



**WARWICK SCHOOL DISTRICT  
CODE OF EMPLOYEE CONDUCT**

*Not Policy, but  
Admin. Regulations*

**Adopted:** \_\_\_\_\_

**Modified:** \_\_\_\_\_

**Initial Distribution to Employees:** \_\_\_\_\_

1. Definitions. When capitalized anywhere in these Code of Employee Conduct, the following terms shall have the meanings stated unless the context clearly indicates otherwise:

a. "Applicable Law" means any applicable federal, state or local statute, ordinance or regulation, fiduciary duties, and includes applicable court precedent.

b. "Board" or "School Board" means the Board of School Directors of the Warwick School District.

c. "Child Abuse" mean intentionally, knowingly or recklessly doing any of the following:

(1) Causing bodily injury to a child or student through any recent act or failure to act.

(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to a child or student through any recent act.

(3) Causing or substantially contributing to serious mental injury to a child or student through any act or failure to act or a series of such acts or failures to act.

(4) Causing Sexual Abuse or Exploitation of a child through any act or failure to act. 23 Pa. C.S. Sec. 6301

(5) Creating a reasonable likelihood of bodily injury to a child or student through any act or failure to act.

(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(7) Causing serious physical neglect of a child or student.

(8) Engaging in any of the following acts:

(i) Kicking, biting, throwing, burning, stabbing or cutting a child or student in a manner that endangers the child or student.

(ii) Unreasonably restraining or confining a child or student, based on consideration of the method, location or the duration of the restraint or confinement.

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- (iii) Interfering with the breathing of a child or student.
- (iv) Causing a child or student to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
- (vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
  - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders),<sup>11</sup> where the victim of the sexual offense was under 18 years of age when the crime was committed.
  - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
  - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
- (9) Causing the death of the child or through any act or failure to act.
- d. “Code” means this Code of Employee Conduct.
- e. “Director of Human Resources” means the Director of Human Resources, an interim Director of Human Resources, an acting Director of Human Resources, or the designee of any of them.
- f. “Duty” means any duty established in or by: (i) Applicable Law, (ii) applicable School Board policy, (iii) applicable Code of Employee Conduct, (iv) applicable collective bargaining agreement, (v) applicable contract or administrative compensation plan, or (vi) applicable directive provided to the employee.
- g. “School District” means the Warwick School District.
- h. Prohibited dating, romantic or sexual interaction involving students includes, but is not limited to:
  - (1) Sexual physical contact;
  - (2) Romantic flirtation, propositions, or sexual remarks;
  - (3) Sexual slurs, leering, epithets, sexual or derogatory comments;
  - (4) Personal comments about a student’s body;
  - (5) Sexual jokes, notes, stories, drawings, gestures or pictures;
  - (6) Spreading sexual or romantic rumors;
  - (7) Touching a student’s body or clothes in a sexual or intimate way;
  - (8) Accepting massages, or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider;
  - (9) Restricting a student’s freedom of movement in a sexually intimidating or provocative manner;
  - (10) Displaying or transmitting sexual objects, pictures, or depictions.

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- i. “Sexual abuse or exploitation” means any of the following:
- (1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:
    - (i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
    - (ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
    - (iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
    - (iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
    - (v) Any of the following offenses committed against a child:
      - (i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
      - (ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
      - (iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
      - (iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
      - (v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
      - (vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
      - (vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
      - (viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
      - (ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
      - (x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).
      - (xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
      - (xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
      - (xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
- j. “Sexual Misconduct” means:
- (1) Any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student;
  - (2) Any sexual or romantic invitation to or with a student or child;
  - (3) Dating or soliciting dates with a student or child;
  - (4) Engaging in sexualized or romantic dialog with a student or child;
  - (5) Making sexually suggestive comments to any student or child;
  - (6) Self-disclosure or physical exposure of a sexual, romantic or erotic nature at school or with any student or child; or
  - (7) Any sexual, indecent, romantic or erotic contact at work or with any child or student.

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**NOTE:** As used in this Code of Conduct, this definition applies to sexual misconduct regardless of whether it is designed to establish a romantic or sexual relationship or not. By way of example, and not limitation, engaging in sexualized dialogue or making sexually suggestive comments to a student or child is prohibited even if the statements are not intended to establish a romantic or sexual relationship. Conversely, any act or statement made to a student or child is prohibited if it is designed to establish a romantic or sexual relationship even if it does not contain sexualized statements.

- (8) “Sexual Impropriety” means any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, that involves any of the following characteristics;
- a) Any sexual or sexualized statements or conduct at work or in connection with work duties;
  - b) Any sexual or sexualized jokes at work or in connection with work duties;
  - c) Making sexually suggestive comments at work in connection with work duties;
  - d) Self-disclosure or physical exposure of a sexual, romantic or erotic nature at work or in connection work;
  - e) Any sexual, indecent, romantic or erotic contact at work
  - f) offensive remarks about a person’s sex or gender;
  - g) sexualized teasing or offhand comments, including comments that constitute “double entendre” at work or in connection with work duties;
  - h) sexual advances at work or in connection with work duties;
  - i) requests for sexual favors at work on in connection with work duties;
  - j) sexual or sexualized jokes at work on in connection with work duties;
  - k) sexual slurs, epithets or name calling at work on in connection with work duties;
  - l) sexual physical assaults or threats, intimidation, ridicule or mockery at work on in connection with work duties;
  - m) sexual insults or put-downs at work on in connection with work duties;
  - n) use or display of sexual objects or pictures at work on in connection with work duties; and
  - o) interference with work performance by others as a result of engaging any sexual or sexualized conduct.

