - f. The procedures that will be used to test for the presence of alcohol and controlled substances;
  - g. The requirement that a driver submit to alcohol and controlled substance tests;
  - h. An explanation of what constitutes a refusal to submit to an alcohol or controlled substance test;
  - i. The consequences for drivers found to have violated the prohibitions of this rule, including the immediate removal of the driver from safety-sensitive functions;
  - j. The consequences for drivers found to have an alcohol concentration level of 0.02 or greater but less than 0.04;

- k. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life. Signs and symptoms of an alcohol or controlled substances problem, and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.

Omnibus Transportation Act of 1991  
49 C.F.R. 40 et seq.  
49 C.F.R. 382 et seq.  
49 C.F.R. 395.2

Cross References: Policy Guide Nos. 4125, 4150, 4160, 4218, 8320

First reading: January 6, 2003  
Second reading: January 27, 2003  
Adopted: January 27, 2003

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Employee Evaluation

4220 EMPLOYEE EVALUATION

The Board of Education recognizes the importance of employee evaluations in the reinforcement of performance strengths and the remediation of weaknesses.

The Superintendent shall develop a plan for the evaluation of support staff members. He or she shall invite the participation of employees in the development of the plan and shall assess and modify the plan as necessary.

Employees shall be grouped into position classifications based upon similarities of duties, responsibilities, and qualifications. The evaluation process shall be similar for all employees in a single classification.

The evaluation process shall provide for the recognition and commendation of effective performance, the identification and remediation of performance deficiencies, and the recommendation of discipline or dismissal when an employee fails to improve his or her performance. Evaluation procedures shall provide that each employee is informed of the specific objectives of his or her position and the standards that will be used to assess the employee's performance against those objectives. Employees will be evaluated by qualified supervisors on a schedule established by the Superintendent or designee. Any records created in the evaluation process will become part of the employee's file and subject to Board policy on personnel records.

Specific timelines and criteria are outlined in the individual and S.O.M.E.A. contracts for those employees who are covered by those contracts.

Cross References:	3221, 3222
First Reading:	March 12, 2001
Second Reading:	March 19, 2001
Adopted:	April 2, 2001

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Outside Activities

4230 OUTSIDE ACTIVITIES

The Board of Education recognizes that support staff members enjoy a private life outside their job responsibilities in the school district. The Board believes that school employees exert a continuing influence away from the school district. Accordingly, the Board reserves the right to determine if activities outside the support staff member's job responsibilities interfere with their performance and the discharge of the support staff member's responsibilities to this district.

All support staff members are advised to be governed in their activities outside the school by the following guidelines:

1. Support staff members are advised to refrain from conduct, associations, and offensive speech that, if given publicity, would tend to have an adverse or harmful effect upon pupils or the school community;
2. Support staff members shall not devote time during their work day to an outside private enterprise, business, or business organization. They shall not solicit or accept customers for a private enterprise, business, and/or business organization on school grounds during their work day without the express permission of the Superintendent or designee.
3. The Board does not endorse, support, or assume liability in any way for any support staff member of this district who conducts a private activity in which students or employees of this district participate.
4. Support staff members shall not campaign on school grounds during their work day, send campaign literature home with students, or request, direct or have students distribute campaign literature on behalf of any candidate for local, State, or national office or for any bond issue, proposal, or any public question submitted at any general, municipal, or school election. No student shall be requested or directed by any support staff member to engage in any activity which tends to promote, favor, or oppose any such candidacy, bond issue, proposal, or public question; and
5. School employees shall not promote a position of a collective bargaining issue or political issue while in the presence of students when on school premises or during school sponsored events or activities.
6. Copyrights and patents to materials or equipment developed, written, prepared, processed or tested by support staff members in the performance of their school district duties reside with and may be claimed by the Board.

7. Support staff members shall not engage in any outside activities that would constitute a conflict of interest with their employment in the South Orange and Maplewood School District.

Cross Reference: 3230 Outside Activities (Teaching Staff)

Previously Adopted: April 2, 2001 & July 15, 2013

First Reading: June 16, 2014

First Reading: July 28, 2014

Second Reading: August 25, 2014

Latest Adoption: August 25, 2014



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Political Activities

4233 POLITICAL ACTIVITIES

The Board of Education recognizes and encourages the right of all citizens, including school employees, to engage in political activity. However, the Board prohibits the use of school premises and school time for partisan political purposes.

