

## **CMS EMPLOYEE HANDBOOK SECTION 6: *Employee Conduct***

*By accepting employment, you have a responsibility to the District and to your fellow employees to adhere to certain rules of behavior and conduct. The purpose of the rules is not to restrict your rights, but rather to be certain you understand what employee conduct is expected and necessary. Employee conduct guidelines are necessary to help everyone work together efficiently, effectively, and congenially.*

### **Employee Conduct in the Workplace**

Employees are expected to conduct themselves in a manner that is professional, mature, responsible, and appropriate in the workplace. Employees are to act in a manner as to provide a good example for students and follow the Code of Conduct [See CMS Policy G-0750] and all other CMS Board Policies and Administrative Regulations and directives. All employees should avoid behaviors, such as those listed below:

- Abusive, harassing, bullying, or threatening conduct in the workplace
- Excessive tardiness and absenteeism
- Being absent without leave
- Engaging in unprofessional conduct
- Engaging in behavior which creates discord and lack of harmony
- Engaging in acts of insubordination
- Neglecting assigned duties
- Violating security or safety rules or failing to observe safety rules or District safety practices
- Engaging in acts of dishonesty
- Engaging in discourteous treatment of the public
- Failing to follow the chain of command
- Engaging in activities which violate federal, state or local laws or which, in any way, diminish the integrity, efficiency or discipline of the District

If an employee fails to follow these guidelines, it may result in disciplinary action for misconduct, up to and including dismissal from their position.

If you have questions concerning work or safety rules, or any of the unacceptable behaviors listed above, please see your supervisor. The list of behaviors for employees to avoid does not include all types of conduct that can result in disciplinary action, up to and including discharge. Nothing in this list alters the at-will nature of employment for contracted employees of the District.

### **Safety**

Staff members are entitled to protection and reasonable safety while performing their duties for Clovis Municipal Schools.

Any employee who is threatened with harm by an individual or a group while carrying out assigned duties shall immediately notify the building principal or supervisor.

An employee who notices any health or safety concerns should notify the building principal or site supervisor.

A Safety Committee exists to ensure the safety of all employees. Questions or concerns may be addressed to the Deputy Director of Operations.

All injuries should be reported to your supervisor immediately. If the accident or injury is work-related, the Benefits Clerk at the District Administration Office should be contacted immediately.

## **Sexual Harassment**

CMS Board Policy A-0300 and District Regulation A-0311 state that all individuals associated with the District are expected, at all times, to conduct themselves so as to provide an atmosphere that is free from sexual harassment.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when made by a member of the school staff to a student or to another staff member, or when made to a student by another student. It is important to note that sexual harassment crosses age and gender boundaries and cannot be stereotyped. In some situations, sexual harassment may even involve two women or two men.

Any employee who is subject to sexual harassment, or who knows of the occurrence of such conduct, should inform the Deputy Superintendent of Employee Services. The sexual harassment form, CMS Board Exhibit A-0331, is located on the District's website.

A substantiated charge against a staff member shall subject such staff member to disciplinary action.

## **Harassment and Discrimination**

The District intends to provide a work environment that is pleasant, professional, and free from intimidation, hostility, or inappropriate behavior that might interfere with work performance. Harassment or discrimination of any sort – whether verbal, physical, or visual-based upon race, color, religion, gender, age, sexual orientation, national origin or ancestry, disability, veteran status, or other protected status defined by law, will not be tolerated. Refer to CMS Board Policies A-0250, A-0300, and G-0200.

Workplace harassment can take many forms. It may be, but not limited to: words, signs, offensive jokes, cartoons, pictures, posters, email jokes or statements, pranks, intimidation, physical assaults or contact, or violence. Harassment is not necessarily sexual in nature. It may also take the form of other vocal activity including derogatory statements not directed to the targeted individual but taking place within their hearing. Other prohibited conduct includes written material such as notes, photographs, cartoons, articles of a harassing or offensive nature, and retaliatory action against an employee for discussing or making a harassment complaint.

All District employees have a responsibility for keeping the work environment free of harassment and discrimination. Any employee who becomes aware of an incident of harassment or discrimination, whether by witnessing the incident or being told of it, must report it to their immediate supervisor or the Deputy Superintendent of Employee Services.

If there is no threat of violence, the District encourages you to communicate directly with the alleged harasser and make it clear that the harasser's behavior is unacceptable, offensive, or inappropriate, although you are not required to do so. In any case, if you believe you have been subject to harassment or discrimination, you are required to notify your supervisor and/or the Deputy Superintendent of Employee Services immediately.