Notwithstanding anything herein to the contrary, “Sexual Impropriety” does not include any statement or comments made when said statement or comments are made as part of and **required** by the employee’s job, Including in the following circumstances:

1. when teaching sexual education in accordance with the approved curriculum;
2. when teaching a subject that requires discussion of sexual matters in accordance with the approved curriculum;
3. If and as necessary to implement an IEP or Service Agreement;
4. When and as necessary to make any mandatory report under Applicable Law or to file any complaint under School District policy or in accordance with Applicable Law, such as a Complaint to the Pennsylvania Department of Education.
5. when a guidance counselor or nurse, for example, or other health care professional, is appropriately providing services to a student;
6. when an administrator or attorney representing the School District is conducting an investigation of alleged sexual matters and is reasonably required to engage in sexualized dialogue in order to conduct the investigation;

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7. when testifying at any hearing;
8. when and only to the extent necessary to advance the legitimate business interests of the School District;
9. when an employee is a witness or potential witness in an investigation conducted by the School District or by law enforcement; and/or
10. when any comments are expressive conduct is protected by the First Amendment.

**Note:** The School District wants to make clear that not only is unlawful sexual conduct prohibited, but also sexual impropriety is prohibited even if it does not rise to the level of unlawful sexual harassment because it may not be sufficiently severe or pervasive, for example, to constitute unlawful sexual harassment. In other words, any sexual impropriety is prohibited under this Code of Conduct, even if the sexual impropriety does not rise to the level of unlawful sexual harassment.

- k. “Sexual harassment” shall have the definition as set forth in Applicable Law. Without limiting said definition, the definition is generally stated as and Includes the following: “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.” 29 CFR §1604.11. Applicable Law also provides that: “ not all workplace conduct that may be described as “harassment” affects a “term, condition, or privilege” of employment within the meaning of Title VII. *See Rogers v. EEOC, supra*, at 238 (“mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee” would not affect the conditions of employment to sufficiently significant degree to violate Title VII); *Henson*, 682 F.2d, at 904 (quoting same). For sexual harassment to be actionable, it must be sufficiently severe or pervasive “to alter the conditions of [the victim's] employment and create an abusive working environment.” *Ibid*. Respondent's allegations in this case—which include not only pervasive harassment but also criminal conduct of the most serious nature—are plainly sufficient to state a claim for “hostile environment” sexual harassment.” *Meritor Sav. Bank, FSB v. Vinson*, 106 S.Ct. 2399, 2405–06, 477 U.S. 57, 67 (1986).
  - l. “Superintendent” means the Superintendent, an interim Superintendent, an acting Superintendent, or the designee of any of them.
2. Serious or Egregious Offenses.
- a. Unless restricted by any applicable collective bargaining agreement and notwithstanding anything herein to the contrary, an employee may be suspended without pay and discharged for any one or more of the following reasons:
    - (1) Failure to meet any qualifications for the job or to have required licenses, certification, education or training;
    - (2) Engaging in conduct that constitutes Child Abuse, Sexual Abuse or Exploitation, or Sexual Misconduct with any student or child;

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- (3) Sexually harassing any student, employee, volunteer or visitor;
- (4) Unlawfully intimidating any student, employee, volunteer or visitor on the basis of race, ethnicity, nationality, gender or gender identity;
- (5) Bullying any student, employee, volunteer or visitor;
- (6) Engaging in or allowing the hazing of any student;
- (7) Unlawfully discriminating against or retaliating against any individual;
- (8) Failing to make any report required by Applicable Law;
- (9) Lying at work;
- (10) Subjecting any student to corporal punishment;
- (11) Bringing, possessing or consuming intoxicants, illegal substances, or look alike drugs on school property, in school vehicles or at school functions;
- (12) Engaging in criminal conduct on or off duty, other than a summary offense;
- (13) Reporting to work with illegal drugs or alcohol in your system;
- (14) Refusing to take a drug or alcohol test when requested or required;
- (15) Inciting students, employees or others to disrupt the operation of the School District, provided, however, that this does not apply to any conduct that is protected under Applicable Law;
- (16) Grooming a student for a relationship after the student's graduation;
- (17) Bringing pornography to work, in paper form, electronic form or any other form;

**Note:** If you have downloaded pornography to any electronic device, do not bring that device to work.

- (18) Displaying pornography at work;
- (19) Willfully damaging, defacing, misusing or stealing the School District's property or the property of a student, parent or another School District employee;
- (20) Using threatening language to anyone while on duty or to a student, parent or School District employee anywhere or at any time;
- (21) Participating in practical jokes or pranks which cause injury requiring medical attention;
- (22) Physically fighting with or assaulting anyone at work;

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- (23) Engaging in sexual conduct or activity at work or on School District premises, even if welcome and acceptable to the other party;
- (24) Engaging in sexual conduct with any student or child;
- (25) Clocking the time card of another employee or falsifying any time card or other record or report, such as an employment application, medical reports, production records, time records, expense accounts, absentee reports, or shipping and receiving records;
- (26) Staying on the clock when you are not working;  
  
**Note:** If you finish your assignment(s) before your shift ends and you have nothing to do, you must notify you supervisor immediately for additional work assignments. You are not permitted to sit or stand around doing no work while on the clock.
- (27) Taking breaks that are longer than the allowed time;
- (28) Falsifying School District records;
- (29) Reporting to work late;
- (30) For hourly employees:
  - a) clocking in before the designated start time or working before the designated start time;
  - b) working at any time that you are not clocked in; and/or
  - c) working after the assigned shift ends or overtime without express and specific authorization from your supervisor.
- (31) Improperly taking or attempting to take leave to which the employee knows (or should know) that he or she is not entitled;
- (32) Significant or repeated violation of safety rules or practices;
- (33) Engaging in unsafe acts or omissions;
- (34) Injuring any student, employee or other person at work through negligence or willful misconduct;
- (35) Bringing or allowing unauthorized individuals on the School District's premises;
- (36) Disclosing confidential information in violation of School District requirements, directives or Applicable Law;