The Board establishes the following guidelines to govern all support staff members in their political activities.

1. An employee shall not engage in political activity on school premises unless permitted in accordance with Board Policy No. 7510-Use of School Facilities and/or applicable Federal and State laws;
2. An employee shall not post or display political circulars or petitions on school premises nor distribute such circulars or petitions to pupils nor solicit campaign funds or campaign workers on school premises.
3. An employee shall not display any material that would tend to promote any candidate for office on an election day in a school facility that is used as a polling place.
4. An employee shall not in any manner, including but not limited to the wearing of buttons, display or promote a position of a collective bargaining issue or political issue while in the presence of students on school premises or during school sponsored events or activities.

An employee of this district who is a member of the Senate or General Assembly of the State of New Jersey shall be entitled to time off from school district duties, without loss of pay, during the periods of his/her attendance at regular or special sessions of the legislature and hearings or meetings of any legislative committee or commission.

An employee of this district who is a member of the Board of Chosen Freeholders of any county of New Jersey shall be entitled to time off from his/her duties without pay, during the periods of his/her attendance at regular or special meetings of the Board and of any committee thereof and at such other times as he/she shall be engaged in performing the necessary functions and duties of his/her office as a member of the Board.

No other employee who holds elective or appointive office is so entitled to time off, except as such time off may be provided for by Board policy or negotiated agreement.

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Political Activities

The provisions of this policy do not apply to the conduct of employee representative elections, except as proscribed by Board policy.

Nothing in this Policy shall be interpreted to impose a burden on the constitutionally protected speech or conduct of a staff member or pupil.

N.J.S.A. 18A:14-72; 18A:42-4

Cross Reference: 3233

First Reading: September 8, 2003

Second Reading: November 3, 2003

Adopted: November 3, 2003

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Employee Training

4240 EMPLOYEE TRAINING

The Board of Education believes that continuing training and study is essential to the improvement of employee performance and the acquisition of technological skills. The Board encourages all employees to participate in appropriate training programs.

The Superintendent shall encourage employee participation in programs of job skill improvement. The methods of reporting and verifying claims for participation in such activities shall be approved by the Superintendent or his/her designee.

Cross Reference:	3240
First Reading:	March 12, 2001
Second Reading:	March 19, 2001
Adopted:	April 2, 2001

SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

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Inappropriate Staff Conduct

4281 INAPPROPRIATE STAFF CONDUCT

The Board of Education recognizes its responsibility to protect the health, safety and welfare of all pupils within this school district. Furthermore, the Board recognizes there exists a professional responsibility for all school staff to protect a pupil's health, safety and welfare. The Board strongly believes that school staff members have the public's trust and confidence to protect the well-being of all pupils attending the school district.

In support of this Board's strong commitment to the public's trust and confidence of school staff, the Board of Education holds all school staff to the highest level of professional responsibility in their conduct with all pupils. Inappropriate conduct and conduct unbecoming a school staff member will not be tolerated in this school district.

The Board recognizes and appreciates the staff-pupil professional relationship that exists in a school district's educational environment. This Policy has been developed and adopted by this Board to provide guidance and direction to avoid actual and/or the appearance of inappropriate staff conduct and conduct unbecoming a school staff member toward pupils.

School staff's conduct in completing their professional responsibilities shall be appropriate at all times. School staff shall not make inappropriate comments to pupils or about pupils and shall not engage in inappropriate language or expression in the presence of pupils. School staff shall not engage in inappropriate conduct toward or with pupils. School staff shall not engage or seek to be in the presence of a pupil beyond the staff member's professional responsibilities. School staff shall not provide transportation to a pupil in their private vehicle or permit a pupil into their private vehicle unless there is an emergency or a special circumstance that has been approved in advance by the Building Principal/immediate supervisor and the parent/legal guardian.

Inappropriate conduct by a school staff member outside their professional responsibilities may be considered conduct unbecoming a staff member. Therefore, school staff members are advised to be concerned with such conduct which may include, but is not limited to, communications and/or publications using e-mails, text-messaging, social networking sites, or any other medium that is directed and/or available to pupils or for public display.