All complaints will be investigated promptly and as discreetly and confidentially as possible. If harassment or discrimination by an employee is established, the District will take appropriate disciplinary action against the offender. Disciplinary action can range from verbal warnings to discharge, depending on the circumstances. The District will also take additional action necessary to appropriately remedy the situation. The District prohibits employees from retaliating in any way against someone who has raised a concern about harassment or discrimination of another individual. Retaliation of any sort will not be permitted. No adverse employment action will be taken against an employee making a good faith report of alleged harassment, concern about harassment, or discrimination against another individual.

## **Equal Opportunity for Employment and Services**

The Clovis Municipal School District provides equal employment opportunities (EEO) to all employees and applicants without regard to race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, marital status, amnesty, or status as a covered veteran in accordance with applicable federal, state and local laws. The Clovis Municipal School District complies with applicable state and local laws governing nondiscrimination in employment in every location in which the District has facilities. The District will not tolerate discrimination and it requires employees to report incidents related to discriminatory behavior. Forms are available in the Employee Services Department to assist in this regard.

The District makes reasonable accommodations to qualified employees with disabilities for the performance of essential job functions as long as it does not impose an undue hardship on the District. Accommodations are made on a case-by-case basis in accordance with the Americans with Disabilities Act and other relevant laws and regulations. Contact the Employee Services Department for questions and assistance.

## **Grievance Procedures for Civil Rights Discrimination**

This pertains only to grievances that relate to equal employment and education opportunity, sexual harassment, and discrimination of groups that are protected under federal or state law. NOTE: Grievances that relate to terms and conditions of employment or supervisors following CMS Board Policies are not covered in this process. Please see *Workplace Grievances*.

The Deputy Superintendent of Employee Services shall be the compliance officer. Any person who feels unlawfully discriminated against or to has been the victim of unlawful discrimination by an agent or employee of the District or who knows of such discrimination against another person should file a complaint with the Superintendent or the Deputy Superintendent of Employee Services. If the Superintendent is the one alleged to have unlawfully discriminated, the complaint shall be filed with the President of the Board.

Complaint forms are available on the District's website in CMS Board Policies A-0331 or in the Employee Services Department.

The District is committed to investigating each complaint and taking appropriate action on all confirmed violations of policy. The Superintendent shall investigate and document complaints filed pursuant to this regulation as soon as reasonable. In investigating the complaint, the Superintendent will maintain confidentiality to the extent reasonably possible. The Superintendent shall also investigate incidents of policy violations that are raised by the Board, even though no complaint has been made.

If, after the initial investigation, the Superintendent has reason to believe that a violation of policy has occurred, the Superintendent shall determine whether or not to hold an administrative hearing and/or to recommend bringing the matter before the Board.

If the person alleged to have violated policy is a teacher or an administrator, the due process provisions of Board Policy GCQF shall apply, except that the supervising administrator may be assigned to conduct the hearing. In cases of serious misconduct, dismissal, or suspension, proceedings in accordance with statutes may be initiated.

If the person alleged to have violated policy is a support staff employee, the Superintendent may follow due process and impose discipline under Board Policy G-6100, if evidence warrants.

The Superintendent may also recommend suspension without pay, dismissal, or impose other appropriate discipline. If the Superintendent's investigation reveals no reasonable cause to believe a policy has been violated, the Superintendent shall, in writing, inform the complaining party.

## **Code of Ethics for Licensed/Certified Staff**

Although this is the standard set for licensed/certified staff in statutes, it also applies to ALL employees of the

District. Specific information is contained in CMS Board Policy G-0750, Code of Conduct.

### **(Standards of Professional Conduct)**

We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and our position on the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, but also it stimulates us to discuss the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

**Standard I – Duty to the student.** We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but also by consistent and justifiable personal example. To satisfy this obligation, we:

- shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 80), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;
- shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;
- shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;

- shall not give a gift to any one (1) student unless all students situated similarly receive or are offered gifts of equal value for the same reason;
- shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;
- shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
  - all forms of sexual touching, sexual relations or romantic relations;
  - inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
  - any open displays of affection toward mostly-boys or mostly-girls; and
  - offering or giving a ride to a student unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;
- shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:
  - making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and
  - creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

**Standard II – Duty to the profession.** The education profession has been vested by the public with an awesome trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession and must strive consistently in educating the children of New Mexico, all of whom will one-day shape the future. To satisfy this obligation, we:

- shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;
- shall not orally or in writing misrepresent our professional qualifications;
- shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;
- shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;
- shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;

- shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;
- shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;
- shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds one hundred dollars (\$100), excluding approved educational awards, honoraria, plaques, trophies, and prizes;
- shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;
- shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:
  - making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;
  - making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent, or they actually initiate the activity;
  - displaying or distributing any sexually oriented materials where the above-named individuals can see them; and
  - creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;
- shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the Equal Employment Opportunity Commission (EEOC) guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 et seq.) or contacting appropriate school human resources personnel;
- shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;
- shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;
- shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;
- shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;
- shall not engage in any outside employment:
  - the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;

