

Custer County C-1

BOE Agenda Item

Meeting date: Jan 14th

Agenda Number & Item: 14ci,ii,iii,iv,v,vi, vii, viii. ix, x, xi, xii, xiii First Reading (CASB suggest policy updates)

Admin recommendation:

Pass motion

Not to pass motion

Amend motion (Suggested below)

Table the motion

Suggested Motion Format

To Move (After motion is stated there must be a second or motion will die).

"I move that we approve the readings of:

- i. Policy DBE Restricted / Prohibited Expenditures
- ii. Policy IHBK, IHBK-R Post-secondary and Workforce
- iii. Policy JLCE First Aide
- iv. Policy BEC, BEDA Executive Sessions, Notification of BOE Meetings
- v. Policy GBEB, GEB-R Staff Conduct
- vi. Policy GCE/GCF, GDE/GDF, GCE/GCF-R, GDE/GDF-R Staff Recruiting
- vii. Policy KDB Freedom of Information
- viii. CBF Superintendent's Conduct
- ix. Policy BC, BC-R Board Member's Conduct
- x. Policy IHBIB Primary/Preprimary Education
- xi. Policy KFA Public Conduct on School Property
- xii. Policy JLCD Administering Medications to Students
- xiii. Policy JLCDB Administering Medical Marijuana to Qualified Students

Modifying each one to be specific and to name Custer County School District within the policy where applicable."

2nd required

Discussion / VOTE

To Amend

"I move to amend the motion (State Main motion) by (inserting or adding; by striking out {words, sentences, or paragraphs}; by striking out and inserting words {with the words inserted replacing the words struck out})

2nd required

To Table / Take off the Table

"I move to lay on the table (state motion).

2nd required

"I move to take from the table (state motion that was tabled).

2nd required

Background Information

As presented - CASB suggest policy updates

Person Presenting Information

Mike McFalls

DBE

RESTRICTED/PROHIBITED EXPENDITURES

A. General Principles.

This policy is intended to prohibit/restrict specific expenditures made for the benefit of District employees, spouses/significant others, or their families. It does not apply to travel, food/beverages, apparel and similar expenditures made strictly and exclusively for students, parents, or other community members in support of Board of Education objectives and priorities.

This policy only applies to the use of "District funds." "District funds" refers to revenues disbursed to the District, its departments and schools through the general fund, mill levy overrides, general obligation bonds, certificates of participation, allocations from the federal government through "title" programs, other tax revenues, or funds that may be accrued through district activity or expenditure of funds (ex. Credit cards cash back, etc.). "District funds" include professional development funds allocated for use by a specific employee or to a position on District Staff. "District funds" do not include revenues received by third party donations, including those from parents, foundations, and businesses; those resulting from employee expenditures, nor those generated from fundraising efforts in which it is disclosed that some portion of the proceeds will be spent for the benefit of District employees.

Money collected exclusively by staff members from other staff members for social purposes may be deposited in an external account. This does not apply to funds from other sources, including fundraising.

This policy's prohibitions apply to all employee groups, including senior District leadership.

B. Food/Beverage Expenditures.

The expenditure of District funds for food or beverages, including but not limited to staff appreciation events, staff meetings, and training meetings, is prohibited except as provided below.

Permitted exceptions to the food and beverage prohibition are the following, or events that are similar in scope or purpose to the specific exceptions identified above:

1. Food/beverages for Back-to-School Night events, parent/teacher conferences, and other events with the primary purpose of parent or community engagement, provided that such food/beverages are furnished exclusively at school sites.
2. Food/beverage purchases celebrating exceptional achievements by groups of students, provided that such food/beverages are furnished exclusively at school sites.
3. The annual dinner recognizing retirees from the District.

4. Events where staff or committees or asked to stay after school or work on a non-calendar school day for a school function.

5. Inservice days that are on the school calendar.

District staff may partake of any food / beverages purchased pursuant to any of the above exceptions.

C. Employee Gifts/Purchases.

Except for work-related clothing provided pursuant to a collective bargaining master agreement, District funds shall not be used to purchase t-shirts, sweatshirts, water bottles, bags, gift cards, or other items of a personal nature regardless of whether such item includes a District, department, or school logo.

D. Employee Recognition.

There are circumstances and occasions wherein District employees deserve recognition for their exceptional or extraordinary service to students. Within the guidelines and principles of this policy, department supervisors and principals may determine that District funds in an amount not to exceed \$40 per employee per year may be expended on items of a personal nature to acknowledge the exceptional or extraordinary service. Such a determination may be made only when there are no "non-District funds" as identified above, available for the expenditure.

Adopted:

First Aid and Emergency Medical Care

No treatment of injuries except first aid shall be permitted in the schools. First aid is that immediate help given by the best qualified person at hand in case of accident or sudden illness.

At least one person in each building and all staff members who teach or supervise students in classes or activities where students are exposed to dangerous equipment or chemicals or other increased risks of injury, as determined by the school district, shall have special training in first aid. A master first aid kit shall be kept and properly maintained in each school.

Any person who in good faith provides emergency care or assistance without compensation at the place of the emergency or accident shall not be liable for any civil damages for acts or omissions in good faith.

Treatment of injuries occurring outside school jurisdiction is not the responsibility of school employees.

No drugs shall be given at any time unless it be aromatic spirits of ammonia in case of fainting. The administering of aspirin for headaches or pain or the giving of sodium bicarbonate is forbidden unless a parent/guardian and physician have given written authorization for their use.

The school's obligation continues after the injury until the injured student has been placed in the care of the parent/guardian or emergency health personnel. Therefore, the parents/guardians of all students shall be asked to sign and submit an emergency medical authorization form which shall indicate the procedure they wish the school to follow in the event of a medical emergency involving their child.

In all cases where the nature of an illness or an injury appears serious, the parent/guardian shall be contacted if possible and the instructions on the student's emergency card followed. In extreme emergencies, where there is potential threat to life, limb or digit, school personnel shall immediately call emergency health personnel to arrange for transporting the student to an emergency facility on advice of emergency health personnel.

No elementary student who is ill or injured shall be sent home alone nor shall a secondary student be sent home alone unless the illness is minor and the parent/guardian has been consented in advance.

CUSTER COUNTY SCHOOL DISTRICT C-1

Adoption date Sept 10 2002

LEGAL REFS.: C.R.S. 13-21-108
C.R.S. 24-10-106.5



Revised Sample Policy

File: BEC

NOTE: While Colorado school districts are not required by law to adopt a policy on this subject, some content in this sample reflects legal requirements school districts must follow. This sample contains the content/language that CASB believes best meets the intent of the law. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Executive Sessions

All meetings of the Board shall be open to the public except that at any regular or special meeting the Board may proceed into executive session upon affirmative vote of two-thirds of the quorum present.

The Board shall not make final policy decisions nor shall any resolution, policy or regulation be adopted or approved nor shall any formal action of any kind be taken during any executive session.

Prior to convening in executive session, the Board shall announce the topic of the executive session which shall be reflected in the minutes. The Board shall include the specific citation to statute authorizing it to meet in executive session when it announces the session and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

NOTE: As stated in the above paragraph, the Board must refer to the specific citation to statute authorizing it to meet when it announces the session. The following numbered paragraphs list the permissible executive session topics with the legal citation for each. Each topic is a subsection of C.R.S. 24-6-402 (4). The Board may choose not to include these legal citations in this policy and instead simply list the topics.

The Board may hold an executive session for the sole purpose of considering any of the following matters:

1. Purchase, acquisition, lease, transfer or sale of any real, personal or other property. However, no executive session shall be held to conceal the fact that a member of the Board has a personal interest in such property transaction. C.R.S. 24-6-402 (4)(a).
2. Conferences with an attorney for the purpose of receiving legal advice on specific legal questions. C.R.S. 24-6-402 (4)(b). The mere presence or participation of an attorney at an executive session shall not be sufficient to satisfy this requirement.
3. Matters required to be kept confidential by federal or state law or regulations. C.R.S. 24-6-402 (4)(c). An announcement will be made indicating the specific

citation to state or federal law which is the reason the matter must remain confidential.

4. Specialized details of security arrangements or investigations. C.R.S. 24-6-402 (4)(d).
5. Determination of positions relative to matters that may be subject to negotiations, development of strategy for negotiations, including strategy for negotiations relating to collective bargaining or employment contracts, and instruction of negotiators, ~~except that~~ discussion of negotiations relating to collective bargaining or employment contracts shall occur in a public meeting, unless an executive session is otherwise allowed. C.R.S. 24-6-402 (4)(e).
6. Personnel matters except if an employee who is the subject of an executive session requests an open meeting. C.R.S. 24-6-402 (4)(f). If the personnel matter involves more than one employee, all of the employees must request an open meeting. Discussion of personnel policies that do not require discussion of matters specific to particular employees are not considered "personnel matters."