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- (37) Possessing firearms or other weapons on School District property, in School District vehicles or at School District functions;
  - (38) Possessing look alike weapons on School District property, in School District vehicles or at School District functions unless authorized by the building administrator for an approved curricular or co-curricular function;
  - (39) Misusing School District communications systems, including electronic mail, computers, Internet access, and telephones;
  - (40) Failing to wear assigned safety equipment or failing to abide by safety rules and policies;
  - (41) Smoking where prohibited by local ordinance or School District rules;
  - (42) Gambling on School District property or at work;
  - (43) Sleeping on the job;
  - (44) Violation of any law;
  - (45) Engaging in any criminal conduct (not including a summary offense) in or out of work;
  - (46) Violating any of the rules stated in this Code relating to controlling student behavior;
  - (47) Utilizing a behavioral modification technique or punishment or threat of punishment for a student with a disability or a student thought to be disabled that is not expressly and specifically stated in the student's IEP or Section 504 Service Plan;
  - (48) Breach of any Duty that is considered serious or egregious;
  - (49) Texting, electronic messaging, emailing or utilizing any electronic device while driving any School District vehicle, while driving any district student(s) or while driving in the course and scope of duties for the School District.
  - (50) Dialing a telephone while driving any School District vehicle, while driving any district student(s) or while driving in the course and scope of duties for the School District.
- Note:** Answering a phone while driving that is totally hands free is not a violation of the foregoing rules. However, if a call needs to be made and is work related, even through a hands free device, the driver must pull over and stop the vehicle safely before making the call or sending a text and the need for the call or text must be work related. Pulling over to make a call or use a device is not permitted if not work related.
- (51) Taking any pictures or videos of students, employees or others at work or during school except if any one or more of the following exceptions apply:



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- a) The picture or video is being taken for the purpose of being used as evidence in a proceeding or possible proceeding, the picture or video is promptly turned over to the a supervising administrator(s) with a written description that Includes (i) why the picture or video was taken, (ii) when the picture or video was taken, (iii) who is seen in the picture or video, (iv) what the person or people in the picture or video were doing; and (v) any other information that explains why the taking of the picture or video was appropriate and served a legitimate function. Any picture or video, after it is turned over to a supervising administrator must be deleted from any personal devices of the employee. Any such video or picture are prohibited from being posted on any social media or given to anyone other than a supervising administrator. The employee shall sign a statement that the picture or video has been deleted and that no copies exist other than the copy delivered to the supervising administrator.
- b) The taking of the pictures or videos have been authorized by a supervising administrator and the people in the pictures or videos have given their written consent. Any such pictures of videos may be used only for the approved purposes and may not be posted on social media by the employee.

(52) Failing to establish and maintain appropriate personal boundaries with students;

**Note:** To maintain professional boundaries, employees shall ensure that their interactions with students are appropriate. Examples of prohibited conduct that violates professional boundaries include, but are not limited to:

- (a) Disclosing personal, sexual, family, employment concerns or other private matters to one or more students;
- (b) Exchanging notes, emails or other communications of a personal nature with a student;
- (c) Giving personal gifts, cards or letters to a student without written approval from the building principal;
- (d) Touching students without a legitimate educational reason. (Reasons could include the need for assistance when injured, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction);
- (e) Singling out a particular student or students for personal attention or friendship beyond the ordinary professional adult-student relationship;
- (f) Taking a student out of class without a legitimate educational reason;
- (g) Being alone with a student behind closed doors without a legitimate educational reason;
- (h) Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason;
- (i) Sending or accompanying a student on personal errands;
- (j) Inviting a student to the employee's home;
- (k) Going to a student's home without a legitimate educational reason;
- (l) Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal;

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- (m) Giving a student a ride alone in a vehicle in a non-emergency situation without prior notification to and approval from both the parent/guardian and the building principal;
- (n) Addressing students or permitting students to address adults with personalized terms of endearment, pet names, or otherwise in an overly familiar manner;
- (o) Telling a student personal secrets or sharing personal secrets with a student;
- (p) Dating, courting, or entering into or attempting to form a romantic or sexual relationship with any student, regardless of the student's age;
- (q) For adults who are not guidance/counseling staff, psychologists, social workers or other adults with designated responsibilities to counsel students, encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, the student should be referred to the appropriate school resource;
- (r) Furnishing alcohol, drugs or tobacco to a student or being present where any student is consuming these substances; and/or
- (s) Engaging in harassing or discriminatory conduct prohibited by other district policies or by state or federal law and regulations.

### 3. Other Offenses.

- a. Generally. In addition to the serious or egregious offenses enumerated above, subject to the restrictions in any applicable collective bargaining agreement, employees shall not engage in the following conduct:
  - (1) Failing to perform duties as required contained in the employee's job description;
  - (2) Wearing improper attire or having an inappropriate personal appearance pursuant to Applicable Policy, Administrative Regulation, directive or applicable collective bargaining agreement;
  - (3) Failing to maintain proper hygiene at work;
  - (4) Using profanity or abusive language;
  - (5) Allowing students to use profanity or abusive language;
  - (6) Engaging in horseplay;
  - (7) Engaging in sexual impropriety;
  - (8) Failing to keep work space reasonably well organized;
  - (9) Disrupting the operations of the School District or the educational activities of the School District;
  - (10) Refusing to follow management's instructions or directives concerning a job-related matter or being insubordinate;
  - (11) Violating copyright;