A school staff member is always expected to maintain a professional relationship with pupils and school staff members shall protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member.

School personnel, compensated and uncompensated (volunteers), are required to report to their immediate supervisor or Building Principal any possible violations of this Policy. In the event the report alleges conduct by the Building Principal or the immediate supervisor, the school staff member may report directly to the Assistant Superintendent. In addition, school personnel having reasonable cause to believe a pupil has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.10 are required to immediately report to the New Jersey Department of Children and Families Institutional Abuse Investigation Unit in accordance with N.J.A.C. 6A:16-11.1 and inform the Building Principal or immediate supervisor after making such report. However, notice to the Building Principal or designee need not be given when the school staff member believes such notice would likely endanger the referer or child(ren) involved or when the staff member believes that such disclosure would likely result in retaliation against the child or in discrimination against the referer with respect to his/her employment.

Reports may be made in writing or with verbal notification. The immediate supervisor or Building Principal will notify the Superintendent of Schools of all reports, including anonymous reports. The Assistant Superintendent will investigate all reports with a final report to the Superintendent of Schools. The Assistant Superintendent the Superintendent may, at any time after receiving a report take such appropriate action as necessary and as provided for in the law. This may include, but is not limited to, notifying law enforcement, notifying the New Jersey Department of Children and Families Institutional Abuse Investigation Unit in accordance with N.J.A.C. 6A:16-11.1, and/or any other measure provided for in the law.

This Policy will be distributed to all school staff and provided to staff members at any time upon request.

N.J.S.A. 18A:28-5 et seq.  
N.J.A.C. 6A:16-11.1

Cross Reference : 3281 Inappropriate Staff Conduct (Teaching)

First Reading: April 22, 2013  
Second Reading: May 13, 2013  
Adopted: May 13, 2013

4282 USE OF SOCIAL NETWORKING SITES

The Board of Education has a strong commitment to quality education and the well-being of all pupils, as well as the preservation of the school district's reputation. The Board believes staff members must establish and maintain public trust and confidence and be committed to protecting all pupils attending the school district. In support of the Board's strong commitment to the public's trust and confidence, the Board holds all staff members to the highest level of professional responsibility.

The Commissioner of Education has determined inappropriate conduct outside a staff member's professional responsibilities may determine them as unfit to discharge the duties and functions of their position. Staff members should be advised communications, publications, photographs, and other information appearing on social networking sites deemed inappropriate by the Board could be cause for dismissal of a non-tenured staff member or to certify tenure charges against a tenured staff member to the Commissioner of Education.

Staff members are advised to be concerned and aware such conduct deemed inappropriate may include, but is not limited to, communications and/or publications using e-mails, text-messaging, social networking sites, or any other form of electronic communication that is directed and/or available to pupils or for public display or publication.

While the Board respects the right of staff members to use social networking sites, staff members should recognize they are held to a higher standard than the general public with regard to standards of conduct and ethics. It is important that a staff member's use of these sites does not damage the reputation of the school district, employees, pupils, or their families. Staff members who utilize, post or publish images, photographs, or comments on social networking sites, blogs, or other forms of electronic communication outside their professional responsibilities shall ensure their use, postings, or publications are done with an appropriate level of professionalism and are appropriate conduct for a school staff member. Staff members should exercise care in setting appropriate boundaries between their personal and public online behavior, understanding that what is private in the digital world often has the possibility of becoming public even without their knowledge or consent.

The school district strongly encourages all staff members to carefully review the privacy settings on social networking sites they use and exercise care and good judgment when posting content and information on such sites. Staff members should adhere to the following guidelines, which are consistent with the district's workplace standards on harassment, pupil relationships, conduct, professional communication, and confidentiality.