The Teacher Employment, Compensation and Dismissal Act shall prevail in teacher dismissal hearings. (It provides that a dismissal hearing shall be open unless either the administration or employee requests that the hearing be closed.)

Discussions concerning a member of the Board, any elected official or the appointment of a Board member are not considered "personnel matters."

7. Consideration of any documents protected under the mandatory nondisclosure provision of the Open Records Act, except that consideration of work product documents and documents subject to the governmental or deliberative process privilege must occur in a public meeting, unless an executive session is otherwise allowed. C.R.S. 24-6-402 (4)(g).
8. Discussion of individual students where public disclosure would adversely affect the person or persons involved. C.R.S. 24-6-402 (4)(h).

Only those persons invited by the Board may be present during any executive session regardless of the topic of the session (including personnel matters).

The Board shall cause an electronic recording to be made of the executive session in accordance with applicable law. Such record shall be retained by the Board for 90 days following the session.

(Adoption date)

LEGAL REFS.: C.R.S. 22-32-108 (5) (*meetings of the Board*)
C.R.S. 22-32-108 (5)(d) (*executive session minutes*)
C.R.S. 22-32-109.4 (4) (*Board meeting "at which a collective bargaining agreement is discussed" must be open to the public*)
C.R.S. 24-6-402 (*open meetings law*)

CROSS REFS.: BEDG, Minutes

KDB, Public's Right to Know/Freedom of Information

NOTE 1: School districts must make an "electronic recording" of any executive session, which shall include the specific statutory citation to the executive session law that allows the Board to meet in executive session. However, if the executive session is held to discuss an individual student matter, the Board is not required to make an electronic or written record of the executive session. If the executive session is held to receive legal advice from an attorney on a particular matter, an electronic record must be made of the statutory citation to the executive session law that allows the Board to meet in executive session to receive legal advice, but the Board is not required to make an electronic or written record of the discussion that occurs in the executive session, on the basis that it constitutes privileged attorney-client communication. If no electronic recording is made because the discussion constitutes a privileged attorney-client communication, this must be stated on the electronic recording, or the attorney representing the Board must provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication. The Board should put a procedure in place to assure that the record of any executive session is routinely destroyed once the 90-day deadline expires.

NOTE 2: Each school Board member is required to sign an affidavit stating the Board member is aware of and will comply with the confidentiality requirements and restrictions applicable to executive sessions of the Board, as described in C.R.S. 24-6-402. The affidavit shall be signed at the Board's organizational meeting called pursuant to C.R.S. 22-32-104 (1). The affidavits shall be kept with the minutes of the Board meeting. C.R.S. 22-32-108 (5)(a).

NOTE 3: State law requires the minutes of any Board meeting at which the Board convenes in executive session to be posted on the Board's website not later than 10 business days following the meeting at which the minutes are approved by the Board. C.R.S. 22-32-108 (5)(d). If the Board does not maintain a website, the minutes "must be published in the same manner as the [B]oard regularly provides public notice." Id. The law doesn't specify the length of time that the minutes must remain "posted" or "published." At a minimum, CASB suggests keeping the minutes posted/published for at least 90 days following the meeting at which the executive session occurred. This way, the timeline for posting/publishing is the same as the statutory timeline for the retention of electronic recordings of executive sessions. See, C.R.S. 22-32-108 (5)(d); 24-6-402 (2)(d.5)(II)(E).

NOTE 4: Beginning September 1, 2019, state law permits School Boards to convene in executive session "for the purpose of developing the strategy of the school district for negotiations relating to collective bargaining or employment contracts." C.R.S. 24-6-402 (4)(e)(III). Proposition 104, which was passed by voters in November 2014, continues to prohibit school Boards from "discussing" negotiations relating to collective bargaining or employment contracts in executive session under the negotiations provision. C.R.S. 24-6-402 (4)(e)(II). Thus, a distinction between the "development of strategy" and "discussion" must be made by the Board. ~~was passed by voters in November 2014, prohibits school Boards from convening in executive session to determine positions relative to matters that may be subject to negotiations, develop strategy for negotiations, and instruct negotiators, IF: (1) negotiations relating to collective bargaining are discussed; or (2) negotiations for "employment contracts" are discussed. C.R.S. 24-6-402 (4)(e)(II).~~ School Boards are still allowed to convene in executive session under the "negotiations" provision if such discussion relates to "negotiations for an individual's employment contract." C.R.S. 24-6-402 (4)(e)(II)(B). ~~There may be other instances when the Board may convene in executive session under the negotiations provision, so long as it doesn't involve negotiations concerning "collective bargaining" or "employment contracts."~~

| ~~[Revised November 2014]~~ [Revised November 2019]
COLORADO SAMPLE POLICY 1991©

original

File: BEC

Executive Sessions

All meetings of the Board shall be open to the public except that at any regular or special meeting the Board may proceed into executive session upon affirmative vote of two-thirds of the quorum present.

The Board shall not make final policy decisions nor shall any resolution, policy or regulation be adopted or approved nor shall any formal action of any kind be taken during any executive session.

Prior to convening in executive session, the Board shall announce the topic of the executive session which shall be reflected in the minutes. The Board shall include the specific citation to statute authorizing it to meet in executive session when it announces the session and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

The Board may hold an executive session for the sole purpose of considering any of the following matters:

1. Purchase, acquisition, lease, transfer or sale of any real, personal or other property. However, no executive session shall be held to conceal the fact that a member of the Board has a personal interest in such property transaction. C.R.S. 24-6-402 (4)(a).
2. Conferences with an attorney for the purpose of receiving legal advice on specific legal questions. C.R.S. 24-6-402 (4)(b). The mere presence or participation of an attorney at an executive session shall not be sufficient to satisfy this requirement.
3. Matters required to be kept confidential by federal or state law or regulations. C.R.S. 24-6-402 (4)(c). An announcement will be made indicating the specific citation to state or federal law which is the reason the matter must remain confidential.
4. Specialized details of security arrangements or investigations. C.R.S. 24-6-402 (4)(d).
5. Determination of positions relative to matters that may be subject to negotiations, development of strategy for negotiations and instruction of negotiators. C.R.S. 24-6-402 (4)(e).
6. Personnel matters except if an employee who is the subject of an executive session requests an open meeting. C.R.S. 24-6-402 (4)(f). If the personnel matter

involves more than one employee, all of the employees must request an open meeting. Discussion of personnel policies that do not require discussion of matters specific to particular employees are not considered "personnel matters."

The Teacher Employment, Compensation and Dismissal Act shall prevail in teacher dismissal hearings. (It provides that a dismissal hearing shall be open unless either the administration or employee requests that the hearing be closed.)

Discussions concerning a member of the Board, any elected official or the appointment of a Board member are not considered "personnel matters."

7. Consideration of any documents protected under the mandatory nondisclosure provision of the Open Records Act, except that consideration of work product documents and documents subject to the governmental or deliberative process privilege must occur in a public meeting, unless an executive session is otherwise allowed. C.R.S. 24-6-402 (4)(g).

8. Discussion of individual students where public disclosure would adversely affect the person or persons involved. C.R.S. 24-6-402 (4)(h).

Only those persons invited by the Board may be present during any executive session regardless of the topic of the session (including personnel matters).

The Board shall cause an electronic recording to be made of the executive session in accordance with applicable law. Such record shall be retained by the Board for 90 days following the session. No electronic record shall be made of an executive session held for the purpose of discussing an individual student matter or of a session in which the discussion involves a privileged attorney-client communication. The electronic record must include the specific statutory citation to the executive session law that allows the Board to meet in executive session.

Adopted: October 13, 2015

LEGAL REFS.: C.R.S. 22-32-108 (5) (meetings of the board)

C.R.S. 22-32-108 (5)(d) (executive session minutes)

C.R.S. 24-6-402 (open meetings law)

CROSS REFS.: BEDG, Minutes

KDB, Public's Right to Know/Freedom of Information

NOTE 1: School districts must make an "electronic recording" of any executive session, which shall include the specific statutory citation to the executive session law that allows the Board to meet in executive session. However, if the executive session is held to discuss an individual student matter, the Board is not required to make an electronic or written record of the executive session. If the executive session is held to receive legal advice from an attorney on a particular matter, an electronic record must be made of the statutory citation to the executive session law that allows the Board to meet in executive session to receive legal advice, but the Board is not required to make an electronic or written record of the discussion that occurs in the executive session, on the basis that it constitutes privileged attorney-client communication. If no electronic recording is made because the discussion constitutes a privileged attorney-client communication, this must be stated on the electronic recording, or the attorney representing the board must provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication. The board should put a procedure in place to assure that the record of any executive session is routinely destroyed once the 90-day deadline expires.