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- (12) Plugging space heaters, fans, hot plates, coffee makers and other similar devices into any wall socket without written permission from the building principal or supervisor;
- (13) Using electrical extension cords except as may be temporarily necessary for a particular and necessary activity;
- (14) Nailing or screwing anything into any wall or other surface without the prior written permission of the principal or supervisor;
- (15) Spreading rumors at work (this does not include making reports of rumors to Childline, law enforcement, a supervisor or as required by law);

**NOTE: Reports of child abuse must be made in accordance with law and this Code of Conduct even when the cause to suspect child abuse is based on rumor.**

A Grand Jury report from Allegheny County in 2016 made the following statements about reporting child abuse:

The Director of the Childline and Abuse registry testified before this Grand Jury regarding the process of making a Childline report. She testified that, when making a report either on line or by telephone, there are four options a reporter can select to describe how they came about the information reported. Those options are: (1) told by another party; (2) media; (3) rumor; or (4) observed. It is clear that the Childline obviously intends, and is designed to accept, reports from sources that have no direct knowledge of suspected abuse. In fact, "rumor" is an anticipated source of information. This is in compliance with Section 6311 (b)(1)(iii) of the CPSL, Persons Required to Report Suspected Child Abuse, which states that a mandated reporter shall make a report of suspected child abuse where "a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse." There are no limits or restrictions for the basis of the information."

By way of clarity—properly reporting rumors is required. What is prohibited is simply spreading rumors and gossiping about rumors. Further, nothing in this Code is intended or should be construed to prohibit an employee's discussion of information related to rumors that the employee has a legal right to discuss, such as an employee talking to his or her union representative or his or her personal lawyer. However, disclosure of information or rumors to a union representative may trigger reporting obligations.

- (16) For purposes unrelated to work, using any material, document, logo, or thing that constitutes the Intellectual Property of the School District
- (17) Representing that you are acting for or on behalf of the School District when you are not.
- (18) Refusing to answer questions from supervisors or counsel for the School District;

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- (19) Failing or refusing to perform their job duties on a timely and in a competent manner;
- (20) Failing to report to assignments on time and prepared to work;
- (21) Driving a student alone, unless written permission has been granted by the building administrator in advance, or specifically assigned as part of the employee's job;
- (22) Failing to supervise students on school grounds, on field trips, or at any other time when the employee is responsible for students;
- (23) Driving to or from school or in connection with your job when you are not properly licensed to drive;
- (24) Allowing any individual not a student or employee to enter the building other than through the main entrance and in compliance with the applicable sign-in requirements;
- (25) Leaving exterior doors ajar;
- (26) Making duplicate copies of any keys provided to you by the School District;
- (27) Failing to report promptly that any School District property given or loaned to you, including keys, electronic devices, phones, communications devices, books, etc. has been lost or stolen;
- (28) Failing or refusing to report any student who has violated the School District's Code of Conduct where the student engaged in conduct that:
  - a) Constituted sexual harassment;
  - b) Constituted unlawful discrimination;
  - c) Constituted unlawful retaliation;
  - d) Constituted bullying;
  - e) Constituted hazing;
  - f) Involves a weapon;
  - g) Involves the commission of a crime;
  - h) Involves injury to another student;
  - i) Underage drinking of alcohol at or away from school;
  - j) Involved the possession or use of alcohol, illegal drugs or look-alikes by any student; or
  - k) Involved a violation of the Code of Student Conduct that could result in an in-school suspension, out-of-school suspension or expulsion.
- (29) Failing or refusing to report:
  - a) Any instance of a concussion or possible concussion of a student;
  - b) Any instance of a threat of cardiac arrest; or
  - c) Any instance of a threat of suicide.

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(30) Touching students, employees, volunteers or parents, except as follows:

- a) To quell a disturbance;
  - b) To obtain possession of weapons or other dangerous objects;
  - c) For the purpose of self-defense;
  - d) For the protection of persons or property;
  - e) When expected under usual social norms, such as shaking hands or, if appropriate to the circumstances, a “high five” for a particular student accomplishment; and/or
  - f) When required to implement an IEP or Service Agreement;
  - g) If necessary to touch for any one or more of the foregoing reasons, employees may not use excessive force and may use only reasonable force. If the touching is for purposes of implementing an IEP or Service Agreement, it is strictly limited to what is required and in the manner required.
- b. The foregoing examples of impermissible conduct are not intended to be an all-inclusive list. At the School District’s discretion, any violation of the School District’s policies or any conduct considered inappropriate or unsatisfactory may subject the employee to disciplinary action, including dismissal. The School District reserves sole discretion whether to apply progressive discipline in any given situation, subject to any applicable rules that may be contained in a collective bargaining agreement. Although each of the foregoing kinds of conduct may not be considered serious and egregious, the School District reserves the right to impose discharge after considering relevant factors.
- c. Bus Safety.
- (1) When teachers, aides and other employees are riding a bus, safety is proper conduct by students is the primary concern.
  - (2) Unless the employee is required to stay with a particular student, employees are required to sit in seats on the bus that ensure that the employees have a full view of what is happening on the bus. For example,
    - a) If there is one employee on the bus, in addition to the bus driver, the employee is to sit behind all students, or on the last row;
    - b) If there are two or more employees, in addition to the bus driver, they must be reasonably disbursed throughout the bus, with at least one employee being behind all students, or on the last row.
  - (3) As is prudent, students who are misbehaving shall be separated. If able, students who are misbehaving shall be required to sit next to an adult.
- d. Auditorium Safety.
- (1) When teachers, aides and other employees are assigned to the auditorium, safety and proper conduct by students is the primary concern.
  - (2) Employees shall not stand, gather or sit in groups, unless assigned to do so by the administration. Instead, they shall circulate to ensure that students are behaving properly, unless such circulation would unduly interfere with the activity being conducted in the auditorium.