When using personal social networking sites, school staff members:

1. Should not make statements that would violate any of the district's policies, including its policies concerning discrimination or harassment;
2. Must uphold the district's value of respect for the individual and avoid making defamatory statements about the school district, employees, pupils, or their families;

3. May not disclose any confidential information about the school district or confidential information obtained during the course of his/her employment, about any individual(s) or organization, including pupils and/or their families;
4. Shall not use social networking sites to post any materials of a sexually graphic nature;
5. Shall not use social networking sites to post any materials which promote violence;
6. Shall not use social networking sites which would be detrimental to the mission and function of the district;
7. Are prohibited from using their school district title as well as adding references to the district in any correspondence including, but not limited to, e-mails, postings, blogs, and social networking sites unless the communication is of an official nature and is serving the mission of the district. This prohibition also includes signature lines and personal e-mail accounts;
8. Shall not post updates to their status on any social networking sites during normal working hours including posting of statements or comments on the social networking sites of others during school time unless it involves a school project. Employees must seek approval from the Superintendent of Schools or the Chief Information Officer or designee for such use; and
9. Shall not post or publish any information the Commissioner of Education would deem to be inappropriate conduct by a school staff member.

The Policy of this district is to maintain a level of professionalism both during and after the school day. Any publication through any means of electronic communication which is potentially adverse to the operation, morale, or efficiency of the district, will be deemed a violation of this Policy. If the Board or Superintendent believes that a staff member's activity on any social networking site violates the district's policies, the Board or Superintendent may request that the employee cease such activity. Depending on the severity of the incident, the staff member may be subject to disciplinary action.

This Policy has been developed and adopted by this Board to provide guidance and direction to staff members on how to avoid actual and/or the appearance of inappropriate conduct toward pupils and/or the community while using social networking sites.

First Reading: September 24, 2012  
Second Reading: October 15, 2012  
Initial Adoption: October 15, 2012

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Grievance

4340 GRIEVANCE

The Board of Education directs the Superintendent to develop and practice reasonable and effective means for the resolution of disputes that may arise in the employment of support staff members not covered by the terms of a negotiated agreement.

The Board directs that any grievance not subjected to collective negotiated agreement shall be resolved by following the same grievance procedure as provided for a comparable position subject to the collective bargaining agreement (S.O.M.E.A. contract) which procedure is designed to promote proper and equitable settlement of grievances at the lowest appropriate level and to facilitate an orderly process for the resolution of grievances.

N.J.S.A. 34:13A-5.3

First Reading:	March 12, 2001
Second Reading:	March 19, 2001
Adopted:	April 2, 2001



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Healthy Workplace Environment

4351 HEALTHY WORKPLACE ENVIRONMENT

The Board of Education recognizes a healthy workplace environment enables school support staff members to fully contribute their expertise and skills to their school district responsibilities. A healthy workplace environment can improve productivity, reduce absenteeism, and reduce staff turnover while having a positive impact on the school district's programs provided to pupils in the school district.

A significant characteristic of a healthy workplace environment is that employees interact with each other with dignity and respect regardless of an employee's work assignment or position in the school district. Repeated malicious conduct of an employee or group of employees directed toward another employee or group of employees in the workplace that a reasonable person would find hostile or offensive is unacceptable and is not conducive to establishing or maintaining a healthy workplace environment. This unacceptable conduct may include, but is not limited to, repeated infliction of verbal abuse such as the use of derogatory remarks; insults; verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or the gratuitous sabotage or undermining of a person's work performance. A single act of such conduct shall not constitute the unacceptable conduct prohibited by this policy unless it is especially severe and egregious.

Unacceptable conduct, for the purposes of this policy, is not conduct toward an employee of a protected class or because of the employee's protected activity. These employees and activities are afforded the legal protections under various Federal and State anti-discrimination laws. In addition, unacceptable conduct for the purposes of this policy shall not be confused with conduct of management employees exercising management rights including, but not limited to, assigning tasks, reprimanding, assigning discipline, or directing.

Employees who believe the conduct prohibited by this policy has been directed toward them or to another employee of the school district shall submit a written report to the Superintendent of Schools. The written report shall provide specific details supporting the claim including, but not limited to, the specific conduct; the names of witnesses (if any) who may have observed such conduct; dates or times when such conduct occurred; and any other information the person(s) making the report believes will be informative and helpful to an investigation of the allegations. Upon receipt of a report, the Superintendent or designee will conduct an investigation and upon completion of the investigation will inform the person(s) who made the report such an investigation was completed. The amount of investigation information shared with the person(s) making the report will be at the discretion of the Superintendent or designee and may vary depending on whether the conduct reported was directed to the person(s) making the report, confidential personnel matters, and/or other issues as determined by the Superintendent or designee.