NOTE 2: Each school board member is required to sign an affidavit stating the board member is aware of and will comply with the confidentiality requirements and restrictions applicable to executive sessions of the board, as described in C.R.S. 24-6-402. The affidavit shall be signed at the board's organizational meeting called pursuant to C.R.S. 22-32-104 (1). The affidavits shall be kept with the minutes of the board meeting. C.R.S. 22-32-108 (5)(a).

NOTE 3: State law requires the minutes of any Board meeting at which the Board convenes in executive session to be posted on the Board's website not later than 10 business days following the meeting at which the minutes are approved by the Board. C.R.S. 22-32-108 (5)(d). If the Board does not maintain a website, the minutes "must be published in the same manner as the [B]oard regularly provides public notice." *Id.* The law doesn't specify the length of time that the minutes must remain "posted" or "published." At a minimum, CASB counsel suggests keeping the minutes posted/published for at least 90 days following the meeting at which the executive session occurred. This way, the timeline for posting/publishing is the same as the statutory timeline for the retention of electronic recordings of executive sessions. See, C.R.S. 22-32-108 (5)(d); 24-6-402 (2)(d.5)(II)(E).



Revised Sample Policy

File: BEDA

NOTE: While Colorado school districts are not required by law to adopt a policy on this subject, some content in this sample reflects legal requirements school districts must follow. This sample contains the content/language that CASB believes best meets the intent of the law. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Notification of School Board Meetings

The Board shall give full and timely notice to the public of any meeting of three or more Board members at which public business may be discussed or any formal action taken, including special, regular and work session meetings and retreats.

~~Dates of regular meetings of the Board shall be provided in annual announcements and made available in printed form to the news media and public.~~ At its first regular meeting of the calendar year, the Board shall designate the public place or places at which notice of all Board meetings shall be posted if the Board is unable to post notice of a Board meeting online due to exigent or emergency circumstances such as a power outage or an interruption in Internet service. In the event such action is not taken annually, the designated public place(s) used in the previous year shall continue as the official posting site(s).

At a minimum, the Board shall cause notice of regular and special meetings and work sessions to be posted on the district's website ~~at the designated public place~~ no less than 24 hours prior to the meeting. This notice shall include specific agenda information where possible.

~~Copies of the agenda shall be available to representatives of the community and staff and others at the District Administrative Office upon publication and dissemination to the Board.~~

The district shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed. These individuals will be provided reasonable advance notification of such Board meetings, ~~unless the meeting is a special meeting and there is insufficient time prior to the meeting to mail notice to persons on the list.~~

Notice to the Board

The superintendent or designee shall provide the agenda, together with meeting materials and the minutes of the last regular meeting, to Board members no later than 72 hours before the next regular meeting.

(Adoption date)

LEGAL REFS.: C.R.S. 22-32-108 (2), (3) (meetings of the Board)
C.R.S. 24-6-402 (2)(c) (notice of meeting "shall include specific agenda information where possible")

C.R.S. 24-6-402 (2)(c)(III) ("full and timely notice" requirement is met if district posts notice of meeting on the district's website no less than 24 hours prior to meeting)

C.R.S. 24-6-402 (7) (district must keep list of persons who have requested notification of meetings when specified policies are discussed and provide reasonable advance notice to such persons)

CROSS REFS.: BE, School Board Meetings
BEDB, Agenda

OPEN MEETING REQUIREMENTS FOR SCHOOL BOARDS

The major provisions of Colorado's Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.*, (the COML) applicable to boards of education are as follows.

ALL "MEETINGS" ARE PUBLIC

All meetings of three or more members of any "local public body" at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times. Chance meetings or social gatherings at which discussion of public business is not the central purpose are not considered meetings.

"Local public body" includes boards of education as well as any committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body, including private entities that have been delegated a governmental decision-making function. The term does not include persons on the school district's administrative staff, except when employee negotiations are the subject. Proposition 104, passed by voters in 2014, expanded the definition of "local public body" to include school administration personnel OR a combination of board members and school administration personnel "who are involved in a meeting with a representative of employees at which a collective bargaining agreement is discussed."

"Meeting" means any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication. Meeting includes work sessions, retreats and other gatherings of the board where public business is discussed or formal action may be taken. A "meeting" may also occur via email if it involves a discussion between three or more board members.¹

FULL AND TIMELY NOTICE

"Full and timely notice" must be given of all meetings at which the adoption of any proposed policy, resolution, or formal action occurs or at which a quorum of the body is in attendance.

"Full and timely notice" is not specifically defined in the COML. However, a "local public body" is deemed to have given full and timely notice if notice of the meeting is posted in a designated public place within the boundaries of the district not less than 24 hours prior to the meeting. This is a minimum requirement that should not prevent the board from using other means of notifying the press and the public of the meeting as appropriate. The board of education at its first regular meeting each year must designate at least one public place at which meeting notices will be posted. Posting should include specific agenda information where possible. The district must also maintain a list of persons who request notification of all meetings or consideration of certain policies and provide reasonable advance notice of these meetings.

It is important to remember that there are requirements in law for notice of special meetings to members of the board of education, which must be delivered 72 hours in advance if mailed and

¹ For more information on board use of email, please see CASB's memo regarding use of electronic mail by school boards.

24 hours in advance if delivered. C.R.S. § 22-32-108(2). A board member may “waive notice of the time, place and purpose of a special meeting at any time before, during, or after such meeting, and attendance thereat shall be deemed to be a waiver.” C.R.S. § 22-32-108(3).

The Colorado state legislature amended this statutory provision in 2015 to specifically allow all rural school districts to utilize electronic mail as a means to notify board members of a special board meeting. C.R.S. § 22-32-108(2)(b). Arguably, however, school districts that are not considered “rural” may also provide notification of special board meetings by email at least 24 hours in advance of the meeting, so long as the board member agrees to receive such email notification or waives the required notification. C.R.S. § 22-32-108(3).

MINUTES MUST BE TAKEN

Minutes must be taken and promptly recorded of any meeting of a local public body at which adoption of any proposed policy, resolution, or formal action occurs or could occur. Minutes of any meeting at which the board convened in executive session must indicate the amount of time spent on each topic discussed during executive session. C.R.S. § 22-32-108(5)(d).

If the board of education uses a secret ballot vote to elect its president or vice president or to select the members of a superintendent search committee, the outcome of the vote must be contemporaneously recorded in the minutes. C.R.S. § 24-6-402(2)(d)(IV). Other school district committees subject to the COML, such as the district accountability committee, may also elect committee leadership by secret ballot, subject to the same requirement to contemporaneously record the outcome of the vote in the meeting minutes.

Each board of education is required to cause minutes of all board proceedings to be recorded in convenient form and to be open for public inspection at the district’s administrative office during reasonable business hours. C.R.S. § 22-32-109(1)(e). In addition, districts must publish the minutes of any board meeting at which the board convenes in executive session on the board’s website not later than 10 business days after the minutes are approved by the board. If the board does not maintain a website, the minutes must be published in the same manner as the board regularly provides public notice. C.R.S. § 22-32-108(5)(d). While the law does not specify the length of time such minutes must remain published, CASB suggests a publication window of at least 90 days following the meeting at which the executive session occurred, aligning this practice with the statutory timeline for retaining electronic recordings of executive sessions, as discussed below.

Minutes of meetings where no executive session occurred are not required to be published in this manner and within this timeline. However, all official minutes must be permanently retained by the district and must remain available for public inspection.

RECORDING OF REGULAR AND SPECIAL MEETINGS

State law requires boards of education to make a recording of each regular and special meeting at which votes are taken and recorded. C.R.S. § 22-32-108(5)(b). The recording must be made by using “appropriate technology” available within the school district at the time the recording is made. At a minimum, an audio recording must be made. These recordings must be available to the public and maintained by the school district for at least 90 days. Any individual or entity

requesting a copy of the recording shall pay the district's costs incurred in providing a copy. The district may only charge those costs permitted by Colorado's Open Records Act. *See*, C.R.S. § 24-72-205.

ELECTRONIC PARTICIPATION

A board of education may adopt a policy permitting board members to attend and participate electronically in the board's meetings. Any board member participating electronically pursuant to a lawful board policy is present for purposes of voting. C.R.S. § 22-32-108(7).