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4. Electronic Communications with Students. For purposes of this policy, electronic communication shall mean a communication transmitted by means of an electronic device including, but not limited to, a telephone, cellular telephone, computer, computer network, personal data assistant or pager. Electronic communications include, but are not limited to, emails, instant messages and communications made by means of an Internet website, including social media and other networking websites.
  - a. As with other forms of communication, when communicating electronically, employees shall maintain professional boundaries with students.
  - b. Electronic communication with students shall be for legitimate educational reasons only.
  - c. When available, district provided email or other district-provided communication devices shall be used when communicating electronically with students. The use of district-provided email or other district provided communication devices shall be in accordance with district policies and procedures and the requirements of this Code.
  - d. All electronic communications from coaches and advisors to team or club members shall be sent in a single communication to all participating team or club members, except for communications concerning an individual student's medical or academic privacy matters, in which case the communications will be copied to the building principal. In the case of sports teams under the direction of the Athletic Director, such medical or academic communications shall also be copied to the Athletic Director.
  - e. Adults shall not follow or accept requests from current students (including former students currently enrolled in any K thru 12 school, K thru 12 educational program, or home schooling) to be friends or connections on personal social networking sites and shall not create any networking site for communication with students other than those provided by the district for this purpose, without the prior written approval of the building principal.
  - f. Exceptions. Notwithstanding the foregoing, the following exceptions are recognized:
    - (1) An emergency situation or a legitimate educational reason may justify deviation from professional boundaries set out in this policy. The adult shall be prepared to articulate the reason for any deviation from the requirements of this policy and must demonstrate that s/he has maintained an appropriate relationship with the student.
    - (2) Under no circumstance will an educational or other reason justify deviation from the Romantic and Sexual Relationships rules of this Code.
    - (3) There will be circumstances where personal relationships develop between an employee and a student's family, e.g. when their children become friends. This Code is not intended to interfere with such relationships or to limit activities that are normally consistent with such relationships. Employees are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity.
    - (4) It is understood that many employees are involved in various other roles in the community through nondistrict-related civic, religious, athletic, scouting or other organizations and programs whose participants may include district students. Such community involvement is commendable, and this Code is not intended to interfere

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with or restrict an employee's ability to serve in those roles. However, employees are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity with regard to all youth with whom they interact in the course of their community involvement.

### 5. Additional Rules Regarding Students and Managing Student Behavior.

- a. Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints.
- b. Behavior support programs and behavior management techniques and strategies must be research based.
- c. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary.
- d. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with Applicable Law, have been unsuccessful.
- e. With regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:
  - (1) Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.
  - (2) Behavior support—The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.
  - (3) Positive behavior support plans—A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.
  - (4) Restraints—
    - a) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.
    - b) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an

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appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

- c) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by 22 Pa.Code, §14.133.
- f. Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.
- g. A teacher or other employee with supervisory responsibility for a student shall report the use of restraints to control aggressive behavior of a student to the parent or guardian in writing of the use of restraint
  - (1) The Principal shall, in accordance with 22 Pa.Code §14.133, cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent or guardian, after written notice, agrees in writing to waive the meeting.
  - (2) At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.
- h. The use of restraints may only be included in a disabled student's IEP when the following conditions apply:
  - (1) The restraint is utilized with specific component elements of positive behavior support.
  - (2) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
  - (3) Staff are authorized to use the procedure and have received the staff training required.
  - (4) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.
  - (5) The use of prone restraints is prohibited. Prone restraints are those in which a student or eligible young child is held face down on the floor.
  - (6) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.



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- (7) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.
- i. The following aversive techniques of handling behavior of any child are prohibited:
    - (1) Corporal punishment.
    - (2) Punishment for a manifestation of a student's disability.
    - (3) Placement in locked rooms (including rooms held shut completely or partially by any employee or means), locked boxes or other structures or spaces from which the student cannot readily exit.
    - (4) Exposure to noxious substances or to noises to which the student is known to be sensitive.
    - (5) Deprivation of basic human rights, such as withholding meals, bathroom privileges, water or fresh air.
    - (6) Treatment of a demeaning nature.
    - (7) Electric shock.
6. Reporting Inappropriate or Suspicious Conduct.
    - a. Any employee who has concerns about or is uncomfortable with a relationship or interaction between an adult and a student, shall immediately notify the Superintendent, principal or other administrator.
    - b. All employees, who have reasonable cause to suspect that a child is the victim of child abuse, shall immediately report the suspected abuse, in accordance with applicable law, regulations and Board policy. Report should be made by telephoning the Pennsylvania ChildLine and Abuse Registry at (412) 473-2000 or 1-800-932-0313.
    - c. An educator who knows of any action, inaction or conduct which constitutes sexual abuse or exploitation or sexual misconduct under the Educator Discipline Act shall report such misconduct to the Pennsylvania Department of Education on the required form, and shall report such misconduct to the Superintendent and his/her immediate supervisor, within fifteen (15) days of discovery of such misconduct.
    - d. If the Superintendent or designee reasonably suspects that conduct being reported involves an incident required to be reported under the Child Protective Services Law, the Educator Discipline Act or the Safe Schools Act, the Superintendent or designee shall make a report, in accordance with applicable law, regulations and Board policy.

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- e. "The required reporting form may be found at PDE's Professional Standards & Practices Commission website, "Educator Misconduct Complaint Form (PDE-348).
- f. It is a violation of this policy to retaliate against any person for reporting any action pursuant to this policy or for participating as a witness in any related investigation or hearing.