If the investigation determines conduct prohibited by this policy has taken place, the Superintendent or designee will meet with the offender(s) and the victim(s) to review the investigation results and to implement remedial measures to ensure such conduct does not continue or reoccur. Appropriate disciplinary action may be taken depending on the severity of conduct.

There shall be no reprisals or retaliation against any person(s) who reports conduct prohibited by this policy.

First Reading:	March 22, 2010
Second Reading:	April 19, 2010
Adopted:	April 19, 2010

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Sexual and Workplace Harassment  
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4352 SEXUAL and WORKPLACE HARASSMENT

It is the policy of the South Orange Maplewood Board of Education to maintain a learning environment that is free from harassment including sexual harassment. No staff member shall be subjected to harassment, by other staff members, Board of Education members, students or outside vendors (which shall be defined as one who sells or provides goods or services to the Board of Education).

It shall be a violation of law and this policy for any member of the South Orange Maplewood School District staff, Board of Education, student body or outside vendor to harass another person through conduct or communication as defined below ("Definition"). Violations of this policy or its related procedure shall be cause for disciplinary action as set forth in Board procedures.

Definition

- A. "Harassment" shall be defined as unwelcomed and/or unwanted tormenting, annoying, teasing, sexual advances, sexual suggestions, requests or demands for sexual favors, and/or other inappropriate verbal or physical conduct made by a staff member, Board of Education member, student, or outside vendor to a staff member when that conduct has the purpose or effect of interfering with the person's performance, or creates an intimidating, offensive or hostile environment.
- B. Harassment, as set forth above, may include, but is not limited to, the following unwelcome behavior or treatment:
1. Verbal harassment or abuse;
  2. Pressure for sexual activity;
  3. Remarks with sexual or demeaning implications;
  4. Physical contact; or
  5. Using one's position of authority along with implied or explicit threats to secure sexual favors.

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Sexual and Workplace Harassment

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6. Remarks, comments, jokes, stories, cartoons or any other communication, oral or written, that are racially or ethnically discriminatory, or which discriminate or contain demeaning or offensive content based on race, color, national origin, handicap or disability, age, ancestry, nationality, sex, gender identity or expression, military service, marital or domestic partnership or civil union status, atypical cellular or blood trait, genetic information, religion or affectional or sexual orientation.

The Superintendent shall direct the development of procedures regarding the implementation of this policy. All staff members, students and vendors shall be informed of this policy annually. The Superintendent shall also insure that staff and students participate in educational programs on an ongoing basis relating to this policy and the maintenance of an educational environment that is characterized by mutual respect, safety and personal security.

Individuals and groups shall be treated with equality and fairness. Any staff member who believes he/she has been the object of sexual/workplace harassment, or who has independent cause to suspect harassment has occurred, may file a complaint pursuant to the Sexual/Workplace Harassment Grievance Procedures. All complaints will be investigated. No staff member will be subject to any form of retaliation for making a claim under this policy. Retaliation against an individual making a complaint is violative of law and this policy.

29 C.F.R. 1604.11

Title VI and Title VII of the Civil Rights Act of 1964,

42 USC § 2000, et seq.

N.J.S.A. 10:5-12, et seq. (NJ Law Against Discrimination)

20 USC § 1681 – Title IX of the Education Amendments of 1972

Cross Reference: 3362

Initial Adoption: April 2, 2001

First Reading: June 20, 2016

Second Reading: July 18, 2016

Latest Adoption: July 18, 2016

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Overtime Compensation

4413 OVERTIME COMPENSATION

The Board of Education will compensate overtime work in accordance with law. "Overtime work" means work in excess of forty hours in a single work week, or work in excess of eight hours on any one working day not including compensatory time off, time off for any other reason, or time during which the employee voluntarily substitutes for another employee in the same work category.

No overtime shall be worked without the express advance approval of the immediate supervisor.

Employees who work overtime and for whom no contrary provision has been collectively bargained may, as determined by the Superintendent or his/her designee, earn compensatory time at the rate of one and one-half hours for every hour of overtime worked, in lieu of overtime compensation.