A policy permitting electronic participation must include the following provisions:

- A requirement that a quorum of the board be physically present in one location to convene a meeting;
- A description of the extenuating circumstances the board deems sufficient to permit electronic attendance;
- Discretion for the board to decide the maximum number of meetings a board member may attend electronically before the board member's position is declared vacant;
- A requirement that the board have the technology in place to ensure members of the public can hear the board member participating remotely and to ensure the board member can hear comments made by the public; and
- A clear description of the methods by which a board member may attend electronically, including via telephone, video conferencing, or other electronic means.

EXECUTIVE SESSIONS

A board of education, upon the affirmative vote of two-thirds of the quorum present, may convene in executive session at a regular or special meeting. Only those persons invited by the board may be present during any executive session regardless of the topic of the session (including personnel matters). As discussed above, the minutes of any board meeting at which the board convenes in executive session must indicate the amount of time spent on each topic discussed during the board's executive session and must be published within 10 business days of the board's approval of the minutes.

Discussions occurring during an executive session are confidential. To safeguard this confidentiality, the law requires each school board member to sign an affidavit stating that the board member is aware of and will comply with the confidentiality requirements and restrictions applicable to executive sessions of the board. Board members sign these affidavits during the board's biennial organizational meeting, and the school district then maintains such affidavits with the minutes of board meetings and other board documents. C.R.S. § 22-32-108(5)(a). CASB recommends that newly appointed board members that were not on the board at the time of the organizational meeting should sign the confidentiality affidavit upon appointment by the board.

Due to Colorado court decisions, it has become increasingly important for boards to strictly comply with the law's requirements before convening in executive session. Otherwise, a court may invalidate the board's actions and the school district could be liable for attorney fees and court costs resulting from a successful legal challenge of the board. C.R.S. §§ 24-6-402(8), (9).

If the board does not strictly comply with the requirements to convene in executive session, the executive session may be considered an open meeting subject to public disclosure requirements. *Gumina v. City of Sterling*, 119 P.3d 527 (Colo. Ct. App. 2004). In addition, state law requires local public bodies (which includes school boards) to electronically record executive sessions, as discussed in more detail below. Accordingly, violations of the law's requirements with regard to executive sessions could also result in the recording being made public.

Steps to Convene in Executive Session

1. The board president announces the topic of the executive session and the specific citation to the statute authorizing the board to meet in executive session.
2. The board president identifies the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. In crafting this announcement, the board president may factor in how much the public already knows about the particular matter and provide additional detail when describing the topic to be discussed consistent with this public knowledge.
3. The board votes whether to convene in executive session. Upon the affirmative vote of two-thirds of the quorum present, the board then goes into executive session.
4. The discussion during executive session cannot stray from the matter(s) stated at the onset of the executive session.
5. The board is not allowed to adopt any proposed policy, resolution, regulation, or take any formal action in an executive session.
6. If the board wishes to confer with its attorney during an executive session and it did not specifically announce its intent to do so prior to convening the executive session, the board should return to public session, make an additional topic announcement citing the statutory authority for conferring with its attorney, and vote on whether to convene in executive session for this purpose.

Matters that may be Considered in Executive Session

Executive sessions may be conducted for the sole purpose of considering any of the following matters:

- The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest. C.R.S. § 24-6-402(4)(a). However, no executive session shall be held to conceal the fact that a member of the local public body has a personal interest in such property transaction.

- Conferences with an attorney for the purpose of receiving legal advice on specific legal questions. C.R.S. § 24-6-402(4)(b). The mere presence or participation of an attorney at an executive session is not sufficient to satisfy this requirement.
- Matters required to be kept confidential by federal or state law or rules and regulations. C.R.S. § 24-6-402(4)(c). The board must announce the specific citation of the statute or rules that are the basis for such confidentiality before holding the executive session.
- Specialized details of security arrangements or investigations. C.R.S. § 24-6-402(4)(d).
- Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations, including strategy for negotiations relating to collective bargaining or employment contracts; and instructing negotiators. Discussion of negotiations relating to collective bargaining or employment contracts shall occur in a public meeting, unless an executive session is otherwise allowed.² C.R.S. § 24-6-402(4)(e).
- Personnel matters; except if the employee who is the subject of the session has requested an open meeting. C.R.S. § 24-6-402(4)(f). If the employee does not request an open meeting, the board will hold the discussion in executive session. The board may, at its discretion, invite the employee into the session. If the personnel matter involves more than one employee, all of the employees have to request an open meeting for the board to conduct the discussion in public.

Discussion of personnel policies that do not require discussion of matters specific to a particular employee are not considered "personnel matters." Discussions concerning a member of the board, any elected official or the appointment of a board member are not considered personnel matters.

- Consideration of any documents protected under the mandatory nondisclosure provision of the Open Records Act, except that consideration of work product documents and documents subject to the governmental or deliberative process privilege must occur in a public meeting, unless an executive session is otherwise allowed.² C.R.S. § 24-6-402(4)(g).
- Discussion of individual students where public disclosure would adversely affect the person or persons involved. C.R.S. § 24-6-402(4)(h).

ELECTRONIC RECORD OF EXECUTIVE SESSION

School boards must make an *electronic* record of the discussion that occurs in executive session unless the discussion falls within two limited exceptions, as discussed below. The electronic record must include the specific statutory citation that allows the board to meet in executive session.

² Proposition 104, passed by voters in 2014, limits this statutory ground for convening in executive session. However, HB 19-1201 amended this limitation to permit school boards to develop "strategy" relating to collective bargaining or employment contracts in executive session. Proposition 104 continues to require a meeting between an employee representative and school district administrators, school board members, or a combination of administrators/board members during which a collective bargaining agreement, master agreement or an employees' contract are discussed to be noticed and open to the public.

The law does not specify the form of electronic recording that must be used. Thus, the board may use a simple tape recorder or more advanced equipment to electronically record the executive session.

The electronic record must be retained for at least 90 days following the executive session. The board should put a procedure in place to ensure the electronic record of any executive session is destroyed once the 90-day deadline expires and ensure the procedure is implemented consistently.

Exceptions to the Electronic Recording Requirement

If the executive session is held to discuss an individual student matter, the COML does not require the board to make *any* record of the executive session.

If the executive session is held to receive legal advice from an attorney on a particular matter, an electronic record must be made of the statutory citation to the executive session law permitting the board to meet in executive session to receive legal advice, but the board is not required to make an electronic or written record of the discussion that occurs in executive session, on the basis that it constitutes privileged attorney-client communication. If no electronic recording is made because the discussion constitutes privileged attorney-client communication, this must be stated on the electronic recording, or the attorney representing the board must provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication. Following this procedure will protect the privileged portions of communications with an attorney from being released in any litigation challenging the board's compliance with the COML.

Access to the Electronic Record

No portion of the record of an executive session is open for public inspection or subject to discovery in any administrative or judicial proceeding, unless the board consents or unless a district court judge makes a portion of the record public. For this to happen, the person seeking access to the record of the executive session would have to convince the judge that the board engaged in substantial discussion of matters that were not permissible topics for executive session or that the board took action while in executive session. If a judge determines that the board strayed from the stated topic in executive session or took formal action, the entire record or a portion of the record reflecting the discussion of "open" matters will be subject to public inspection.

ENFORCEMENT MECHANISM

Board action is invalid unless taken or made at a meeting that complies with the COML. The courts have jurisdiction to issue injunctions to enforce the COML. If the law is violated, the court is to award costs and reasonable attorneys' fees to the citizen prevailing in such action. The board of education will receive costs and attorneys' fees if it prevails and the action is determined to be frivolous or groundless.

original

File: BEDA

Notification of School Board Meetings

The Board shall give full and timely notice to the public of any meeting of **three or more Board members at which public business may be discussed or any formal action taken**, including special, regular and work session meetings and retreats.

Dates of regular meetings of the Board shall be provided in annual announcements and made available in printed form to the news media and public. At its first regular meeting of the calendar year, the Board shall designate the public place or places at which notice of all Board meetings shall be posted. In the event such action is not taken annually, the designated public places used in the previous year shall continue as the official posting sites.

At a minimum, the Board shall cause notice of regular and special meetings and work sessions to be posted at the designated public place no less than 24 hours prior to the meeting. This notice shall include specific agenda information where possible.

Copies of the agenda shall be available to representatives of the community and staff and others at the **District Administrative Office** upon publication and dissemination to the Board.

The district shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed. These individuals will be provided reasonable advance notification of Board meetings unless the meeting is a special meeting and there is insufficient time prior to the meeting to mail notice to persons on the list.