### 7. Computer Rules.

- a. Definitions. The following terms, when set forth in this section of Code of Conduct (relating to Computer Offenses) in capital letters, shall have the meaning set forth in the following definitions unless the context clearly indicates otherwise:

- (1) "Computer(s)" shall mean and Include School District owned, leased, operated or provided: (i) desk tops; (ii) workstations; (iii) electronic readers or devices in the nature of an iPad or tablet; (iv) laptops; (v) servers; (vi) routers; (vii) WiFi hotspots and apparatus; (ix) digital switches; (x) smart phones; (xi) PDA's; (xii) STORAGE DEVICES and (xiii) any other digital device in the nature of or with the functionality of any of the foregoing.
- (2) "Cloud Application" shall mean any service or resource available on the internet Including such services or resources as virtual servers or any electronic storage that is outside of the School District's firewall, including such things as an a Google™ or Google Chrome™ account; My Drive™; Skydrive™; Adobe Creative Cloud™; Dropbox™; Evernote™; and other similar services.
- (3) "Data" shall mean all forms of digital or electronic data, Including digital or electronic: (i) records; (ii) material; (iii) data; (iv) documents; (v) files; (vi) script; (vii) code; (viii) software; and (ix) programs.
- (4) "Digital Technology" shall mean all forms of digital technology, Including Data, software, hardware, the School District's network and all components of the School District's network; and digital services of any nature and kind, that is based on digital technology and that is:
  - a) owned, leased or licensed to the School District;
  - b) that is accessed by or though Digital Technology that is owned, leased or licensed to the School District,

and that is supplied by the School District to students, employees or volunteers. "Digital Technology" Includes Computers; Data, servers; networks; the Internet; cell phones; beepers; PDA'S; modems; voicemail; e-mail; chat-rooms; instant messaging; user groups; and such similar technologies.

- (5) "Includes" and "Including" shall mean inclusive of but not limited to and/or by way of example and not limitation.
- (6) "Malicious Code" shall mean any code in any part of a software system or script that is intended to or that does cause undesired effects, security breaches, degradation to system speed or functionality to or damage to a system; INCLUDING attack

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scripts, viruses, malware, worms, Trojan horses, backdoors, time bombs, and malicious active content.

- (7) "Pornography" or "Pornographic" Includes: (1) any visual or audio depiction, Including any photograph, digital image, film, video, picture, recording or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct; (2) nude pictures or images of the genitalia of any male or female or the breasts of any woman, Including any photograph, digital image, film, video, picture, or computer or computer-generated image or picture of such; and (3) the definition of such terms in any federal or Pennsylvania state stature.
- (8) "Storage Device" shall mean any device capable of storing data, code, or programs, Including CD's, thumb drives, DVD's, floppy's, hard drives, RAM devices or anything or item that has the function of storing or maintaining electronic data of any nature or type.
- (9) "Student Record" shall mean any item of information gathered within or outside the district that is directly related to an identifiable student.
- (10) "User" shall mean a student, employee or visitor who is using any Digital Technology.
- (11) "User ID" shall mean the identification number(s) or letter(s) that is unique and that is assigned to the individual student or employee.

### b. Computer Prohibitions. Employees shall not:

- (1) use any Digital Technology of the School District for any purpose other than for the legitimate educational purposes of our students or for purposes of advancing the legitimate business of the School District except use of personal email during the lunch break or before or after the scheduled work day;
- (2) use any of the School District's Computers or Data unless and until a confidential User ID and password has been assigned to the employee;
- (3) use any of the School District's Computers or Data without using his/her User ID and password;
- (4) shut down any Computer without properly logging off the Computer;
- (5) disclose his/her User ID or password to any other individual unless directed by a properly authorized supervisor to do so;
- (6) use or utilize the User ID and/or password belonging to or assigned to any other individual, or impersonate, in any manner, any other person;

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- (7) open or logon to any Computer, software, program or application using, utilizing or inputting the User ID and/or password of any other individual or entity, or use any default or preset User ID and/or password without express authority;
- (8) misrepresent his/her identity when using the School District's Computers;
- (9) bypass any blocking or security software that may be used or installed by the School District;
- (10) intentionally, willfully, maliciously or through reckless indifference damage or corrupt the functioning of any Digital Technology or any data stored, either temporarily or permanently on any Digital Technology;
- (11) visit or access pornographic websites at work or through any School District Computer or Digital Technology;
- (12) when using the School District's Digital Technology, violate any other applicable policy of the School District;
- (13) when using the School District Digital Technology, engage in Sexual Impropriety, even if the acts constituting Sexual Impropriety are not related to work or work duties;
- (14) use any Computers unless and until the employee has signed an acknowledgment in the form prescribed by the School District attesting to the employee's understanding of the rules governing the use of Digital Technology.
- (15) intentionally enter or hack into any secure or confidential area of the School District's systems, network(s) or Computers without proper authority;
- (16) violate the legal rights of others;
- (17) knowingly or willfully infect any Computer with any virus;
- (18) knowingly or willfully placing any Malicious Code in any Computer, software, or network or network component;
- (19) use any software or Internet site in violation of any applicable licensing agreement or applicable terms of use;
- (20) use any Digital Technology to hack into anyone else's Computers or networks in any way or manner that is not authorized;
- (21) use any data mining, robots, or similar data gathering and extraction methods in violation of any person's or entity's rights;
- (22) use Digital Technology to violate any applicable law, Including the Wiretap and Electronic Surveillance Control Act;