A request for the use of compensatory time shall be submitted to the employee's supervisor and must be approved by the immediate supervisor. An employee may be permitted the use of accrued compensatory time within a reasonable time of his or her request for time off, provided the requested time off does not unduly disrupt the operations of the school district.

The School Business Administrator/Board Secretary is directed to make and maintain such records regarding employees' hours and wages as may be required by law.

29 U.S.C.A. 207(o)  
29 U.S.C.A. 207(p)  
N.J.S.A. 34:11-56(a)4

First Reading:	March 12, 2001
Second Reading:	March 19, 2001
Adopted:	April 2, 2001

#### 4431.1 MEDICAL AND FAMILY LEAVE

In accordance with the federal Family and Medical Leave Act (FMLA) and under the New Jersey Family Leave Act (FLA), the Board of Education will grant eligible support staff members up to twelve (12) weeks leave of absence in any twenty-four (24) month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with the adoption of such child by a the staff member, or the serious health condition of a spouse, domestic partner, parent, child or the staff member.

No staff member shall be required to take medical or family leave or to extend medical or family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his or her rights under the federal Family and Medical Leave Act or the New Jersey Family Leave Act nor discouraged from the use of medical or family leave.

For the purposes of this policy, a "parent" is a biological, adoptive, or foster parent; stepparent; parent-in-law; a legal guardian having a parent-child relationship with a child as defined by law; or a person who has sole or joint legal or physical custody, care, guardianship, or visitation with a child. A "child" is defined as the biological, adopted or foster child, step child, legal ward, child of a parent who is under eighteen (18) years of age or a child eighteen years or older who is incapable of self-care because of a mental or physical impairment. "Serious health condition" is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider. "Family leave" is leave taken pursuant to the FMLA and the FLA. "Staff member" is an employee eligible for family leave in accordance with the FMLA and the FLA. A "week" is the number of days an employee normally works each calendar week.

#### **Eligibility**

A staff member shall become eligible for family leave after he or she has been employed at least twelve months in this district for not less than one thousand base hours, including overtime, or twelve hundred and fifty hours for medical leave, during the immediate preceding twelve month period. The calculation of the twelve-month period to determine eligibility shall commence with the commencement of the family leave. Full-time employees are deemed to satisfy the 1250 hours requirement under the FMLA if they have completed twelve months of employment and work a regular, full-time schedule. Family leave taken for the birth or adoption of a healthy child may commence at any time within a year after the birth or placement for adoption.

During any period of the leave, a staff member is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to the commencement of the leave. A staff member on family leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment which commenced prior to the family leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

#### **Types of Leave**

A staff member may take family leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.

1. In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. If the total time within which the leave is taken does not exceed a twelve-month period for each serious health condition episode; the staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable; and the staff member makes a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.
2. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule except the staff member is not entitled to a reduced leave schedule for a period exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken upon the birth or adoption of a healthy child. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.
3. A one- or two-day holiday occurring within the week taken by a staff member as Family Leave has no effect and the week is counted as a week of medical or family leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the days the school district is closed for this staff member do not count against the staff member's family leave entitlement.

### **Notice**

A staff member eligible for family leave must give at least thirty (30) days' advance notice in writing to the Superintendent or his/her designee of the need to take family leave, except where the need to take family leave is not foreseeable. In such cases, the staff member must provide notice as soon as practicable. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent or his/her designee, but any verbal notice must be followed by written notice delivered within ten (10) days.

1. Notice for leave to be taken for the birth or placement of a child for adoption shall be given at least thirty (30) days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is reasonable and practicable.
2. Notice for leave to be taken for the serious health condition of a family member shall be given at least fifteen (15) days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen (15) days, the employee shall provide such notice as is reasonable and practicable.
3. When the Superintendent or his/her designee is not made aware that a staff member is absent for family leave reasons and the staff member wants to request that the leave be counted as family leave, the staff member must provide timely notice within two (2) business days of returning to work to have the time considered in accordance with the Family Leave Act.

### **Benefits**

Medical or family leave shall be unpaid leave as per the FMLA and the FLA. Employees on medical leave, however, may be eligible for salary continuation under the NJ Temporary Disability Benefits Program, or Workers' Compensation Insurance, depending on the cause and nature of the medical condition.