Notice to the Board

The superintendent shall mail the agenda, together with meeting materials and the minutes of the last regular meeting, to Board members no later than 72 hours before the next regular meeting.

Adoption 9/15/2005

LEGAL REFS.: C.R.S. 22-32-108 (2),(3) (*meetings of the board*)
C.R.S. 24-6-402 (2)(c) (*open meeting law*)

CROSS REF.: BE, School Board Meetings

100

Revised Sample Policy

File: GBEB

NOTE: Colorado school districts are required by law to adopt a policy that requires screening of new and current employees for criminal activities. The screening provisions have been included in this sample policy. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Staff Conduct (And Responsibilities)

All staff members have a responsibility to make themselves familiar with and abide by federal and state laws as these affect their work, and the policies and regulations of the district.

As representatives of the district and role models for students, all staff shall demonstrate and uphold high professional, ethical and moral standards. Staff members shall conduct themselves in a manner that is consistent with the educational mission of the district and shall maintain professional boundaries with students at all times in accordance with this policy's accompanying regulation. Interactions between staff members must be based on mutual respect and any disputes will be resolved in a professional manner.

Rules of conduct

Each staff member shall observe rules of conduct established in law which specify that a school employee shall not:

1. Disclose or use confidential information acquired in the course of employment to further substantially the employee's personal financial interests.
2. Accept a gift of substantial value or substantial economic benefit tantamount to a gift of substantial value which would tend to improperly influence a reasonable person in the position to depart from the faithful and impartial discharge of the staff member's duties, or which the staff member knows or should know is primarily for the purpose of a reward for action taken.
3. Engage in a substantial financial transaction for private business purposes with a person whom the staff member supervises.
4. Perform an action which directly and substantially confers an economic benefit tantamount to a gift of substantial value on a business or other undertaking in which the staff member has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

All staff members shall be expected to carry out their assigned responsibilities with conscientious concern.

It shall not be considered a breach of conduct for a staff member to:

1. Use school facilities and equipment to communicate or correspond with constituents, family members or business associates on an occasional basis.
2. Accept or receive a benefit as an indirect consequence of transacting school district business.

Essential to the success of ongoing school operations and the instructional program are the following specific responsibilities which shall be required of all personnel:

1. Faithfulness and promptness in attendance at work.
2. Support and enforcement of policies of the Board and regulations of the school administration in regard to students.
3. Diligence in submitting required reports promptly at the times specified.
4. Care and protection of school property.
5. Concern and attention toward the safety and welfare of students.

Child abuse

All district employees who have reasonable cause to know or suspect that any child is subjected to abuse or to conditions that might result in abuse or neglect must immediately upon receiving such information report such fact in accordance with Board policy and state law.

The superintendent is authorized to conduct an internal investigation or to take any other necessary steps if information is received from a county department of social services or a law enforcement agency that a suspected child abuse perpetrator is a school district employee. Such information shall remain confidential except that the superintendent shall notify the Colorado Department of Education of the child abuse investigation.

Possession of deadly weapons

The Board's policy regarding public possession of deadly weapons on school property or in school buildings shall apply to district employees. However, the restrictions shall not apply to employees who are required to carry or use deadly weapons in order to perform their necessary duties and functions.

*Allow in cars?
OK w/ attorney*

Felony/misdemeanor convictions

If, subsequent to beginning employment with the district, the district has good cause to believe that any staff member has been convicted of, pled *nolo contendere* to, or received a deferred or suspended sentence for any felony or misdemeanor other than a misdemeanor traffic offense or infraction, the district shall make inquiries to the Department of Education for purposes of screening the employee.

In addition, the district shall require the employee to submit a complete set of fingerprints taken by a qualified law enforcement agency, an authorized district or BOCES employee, or any third party approved by the Colorado Bureau of

Investigation. Fingerprints must be submitted within 20 days after receipt of written notification. The fingerprints shall be forwarded to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. When the results of the fingerprint-based criminal history record check reveal a record of arrest without a disposition, the district shall require the employee to submit to a name-based criminal history record check.

Disciplinary action, which could include dismissal from employment, may be taken against personnel if the results of fingerprint processing and/or name-based criminal history record check provide relevant information. Non-licensed employees shall be terminated if the results of the fingerprint-based or name-based criminal history record check disclose a conviction for certain felonies, as provided in law.

Employees shall not be charged fees for processing fingerprints under these circumstances.

Unlawful behavior involving children

The district may make an inquiry with the Department of Education concerning whether any current employee of the school district has been convicted of, pled *nolo contendere* to, or received a deferred or suspended sentence or deferred prosecution for a felony or misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children. Disciplinary action, including termination, may be taken if the inquiry discloses information relevant to the employee's fitness for employment.

NOTE: The following paragraph is optional and requires employees to notify the district when they are arrested for specific crimes, in accordance with this policy's accompanying regulation. CASB believes requiring employee notification of arrests reflects "best practices," as it assists the district in becoming aware of potential criminal charges against a district employee that may necessitate employee disciplinary action and parent notification. See, C.R.S. 22-1-130.

Notification concerning arrests

District employees shall notify the district when they are arrested for specific criminal offenses, in accordance with this policy's accompanying regulation.

The district shall notify students' parents/guardians when district employees are charged with specific criminal offenses, as required by state law and in accordance with applicable Board policy.

}?
need to specify

Personnel addressing health care treatment for behavior issues

School personnel are prohibited under state law from recommending or requiring the use of psychotropic drugs for students. They are also prohibited from testing or requiring testing for a student's behavior without giving notice to the parent/guardian describing the recommended testing and how any test results will be used and obtaining prior written permission from the student or from the student's parent/guardian. See the Board's policy concerning survey, assessment, analysis or evaluation of students. School personnel are encouraged to discuss concerns about

a student's behavior with the parent/guardian and such discussions may include a suggestion that the parent/guardian speak with an appropriate health care professional regarding any behavior concerns.

(Adoption date)

LEGAL REFS.: 28 C.F.R. 50.12 (b) (notification requirements regarding fingerprints)
C.R.S. 18-12-105.5 (unlawful carrying/possession of weapons on school grounds)
C.R.S. 18-12-214 (3)(b) (school security officers may carry concealed handgun pursuant to valid permit)
C.R.S. 19-3-308 (5.7) (child abuse reporting)
C.R.S. 22-1-130 (parent notification of employee criminal charges)
C.R.S. 22-2-119.3 (6)(d) (name-based criminal history record check – definition)
C.R.S. 22-32-109 (1)(ee) (duty to adopt policy prohibiting personnel from recommending certain drugs for students or ordering behavior tests without parent permission)
C.R.S. 22-32-109 (1)(pp) (annual employee notification requirement regarding federal student loan repayment programs and student loan forgiveness programs)
C.R.S. 22-32-109.1 (8) (policy requiring inquiries upon good cause to department of education for purpose of ongoing screening of employees)
C.R.S. 22-32-109.7 (duty to make inquiries prior to hiring)
C.R.S. 22-32-109.8 (non-licensed personnel – submittal of fingerprints and name-based criminal history record check)
C.R.S. 22-32-109.8 (6)(a) (requirement to terminate non-licensed employees for certain felony offenses)
C.R.S. 22-32-109.9 (licensed personnel – submittal of fingerprints and name-based criminal history record check)
C.R.S. 22-32-110 (1)(k) (power to adopt conduct rules)
C.R.S. 24-18-104 (government employee rules of conduct)
C.R.S. 24-18-109 (local government employee rules of conduct)
C.R.S. 24-18-110 (voluntary disclosure)

CROSS REFS.: JLC, Student Health Services and Records
JLDAC, Screening/Testing of Students (And Treatment of Mental Disorders)
JLF, Reporting Child Abuse/Child Protection
KDBA*, Parent Notification of Employee Criminal Charges
KFA, Public Conduct on District Property

NOTE 1: State law defines "economic benefit tantamount to a gift of substantial value" to include: 1. A loan at a rate of interest substantially lower than the prevailing commercial rate; 2. Compensation received for private services rendered at a rate substantially exceeding the fair market value; and 3. Goods or services for the district employee's personal benefit offered by a person who is at the same time providing goods or services to the district under a contract or other means by which the person receives payment or other compensation from the district. C.R.S. 24-18-104(2). However, state law permits a district employee to receive such goods or services if the "totality of the circumstances" indicates the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the employee does not receive any substantial benefit resulting from the employee's status that is unavailable to members of the public generally. C.R.S. 24-18-104(2)(b).