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- (23) fail to report to the building administrator and School District's technology administrator any time when he/she inadvertently visits or accesses a pornographic site at work or through any School District Computer or Digital Technology;
- (24) violate any applicable work rule when using the School District's Digital Technology;
- (25) delete or remove any program, application, security feature, or virus protection from any School District Computer without express authorization in writing from an administrator in the technology department;
- (26) incur any charges or costs of any nature or type to the School District in connection with Digital Technology or your use of Digital Technology; except as specifically and expressly authorized in accordance with applicable procurement requirements established by the School District or by Applicable Law, or telephone charges by an employee incurred for School District's purposes and consistent with the employee's authority;
- (27) hack into any hardware and/or software owned or licensed by the School District for any purpose;
- (28) violate any applicable criminal statute pertaining to computers, property or electronic devices, Including Chapter 76 of the Crimes Code, relating to computer offenses. 18 Pa.C.S.A. §7601 *et seq.*;
- (29) plant any virus, Malicious Code, pornography or other prohibited content or software on anyone's Computer, Including the School District's network or Computer(s), or any component of the School District's network;
- (30) disconnect any hardware from any computer without prior explicit direction to do so, except with respect to laptop computers issued with the expectation that they will have hardware, such a printer, connected and disconnected;
- (31) access another's Computer for any improper or unlawful purpose, Including to activate the audio or video functions of the Computer or to search the Computer's files, documents or codes, without the person's prior permission and authority;
- (32) grant access to any software used by the School District to anyone other than individuals or users intended to have access to the software;
- (33) use any personal electronic device, including phones, tablets or computers, to access or store any school district records, data or emails, without ensuring that the device is password protected so that it cannot open for anyone without a password that is unique and known only to the employee; and/or
- (34) take any action to impair or that impairs the intellectual property rights of any owner of any software used by the School District.

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8. Additional Employee Duties. Subject to restrictions in any applicable collective bargaining agreement, each School District employee:
- a. has an obligation to provide services and to conduct themselves in a manner which places the highest esteem on human rights and dignity;
  - b. shall ensure that every student receives the highest quality of service and maintains a high level of competence;
  - c. shall value through words and deeds the worth and dignity of every person, student and colleague alike; the pursuit of truth; devotion to excellence; acquisition of knowledge; and democratic principles;
  - d. shall abide by the Public School Code of 1949 (24 P. S. § § 1-101—27-2702), other school laws of the Commonwealth, sections 1201(a)(1), (2) and (4) and (b)(1), (2) and (4) of the Public Employee Relations Act (43 P. S. § § 1101.1201(a)(1), (2) and (4) and (b)(1), (2) and (4)) and this Code of Conduct;
  - e. shall be prepared, and legally certified, in their areas of assignment;
  - f. shall not willingly and knowingly accept assignments they are not certified or qualified to fulfill; provided, however, that this rule will be deemed not to have been violated if the employee is directed or given an assignment and the employee provides the School District with a written protest of the assignment based on his/her lack of certification or qualifications;
  - g. shall exhibit consistent and equitable treatment of students, fellow employees and parents.
  - h. shall respect the civil rights of all and not discriminate on the basis of race, national or ethnic origin, culture, religion, sex or sexual orientation, marital status, age, political beliefs, socioeconomic status, disabling condition or vocational interest;
  - i. shall accept the value of diversity in educational practice;
  - j. shall impart principles of good citizenship and societal responsibility to students ;
  - k. shall exhibit acceptable and professional language and communication skills;
  - l. shall reflect sensitivity to the fundamental human rights of dignity, privacy and respect in their verbal and written communications with parents, students and staff;
  - m. shall be open-minded, knowledgeable and use appropriate judgment and communication skills when responding to an issue within the educational environment;
  - n. shall keep in confidence information obtained in confidence in the course of their employment unless required to be disclosed by Applicable Law or if some other legal right to make the disclosure exists;
  - o. shall exert reasonable effort to protect the student from conditions which interfere with learning or are harmful to the student's health and safety;

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- p. shall not engage in conduct prohibited by the act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. § § 12-1251—12-1268), known as the Teacher Certification Law;
- q. shall not engage in conduct prohibited by: (1) The Public School Code of 1949 (24 P. S. § § 1-101—27-2702) and other laws relating to the schools or the education of children;
- r. shall not violate the applicable laws of the Commonwealth establishing ethics of public officials and public employees, including the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. § § 401—413), known as the Public Official and Employee Ethics Law;
- s. shall not discriminate on the basis of race, National or ethnic origin, culture, religion, sex or sexual orientation, marital status, age, political beliefs, socioeconomic status; disabling condition or vocational interest against a student or fellow professional;
- t. shall not interfere with a student's or colleague's exercise of political and civil rights and responsibilities;
- u. shall not accept gratuities, gifts or favors that might impair or appear to impair judgment;
- v. shall not exploit a professional relationship for personal gain or advantage;
- w. shall not knowingly or intentionally distort or misrepresent evaluations of any student;
- x. shall submit grades on a timely basis;

**Note:** When grades are required to be submitted into a computer system, it is the responsibility of the employee to ensure that the grades were “saved” in the system. If the employee is having any difficulty entering the data or ensuring that the data is “saved” in the system, the employee must contact the help desk immediately to report the problem.

- y. shall check and ensure that data inputted by the employee has been properly loaded and/or saved in the system;
- z. shall not knowingly or intentionally misrepresent subject matter or curriculum;
- aa. shall not knowingly or intentionally withhold evidence from the proper authorities about violations of the legal obligations as defined within this section;
- bb. shall not knowingly or intentionally deny or impede a colleague in the exercise or enjoyment of a professional right or privilege;
- cc. shall not knowingly or intentionally distort evaluations of colleagues;
- dd. shall not use coercive means or promise special treatment to influence decisions of colleagues;

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- ee. shall not threaten, coerce or discriminate against a colleague who in good faith reports or discloses to a governing agency actual or suspected violations of law, agency regulations or standards.
  - ff. Shall handle School District money, including student activity money, in accordance with all protocols for the handling of such money and must properly account for any money handled; and
  - gg. When supervising a class trip, must provide students with adult supervision at all times and in accordance with a principal or applicable supervisor approved supervision plan for the trip.
9. Reporting Arrests, Indictments, Convictions and Pleas.
- a. Each employee is required to report each arrest, indictment, conviction and/or plea of any crime that is graded as a felony or misdemeanor of any degree or as otherwise required by any applicable law, including Act 24 of 2011 and Act 82 of 2012.