In accordance with law, the Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the staff member had continued in employment continuously from the date the staff member commenced the leave to the date the staff member returned to work or the date on which the staff member's coverage would have expired had the employee not been on leave, whichever is sooner.

A staff member returning from medical or family leave shall be entitled to the position he or she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would not have lost his or her position had the staff member not been on family leave, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes and laws. The staff member's tenure and seniority rights, if any, and other benefits shall be preserved, but the staff member shall accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of a staff member prior to the expiration of a requested and approved medical or family leave may be permitted by the Board if the return does not unduly disrupt the instructional/educational program or require the Board to incur the cost of continuing the employment of a substitute under contract. If an employee requests leave that would have him/her returning to work during the weeks preceding the end of the school year, the Board may exercise its right to extend the leave through the end of the school year under certain circumstances.

If an employee fails to return to work following an approved medical or family leave, the Board has the right to bring an action to recover the cost of premiums paid for the employee's health insurance benefits throughout the period of the leave. Medical or family leave granted to a non-tenured staff member cannot extend the staff member's employment beyond the expiration of his or her employment contract.

To prevent substantial and grievous economic injury to the school district's operations, the district may deny family leave to a staff member if the staff member is a salaried employee who is among the highest-paid five percent of the school district staff or one of the seven highest-paid employees of the district, whichever group is greater in number. The Superintendent shall notify the staff member of the intent to deny the leave at the time that the Superintendent determines such denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member shall return to work within ten (10) working days of the date of notification.

### **Verification of Leave**

The Board shall require the certification of a duly licensed health care provider verifying the purpose of requested medical or family leave. Certification of a serious health condition of a family member of the staff member shall be deemed sufficient if it states the date on which the condition



commenced, the probable duration of the condition and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child for adoption need only state the date of birth or the date of placement, whichever is appropriate.

In the event the Superintendent or his/her designee doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require the staff member to obtain at district expense an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification, the district may require that the staff member obtain at district expense the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider shall be final and binding on the district and the staff member.

In order that a staff member's entitlement to medical or family leave can be properly determined, the Superintendent shall insure the keeping of accurate attendance records that distinguish medical or family leave from other kinds of leave.

29 U.S.C. 2601 et seq.  
29 C.F.R. 825.100 et seq.  
N.J.S.A. 34:11B-1 et seq.  
N.J.A.C. 13: 14-1 et seq.

Cross Reference: 3431.1

First Reading: January 6, 2003  
Second Reading: January 27, 2003  
Adopted: January 27, 2003

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

TEACHING STAFF MEMBERS  
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Military Leave

4437 MILITARY LEAVE

The Board of Education recognizes that, at times, employees of the Board will be called up for active military service.

The Board of Education will comply with all applicable state and Federal laws pertaining to the employment rights of such employees.

N.J.S.A. 18A:6-33; 18A:29-11

N.J.S.A. 38:23-1 et seq.; 38A:1-1; 38A:4—4; 52:13H-2.1;

N.J.A.C. 5A:2-2.1

Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Section 4301 et seq.

Cross References: 3437

First Reading: November 17, 2003

Second Reading: January 5, 2004

Adopted: January 5, 2004

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

SUPPORT STAFF MEMBERS  
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Jury Duty

4438 JURY DUTY

The Board of Education will indemnify all full-time employees against loss of pay incurred by a call to jury duty. No employee will be penalized in any way for an absence caused by service on a panel of grand or petit jurors. The time any such employee is absent will not be charged against personal leave and will count toward district service.

An employee absent on jury duty will receive full pay.

An employee summoned to jury duty shall promptly report the summons to his or her immediate supervisor.

On return from jury duty, the employee must submit to his or her immediate supervisor a court record of the number of days served on jury duty.

While on jury duty, an employee must report daily to his or her supervisor the schedule for the following day.

The time spent on jury duty will not be charged against personal leave and will count as time on the job.

N.J.S.A. 2B:20-1 et seq.  
2B:20-16

Cross Reference: 3439

First Reading: March 12, 2001  
Second Reading: March 19, 2001  
Adopted: April 2, 2001