NOTE 2: State law lists the type of items that are not considered "gifts of substantial value or substantial economic benefit tantamount to a gift of substantial value" and are therefore permissible for a district employee to receive. See, C.R.S. 24-18-104(3). Such items include campaign contributions or contributions in kind that are reported in accordance with the Fair Campaign Practices Act; an unsolicited item of trivial value (i.e. currently less than \$5965), "such as a pen, calendar, plant, book, notepad or similar item;" and an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item. Id.; see also, Colo. Const. Art. XXIX, Section 3.

NOTE 3: The amount of the gift limit (\$5965) is identical to the gift limit under section 3 of article XXIX of the state constitution. This amount shall be adjusted for inflation contemporaneously with any adjustment to the constitutional gift limit. C.R.S. 24-6-203(8). The state constitution requires an adjustment for inflation every four years. The next adjustment must occur in the first quarter of ~~2019~~2023. Colo. Const. Art. XXIX, Section 3 (6).

NOTE 4: Federal law requires school districts to notify employees fingerprinted pursuant to this policy that the fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI). Districts must also notify fingerprinted employees about the opportunity to challenge the accuracy of the information contained in the FBI identification record and the procedure to obtain a change, correction or update of an FBI identification record. 28 C.F.R. 50.12(b). Districts must retain documentation that this notification was provided.

NOTE 5: State law requires school districts to annually distribute to employees "informational materials related to federal student loan repayment and student loan forgiveness programs, including updated materials received from the department of education." C.R.S. 22-32-109 (1)(pp). Distribution to employees may be made via e-mail "or as part of a mailing or regular communication to employees" Id.



original

PROPOSED
POLICY
12.12.2017

File: GBEB

NOTE: Colorado school districts are required by law to adopt a policy that requires screening of new and current employees for criminal activities. The screening provisions have been included in this sample policy. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Staff Conduct (And Responsibilities)

All staff members have a responsibility to make themselves familiar with and abide by federal and state laws as these affect their work, and the policies and regulations of the district.

As representatives of the district and role models for students, all staff shall demonstrate and uphold high professional, ethical and moral standards. Staff members shall conduct themselves in a manner that is consistent with the educational mission of the district and shall maintain professional boundaries with students at all times in accordance with this policy's accompanying regulation. Interactions between staff members must be based on mutual respect and any disputes will be resolved in a professional manner.

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Each staff member shall observe rules of conduct established in law which specify that a school employee shall not:

1. Disclose or use confidential information acquired in the course of employment to further substantially the employee's personal financial interests.
2. Accept a gift of substantial value or substantial economic benefit tantamount to a gift of substantial value which would tend to improperly influence a reasonable person in the position to depart from the faithful and impartial discharge of the staff member's duties, or which the staff member knows or should know is primarily for the purpose of a reward for action taken.
3. Engage in a substantial financial transaction for private business purposes with a person whom the staff member supervises.
4. Perform an action which directly and substantially confers an economic benefit tantamount to a gift of substantial value on a business or other undertaking in which the staff member has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

All staff members shall be expected to carry out their assigned responsibilities with conscientious concern.

It shall not be considered a breach of conduct for a staff member to:

1. Use school facilities and equipment to communicate or correspond with constituents, family members or business associates on an occasional basis.
2. Accept or receive a benefit as an indirect consequence of transacting school district business.

Essential to the success of ongoing school operations and the instructional program are the following specific responsibilities which shall be required of all personnel:

1. Faithfulness and promptness in attendance at work.
2. Support and enforcement of policies of the Board and regulations of the school administration in regard to students.
3. Diligence in submitting required reports promptly at the times specified.
4. Care and protection of school property.
5. Concern and attention toward the safety and welfare of students.

Child abuse

All district employees who have reasonable cause to know or suspect that any child is subjected to abuse or to conditions that might result in abuse or neglect must immediately upon receiving such information report such fact in accordance with Board policy and state law.

The superintendent is authorized to conduct an internal investigation or to take any other necessary steps if information is received from a county department of social services or a law enforcement agency that a suspected child abuse perpetrator is a school district employee. Such information shall remain confidential except that the superintendent shall notify the Colorado Department of Education of the child abuse investigation.

Possession of deadly weapons

The Board's policy regarding public possession of deadly weapons on school property or in school buildings shall apply to district employees. However, the restrictions shall not apply to employees who are required to carry or use deadly weapons in order to perform their necessary duties and functions.

Felony/misdemeanor convictions

If, subsequent to beginning employment with the district, the district has good cause to believe that any staff member has been convicted of, pled nolo contendere to, or received a deferred or suspended sentence for any felony or misdemeanor other than a misdemeanor traffic offense or infraction, the district shall make inquiries to the Department of Education for purposes of screening the employee.

In addition, the district shall require the employee to submit a complete set of fingerprints taken by a qualified law enforcement agency or any third party approved by the Colorado Bureau of Investigation. Fingerprints must be submitted within 20 days after receipt of written notification. The fingerprints shall be forwarded to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation.

Disciplinary action, which could include dismissal from employment, may be taken against personnel if the results of fingerprint processing provide relevant information. Non-licensed employees shall be terminated if the results of the fingerprint-based criminal history record check disclose a conviction for certain felonies, as provided in law.

Employees shall not be charged fees for processing fingerprints under these circumstances.

Unlawful behavior involving children

The district may make an inquiry with the Department of Education concerning whether any current employee of the school district has been convicted of, pled nolo contendere to, or received a deferred or suspended sentence or deferred prosecution for a felony or misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children. Disciplinary action, including termination, may be taken if the inquiry discloses information relevant to the employee's fitness for employment.

Personnel addressing health care treatment for behavior issues

School personnel are prohibited under state law from recommending or requiring the use of psychotropic drugs for students. They are also prohibited from testing or requiring testing for a student's behavior without giving notice to the parent/guardian describing the recommended testing and how any test results will be used and obtaining prior written permission from the student or from the student's parent/guardian. See the Board's policy concerning survey, assessment, analysis or evaluation of students. School personnel are encouraged to discuss concerns about a student's behavior with the parent/guardian and such discussions may include a suggestion that the parent/guardian speak with an appropriate health care professional regarding any behavior concerns.

First Reading: December 12, 2017

SECOND READING: JANUARY 14, 2018

LEGAL REFS.: C.R.S. 18-12-105.5 (unlawful carrying/possession of weapons on school grounds)

C.R.S. 18-12-214 (3)(b) (school security officers may carry concealed handgun pursuant to valid permit)

C.R.S. 19-3-308 (5.7) (child abuse reporting)

C.R.S. 22-32-109 (1)(ee) (duty to adopt policy prohibiting personnel from recommending certain drugs for students or ordering behavior tests without parent permission)

C.R.S. 22-32-109.1 (8) (policy requiring inquiries upon good cause to department of education for purpose of ongoing screening of employees)

C.R.S. 22-32-109.7 (duty to make inquiries prior to hiring)

C.R.S. 22-32-109.8 (6) (requirement to terminate non-licensed employees for certain felony offenses)

C.R.S. 22-32-109.9 (licensed personnel - submittal of fingerprints)

C.R.S. 22-32-110 (1)(k) (power to adopt conduct rules)

C.R.S. 24-18-104 (government employee rules of conduct)

C.R.S. 24-18-109 (local government employee rules of conduct)

C.R.S. 24-18-110 (voluntary disclosure)

CROSS REFS.: JLC, Student Health Services and Records

JLDAC, Screening/Testing of Students

JLF, Reporting Child Abuse/Child Protection

KFA, Public Conduct on District Property

NOTE 1: This policy reflects the legal requirements with regard to the criminal activities of staff that may occur off-campus. However, the Board may wish to consider whether additional rules of conduct for off-campus behavior are appropriate. For example, the Board may require that employees charged with any crime involving violence or children report such charge to their supervisor within 24 hours so that the school personnel can determine whether it is appropriate for the employee to continue in his or her current position, especially if that position includes direct contact with students. Any such additions to this policy should be made only with the advice of the district's legal counsel. There are legal concerns related to employees' rights that must be considered.

NOTE 2: State law defines "economic benefit tantamount to a gift of substantial value" to include: 1. A loan at a rate of interest substantially lower than the prevailing commercial rate; 2. Compensation received for private services rendered at a rate substantially exceeding the fair market value; and 3. Goods or services for the district employee's personal benefit offered by a person who is at the same time providing goods or services to the district

under a contract or other means by which the person receives payment or other compensation from the district. C.R.S. 24-18-104 (2). However, state law permits a district employee to receive such goods or services if the "totality of the circumstances" indicates the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the employee does not receive any substantial benefit resulting from the employee's status that is unavailable to members of the public generally. C.R.S. 24-18-104 (2)(b).