### NOTES:

- a) **All misdemeanors and felonies must be reported under this work rule. By way of information, under the Educator Discipline Act, the Superintendent is required to report to the Pennsylvania Department of Education all misdemeanor and felony arrests of certificated employees.<sup>1</sup>**
  - b) **All arrests, stops or tickets (not including a summary offense) for DUI must be reported within seventy-two (72) hours, even if it is a first time arrest, stop or ticket.**
- b. The report must be made in writing (including email) to the Superintendent and the Director of Human Resources within seventy-two (72) hours of the arrest, indictment, conviction and/or plea.
10. Inappropriate Speech on Social Media. Employees may be subjected to discipline, including discharge, for expressive conduct on social media or otherwise, subject to whatever First Amendment rights, if any, that may exist. For example, upholding dismissal of a teacher for what she posted on social media, in the case of *Munroe v. Central Bucks School Dist.*, 2015 WL 5167011, at \*17 (C.A.3 (Pa.),2015), a federal court said:

The job of a public school educator implicates a rather special set of circumstances and responsibilities. “Plaintiff worked in a school, where students ‘are impressionable and their attendance is involuntary.’ “ *Munroe*, 34 F.Supp.3d at 539 (quoting *Edwards v.*

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<sup>1</sup> The Educator Discipline Act requires, in part, as follows: “(a) The chief school administrator or his designee shall file all of the following information with the department in writing on a form prescribed by the department \* \* \* (2) **Any educator who has been arrested or indicted for or convicted of any crime that is graded a misdemeanor or felony.** For purposes of this section, the term conviction shall include a plea of guilty or nolo contendere.”24 P.S. § 2070.9a (emphasis added).



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*Aguillard*, 482 U.S. 578, 584, 107 S.Ct. 2573, 96 L.Ed.2d 510 (1987)). One generally expects that a teacher would: (1) refrain from expressing outright hostility and disgust against them on her blog (at least where the blog itself was not protected by a password and evidently could be (and, in this case, was) discovered by the media and members of the school community); (2) when confronted with her derogatory comments, publicly defended what she had said; and (3) in the process, singled out specific and identifiable students as the targets of her ire. As the PSBA helpfully notes in its amicus brief, the Pennsylvania Code of Professional Practice and Conduct for Educators states, inter alia, that professional educators are expected to value “the worth and dignity of every person, student and colleague alike,” 22 Pa.Code § 235.3, and to exercise care in maintaining confidentiality, 22 Pa.Code § 235.4(b)(9).

161718 “The position of public school teacher ‘requires a degree of public trust not found in many other positions of public employment.’ “Munroe, 34 F.Supp.3d at 539 (quoting *Melzer*, 336 F.3d at 198). A teacher generally acts *in loco parentis* for his or her students. *Melzer*, 336 F.3d at 199; see also *Craig*, 736 F.3d at 1119 (“The fact that Craig works closely with students at a public school as a counselor confers upon him an inordinate amount of trust and authority.” (citing *Edwards*, 482 U.S. at 584; *Melzer*, 336 F.3d at 198)). Like the Second Circuit, “[w]e acknowledge the truism that community reaction cannot dictate whether an employee's constitutional rights are protected.” *Melzer*, 336 F.3d at 199. The First Amendment generally does not permit the so-called “heckler's veto,” i.e., “allowing the public, with the government's help, to shout down unpopular ideas that stir anger.” *Id.*; see also *Craig*, 736 F.3d at 1121 (referring to “heckler's veto” in which unpopular speech is prohibited on account of community's possible reaction). However, there is a special (perhaps even unique) relationship that exists between a public school teacher (or other educators, like a guidance counselor), on the one hand, and his or her students and their parents, on the other hand. Simply put, neither parents nor students could be considered as outsiders seeking to “heckle” an educator into silence— “rather they are participants in public education, without whose cooperation public education as a practical matter cannot function.” “ *Craig*, 736 F.3d at 1121 (quoting *Melzer*, 336 F.3d at 199). We accordingly agree with the Second and Seventh Circuits that it is generally appropriate to consider the reactions of students and parents to an educator's speech under the *Pickering* balancing test.<sup>10</sup> *Id.* (“Given the nature of this case, we think it appropriate to consider Defendants' interests in preserving a safe counseling environment at Rich Central as part of our analysis.”); *Melzer*, 336 F.3d at 199 (“Any disruption created by parents can be fairly characterized as internal disruption to the operation of the school, a factor which may be accounted for in the balancing test and which may outweigh a public employee's rights.”).

Although the foregoing passage spoke in terms of teachers, all employees need to be aware of these rules and the fact that discipline or discharge may be imposed as a result of statements contained by the employees on social media, even if the statements are made off of the school premises and outside of work.

### 11. Rules of Construction.

- a. Notwithstanding anything herein to the contrary, nothing in this Code of Conduct shall be interpreted in a way that violates any applicable collective bargaining agreement or Applicable Law.

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- b. If any provision contained in this Code of Conduct is ambiguous—i.e., capable of being given one or more reasonable interpretations—and one or more reasonable interpretations would render the provision unlawful or unconstitutional, the School District intends only those interpretations that are lawful and constitutional.

**WARNING: Your failure or refusal to comply with this Code of Employee Conduct may lead to discipline, including discharge.**

I acknowledge receipt of the Warwick School District's Code of Employee Conduct and I represent that I am aware that I must comply with this Code of Employee Conduct, subject to my rights under any applicable collective bargaining agreement.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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