- where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and
- that impairs our physical ability to perform our school duties;
- shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:
  - in connection with our official school duties;
  - in connection with another licensed person's official school duties;
  - in connection with any standardized or non-standardized testing;
  - in connection with any school application or disclosure process; and
  - in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;
- shall not in connection with any State Board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;
- shall not engage in any conduct or make any statement:
  - that would breach the security of any standardized or non-standardized tests;
  - that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;
  - that would give students an unfair advantage in taking a standardized or non-standardized test;
  - that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and
  - that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;
- shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.
- shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the State Public Education Department (PED), that the individual does not hold the required credentials; and
- shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;
- shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:

- striking, assaulting or restraining a student for no valid reason;
  - using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;
  - bringing firearms onto school property or possessing them on school property, except with proper authorization;
  - possessing or consuming alcohol beverages at school;
  - possessing or using illegal drugs;
  - being under the influence of alcohol or illegal drugs at school;
  - actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and
  - engaging in favoritism or preferential treatment toward any school employee or applicant in regard to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;
- shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9.9 NMAC with a student or other school employee to the local school authority within thirty (30) days of obtaining such knowledge.

## **Sanctions**

The standards of professional conduct establish minimal standards of accepted professional conduct with which all educators and administrators are required to comply. Therefore, the Secretary of Education through the professional licensure unit ("licensure unit") of the public education department (PED), may revoke or suspend the licensure of any person, or may deny applications for licensure or relicensure to any person, who is within the scope of the department regulation and who after hearing is found to have failed to comply with one (1) or more of the enumerated provisions of the standards of professional conduct set forth in Section 6.60.9.9 NMAC, exclusive of the preamble.

## **In General**

All employees of the District are expected to conduct themselves in a manner consistent with effective and orderly education and to protect students and District property. No employee shall, by action or inaction, interfere with or disrupt any District activity or encourage any such disruption. No employee, other than one who has obtained authorization from the appropriate school administrator, shall carry or possess a weapon on school grounds. All employees shall at all times attempt to maintain order, abide by the policies, rules, and regulations of the District, and carry out all applicable orders issued by the Superintendent.

Licensed personnel are to follow statements of ethics and standards of conduct indicated in NMAC 6.60.9.8 NMAC and 6.60.9.9 NMAC.

All School District personnel, employees and school volunteers are directed to make themselves aware of and follow federal and state laws, School Board policies, procedures and regulations regarding ethics and conduct.

## **Investigation and Reporting of**

## **Alleged Ethical Misconduct**

Any School District personnel, school employee, school volunteer, contractor or contractor's employee who knows or has a reasonable suspicion that a child or student has been subject to ethical misconduct by any School District personnel, school employee, school volunteer, contractor or contractor's employee shall report the matter to:

- the Superintendent; or
- the department.

If a Superintendent receives a report of ethical misconduct, the Superintendent shall immediately transmit to the department by telephone the facts of the report and the name, address and telephone number of the reporter. The Superintendent shall transmit the same information in writing within forty-eight (48) hours. A school shall take immediate steps to ensure the safety of enrolled students. The identity of any alleged victims will be protected.

A written report shall contain the name, address and age of the child or student; the child's or student's parents, guardians or custodians; the School District personnel, school employee, school volunteer, contractor or contractor's employee who is alleged to have committed ethical misconduct; and any evidence of ethical misconduct, including the nature and extent of any injuries and other information that the maker of the report believes might be helpful to investigate a report of ethical misconduct. The written report shall be submitted upon a standardized form developed by the department. All written reports are to be filed by date and name and are to include any information received or gathered in any investigation. Such records are to be made available to the office of investigation: the Superintendent, Department or law enforcement.

The person making the report shall be notified by the office receiving the report within five (5) days (mailed within five [5] days) by mail or other notification that the report is being investigated.

The Superintendent shall investigate all allegations of ethical misconduct about any School District personnel, school employee, school volunteer, contractor or contractor's employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the Superintendent shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty (30) days following the separation from employment or immediately if the finding of the ethical misconduct is sexual misconduct with an adult or child.

The Superintendent shall also report allegations of sexual assault or sexual abuse involving any School District personnel, school employee, school volunteer, contractor or a contractor's employee to the appropriate law enforcement agency.

No agreement between a departing school employee and the Governing Authority or Superintendent shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct to the department or, if legally mandated, to law enforcement, and any such agreement to the contrary is void.

The Secretary of Education may initiate action to suspend, revoke or refuse to renew the license of:

- a Superintendent who fails to report ethical misconduct;
- any licensed School District personnel or licensed school employee who fails to report child abuse or neglect pursuant to Section 32A-4-3 NMSA 1978;
- any licensed School District or school employee who fails to report ethical misconduct in accord with

the School Personnel Act and statutes.

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