NOTE 3: State law lists the type of items that are not considered "gifts of substantial value or substantial economic benefit tantamount to a gift of substantial value" and are therefore permissible for a district employee to receive. See, C.R.S. 24-18-104 (3). Such items include campaign contributions or contributions in kind that are reported in accordance with the Fair Campaign Practices Act; an unsolicited item of trivial value (i.e. currently less than \$59), "such as a pen, calendar, plant, book, notepad or similar item;" and an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item. Id.; see also, Colo. Const. Art. XXIX, Section 3.

NOTE 4: The amount of the gift limit (\$59) is identical to the gift limit under section 3 of article XXIX of the state constitution. This amount shall be adjusted for inflation contemporaneously with any adjustment to the constitutional gift limit. C.R.S. 24-6-203 (8). The state constitution requires an adjustment for inflation every four years. The next adjustment must occur in the first quarter of 2019. Colo. Const. Art. XXIX, Section 3 (6).

[CASB - Revised June 2017]



NEW

NOTE: While Colorado school districts are not required by law to adopt a regulation on this subject, CASB believes this sample contains the content/language that reflects "best practices" and may help to protect the district from liability. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Staff Conduct

(And Responsibilities)

Professional boundaries with students

In a professional staff/student relationship, staff members maintain boundaries with students that are consistent with their professional code of conduct and obligations. All district employees are expected to observe and maintain proper professional boundaries, in accordance with this regulation and accompanying policy.

The following list provides examples of staff conduct that, in the absence of evidence of a legitimate educational purpose or other reason deemed valid by the district, may be regarded as evidence that a staff member has violated professional boundaries with a student:

- any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under Board policy
- furnishing alcohol, drugs or tobacco to a student or being present when any student is consuming these substances
- repeating sexual or inappropriate romantic rumors
- accepting massages, or offering or giving massages other than in the course of injury care administered by the appropriate athletic trainer, coach or health care provider
- singling out a particular student or students for personal attention or friendship beyond the ordinary professional staff-student relationship
- being alone with a student behind closed doors
- initiating or extending contact with a student beyond the school day or outside of class times for the staff member's personal purposes
- sending or accompanying a student on personal errands
- inviting a student to a staff member's home without appropriate chaperones
- going to a student's home when the student's parent/guardian or an appropriate chaperone is not present
- giving a student a ride in a vehicle without prior notification to and approval from both the student's parent/guardian and the building principal, except in an emergency under appropriate circumstances
- giving gifts or money to the student
- any other action or activity similar in nature to those listed above

Prohibited communications in any format (email, text messaging, written communications, in person, etc.) by a staff member with a student includes, but is not limited to the following:

- any communications without a legitimate educational reason
- flirting, propositions or sexual remarks
- sexual slurs, leering, sexual or derogatory comments
- inappropriate comments about a student's body
- sexual jokes, notes, stories, drawings, gestures or pictures
- displaying or transmitting sexual pictures, objects or depictions
- disclosing personal, sexual, romantic, marital or employment issues or other private matters
- other communications or activities similar in nature to those listed above

Reporting violations and disciplinary action

Staff members shall promptly notify the principal or superintendent if they become aware of a situation that may constitute a violation of this regulation. Depending on the specific circumstances of the allegations or suspicions, staff members may have a mandatory duty under state law to report the violation(s) as child abuse, in accordance with applicable Board policy.

Students and their parents/guardians should notify the principal or superintendent if they believe a teacher or other staff member may be engaging in conduct that violates this regulation.

In determining whether a violation of professional boundaries has occurred, the district shall consider the totality of the circumstances, including the nature and extent of the conduct involved, the job description and duties of the employee, the employee's intent or purpose in engaging in the conduct, and whether the conduct caused harm to the student or adversely affected the education of students.

Persons reporting in good faith regarding alleged violations or suspected violations of this regulation shall not be subjected to retaliation in any form.

(Approval date)

COLORADO SAMPLE REGULATION 2017©

What assists to report from ABEB P.3?



April Jones, *Chair*
Jo Ann Sorensen, *Vice-Chair*
Elizabeth Espinosa Krupa, *Commissioner*
William Leone, *Commissioner*
Matt Smith, *Commissioner*

Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: (720) 625-5697
www.colorado.gov/iec

Dino Ioannides, *Executive Director*

Position Statement 19-01 (Adjustment of the Gift Ban Dollar Limit)

Summary: The gift ban dollar limit of Article XXIX §3(2) is adjusted to \$65.00.

I. Introduction

The Colorado Constitution authorizes the Independent Ethics Commission (“IEC” or “Commission”) to give advice and guidance on ethics issues arising under Article XXIX of the Colorado Constitution and any other standards of conduct and reporting requirements as provided by law. The Commission may, in its discretion, issue position statements. IEC Rule 6. A Position Statement is “a generally applicable written statement addressing ethics issues, which provides guidance for public officers, members of the General Assembly, local government officials, government employees, and members of the public...” IEC Rule 3.A.15.

The Commission issues this Position Statement to inform public officers, members of the General Assembly, local government officials, government employees, and members of the public that the gift ban dollar limit is adjusted to \$65.00 for the next four years.

II. Discussion

Subject to limited exceptions, public officers, members of the general assembly, local government officials, and government employees are prohibited from soliciting, accepting, or receiving any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year. Colo. Const. Art. XXIX § 3(2). The Commission is periodically required to adjust the gift ban dollar limit, as follows:

The fifty-dollar (\$50) limit set forth in subsection (2) of this section shall be adjusted by an amount based upon the percentage change over a four-year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest dollar. The first adjustment shall be done in the first quarter of 2011 and then every four years thereafter.

Colo. Const. Art. XXIX § 3(6).

The Commission consulted with the United States Bureau of Labor Statistics (the "BLS"). Staff of the BLS confirmed that, as a result of occasional geographic adjustments made by the BLS, the Denver-Boulder-Greeley consumer price index has been succeeded by the Denver-Aurora-Lakewood consumer price index. From the beginning of 2015, the date of the last adjustment, to the end of 2018, the consumer price index for the Denver-Aurora-Lakewood area, for all items and all consumers, increased by 10.4%. Therefore the \$59.00 gift ban dollar limit must be increased by 10.4% and rounded to the next lowest dollar. As such, the Commission announces the gift ban limit to be \$65.00, until the first quarter of 2023 when the limit shall be readjusted.

The Independent Ethics Commission

April Jones, *Chair* (not participating)
Jo Ann Sorensen, *Vice-Chair*
William J. Leone, *Commissioner*
Elizabeth Espinosa Krupa, *Commissioner*
Matt Smith, *Commissioner*

Dated: February 11, 2019

Revised Sample Policy

File: GCE/GCF

NOTE: Colorado school boards are required by law to adopt a policy that requires screening of new and current employees for criminal activities. The screening provisions have been included in this sample policy. However, the board should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Professional Staff Recruiting/Hiring

Recruiting

The Board desires the superintendent to develop and maintain a recruitment program designed to attract and hold the best possible professional personnel in the district's schools.

It is the responsibility of the superintendent, with the assistance of other administrators, to determine the personnel needs of the district in general and of each individual school and to locate suitable candidates to recommend to the Board for employment. The search for good teachers and other professional personnel shall extend to a wide variety of educational institutions and geographical areas. It shall take into consideration the diverse characteristics of the school system and the need for staff members of various backgrounds.

Recruitment procedures shall not overlook the talents and potential of individuals already employed in the district's schools. Any present employee of the district may apply for a position for which he or she is licensed and/or meets other stated requirements.

Background checks

Prior to hiring any person, in accordance with state law the district shall conduct background checks with the Colorado Department of Education and previous employers regarding the applicant's fitness for employment. In all cases where credit information or reports are used in the hiring process, the district shall comply with the Fair Credit Reporting Act and applicable state law.

Hiring

There shall be no discrimination in the hiring process on the basis of race, color, creed, sex, sexual orientation (which includes transgender), genetic information, religion, national origin, ancestry, age, marital status, disability or conditions related to pregnancy or childbirth.

All candidates shall be considered on the basis of their merits, qualifications and the needs of the school district.

All interviewing and selection procedures shall ensure that the administrator directly responsible for the work of a staff member has an opportunity to aid in the selection and that, where applicable, the school principal has an opportunity to consent.

Unless otherwise required by law, the final selection for nomination shall be made only by the superintendent.

Appointment of candidates

Nominations shall be made at meetings of the Board of Education. The vote of a majority of the Board shall be necessary to approve the appointment of teachers, administrators or any other employee of the school district. If there is a negative vote by the Board, the superintendent shall submit a new recommendation to the Board for approval.

Upon the hiring of any employee, information required by federal and state child support laws will be timely forwarded by the district to the appropriate state agency.

(Adoption date)

LEGAL REFS.: 15 U.S.C. 1681 *et seq.* (Fair Credit Reporting Act)
20 U.S.C. 6312 (c)(6) (teacher licensure requirements under Every Student Succeeds Act)
42 U.S.C. 653 (a) (Personal Responsibility and Work Opportunity Reconciliation Act)
28 C.F.R. 50.12 (b) (notification requirements regarding fingerprints)
C.R.S. 2-4-401 (13.5) (definition of sexual orientation, which includes transgender)
C.R.S. 8-2-126 (limits employers' use of consumer credit information)
C.R.S. 13-80-103.9 (liability for failure to perform an education employment required background check)
C.R.S. 14-14-111.5 (Child Support Enforcement procedures)
C.R.S. 22-2-119 (inquiries prior to hiring)
C.R.S. 22-2-119.3 (6)(d) (name-based criminal history record check – definition)
C.R.S. 22-32-109 (1)(f) (Board duty to employ personnel)
C.R.S. 22-32-109 (1)(pp) (annual employee notification requirement regarding federal student loan repayment programs and student loan forgiveness programs)
C.R.S. 22-32-109.7 (duty to make inquiries prior to hiring)
C.R.S. 22-32-109.8 (non-licensed personnel – submittal of fingerprints and name-based criminal history record check)
C.R.S. 22-32-126 (principal's role in hiring and assignment)
C.R.S. 22-60.5-114 (3) (State Board can waive some requirements for initial license applicants upon request of school district)
C.R.S. 22-60.5-201 (types of teacher licenses issued)
C.R.S. 22-61-101 (prohibiting discrimination)
C.R.S. 22-61-103 (requirement for teacher's oath or written pledge)
C.R.S. 22-63-201 (licensure required)
C.R.S. 22-63-202 (employment contracts and mutual consent placement)
C.R.S. 22-63-206 (transfers)
C.R.S. 24-5-101 (effect of criminal conviction on employment)

C.R.S. 24-34-301 (7) (*definition of sexual orientation, which includes transgender*)
C.R.S. 24-34-402 (1) (*discriminatory and unfair employment practices*)
C.R.S. 24-34-402.3 (*discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees*)
C.R.S. 24-72-202 (4.5) (*definition of personnel file in open records law*)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity
GCKAA*, Teacher Displacement

NOTE 1: Specific procedures for background checks need to follow as a regulation. The regulations might also include specific procedures for making applications, for screening and for selection of candidates to be recommended to the Board.

NOTE 2: State law requires public school teachers to take an oath/affirmation or sign a written pledge that states the following: "I solemnly (swear) (affirm) (pledge) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position I am about to enter." C.R.S. 22-61-103 (1). A person authorized to administer oaths in Colorado shall administer the oath or affirmation, or the teacher must sign the pledge. C.R.S. 22-61-103 (2). The Colorado Department of Education has stated that a school district's hiring officials must ensure that teachers take the oath orally or in writing at the time of hiring or during the signing of the teacher's contract.

NOTE 3: State law requires school districts to annually distribute to employees "informational materials related to federal student loan repayment and student loan forgiveness programs, including updated materials received from the department of education." C.R.S. 22-32-109 (1)(pp). In addition to annual distribution, school districts must "distribute the informational materials to newly hired district employees as part of its employee orientation process." Id. Distribution to employees may be made via e-mail "or as part of a mailing or regular communication to employees" Id.



original

File: GCE/GCF

Professional Staff Recruiting/Hiring

Recruiting

The Board desires the superintendent to develop and maintain a recruitment program designed to attract and hold the best possible personnel, who are highly qualified as defined by the federal No Child Left Behind Act of 2001 (NCLB), in the district's schools.

It is the responsibility of the superintendent, with the assistance of other administrators, to determine the personnel needs of the district in general and of each individual school and to locate suitable candidates to recommend to the Board for employment. The search for good teachers and other professional personnel shall extend to a wide variety of educational institutions and geographical areas. It shall take into consideration the diverse characteristics of the school system and the need for staff members of various backgrounds.

Recruitment procedures shall not overlook the talents and potential of individuals already employed in the district's schools. Any present employee of the district may apply for a position for which he or she is licensed, highly qualified, and meets other stated requirements.

Background checks

Prior to hiring any person, in accordance with state law the district shall conduct background checks with the Colorado Department of Education and previous employers regarding the applicant's fitness for employment. In all cases where credit reports are used in the hiring process, the district shall comply with the Fair Credit Reporting Act.

Hiring

There shall be no discrimination in the hiring process on the basis of race, color, creed, sex, sexual orientation, genetic information, religion, national origin, ancestry, age, marital status or disability.

All candidates shall be considered on the basis of their merits, qualifications and the needs of the school district. The Board directs that recruitment procedures will give preference to candidates who meet the NCLB definition of highly qualified.

All interviewing and selection procedures shall ensure that the administrator directly responsible for the work of a staff member has an opportunity to aid in the selection and that, where applicable, the school principal has an opportunity to consent. Unless otherwise required by law, the final selection for nomination shall be made only by the superintendent.

Appointment of candidates

Nominations shall be made at meetings of the Board of Education. Nominations of candidates who are not highly qualified, as defined by the NCLB, will be accompanied with an explanation as to why a highly qualified candidate was not hired for the position. The vote of a majority of the Board shall be necessary to approve the appointment of teachers, administrators or any other employee of the school district. If there is a

negative vote by the Board, the superintendent shall submit a new recommendation to the Board for approval.

Upon the hiring of any employee, information required by federal and state child support laws will be timely forwarded by the district to the appropriate state agency.

Adopted: September 9, 2003
Revised: January 16, 2006
Revised: September 10, 2013

LEGAL REFS.: 15 U.S.C. 1681 *et seq.* (Fair Credit Reporting Act)
20 U.S.C. 6319 (teacher requirements under No Child Left Behind Act of 2001)
42 U.S.C. 653 (a) (Personal Responsibility and Work Opportunity Reconciliation Act)
34 C.F.R. 200.55 (federal regulations regarding highly qualified teachers)
C.R.S. 13-80-103.9 (liability for failure to perform an education employment required background check)
C.R.S. 14-14-111.5 (Child Support Enforcement procedures)
C.R.S. 22-2-119 (inquiries prior to hiring)
C.R.S. 22-32-109 (1)(f) (Board duty to employ personnel)
C.R.S. 22-32-109.7 (duty to make inquiries prior to hiring)
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C.R.S. 24-34-402 (1) (discriminatory and unfair employment practices)
C.R.S. 24-72-202 (4.5) (definition of personnel file in open records law)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity
GCKAA*, Teacher Displacement

Revised Sample Policy

File: GDE/GDF

NOTE: Colorado school boards are required by law to adopt a policy that requires screening of new and current employees for criminal activities. The screening provisions have been included in this sample policy. However, the board should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Support Staff Recruiting/Hiring

The Board shall establish and budget for classified positions in the school district on the basis of need and the financial resources of the district.

Recruiting

The recruitment and selection of candidates for these positions shall be the responsibility of the superintendent or designee who shall confer with principals and other supervisory personnel in making a selection.

All vacancies shall be made known to the present staff. Anyone qualified for a position may submit an application.

Background checks

Prior to hiring any person, in accordance with state law the district shall conduct background checks with the Colorado Department of Education and previous employers regarding the applicant's fitness for employment. In all cases where credit information or reports are used in the hiring process the district shall comply with the Fair Credit Reporting Act and applicable state law.

All applicants recommended for a position in the district shall submit a set of fingerprints and information about felony or misdemeanor convictions as required by law. (This requirement shall not apply to any student currently enrolled in the district applying for a job.) Applicants may be conditionally employed prior to receiving the fingerprint results.

Hiring

There shall be no discrimination in the hiring process on the basis of race, color, creed, sex, sexual orientation (which includes transgender), religion, national origin, ancestry, age, genetic information, marital status, disability or conditions related to pregnancy or childbirth.

The Board shall officially appoint all employees upon the superintendent's recommendation; however, temporary appointments may be made pending Board action.

Upon the hiring of any employee, information required by federal and state child support laws will be timely forwarded by the district to the appropriate state agency.

(Adoption date)

LEGAL REFS.: 15 U.S.C. 1681 *et seq.* (Fair Credit Reporting Act)
42 U.S.C. 653 (a) (Personal Responsibility and Work Opportunity Reconciliation Act)
42 U.S.C. 2000ff *et seq.* (Genetic Information Nondiscrimination Act of 2008)
28 C.F.R. 50.12 (b) (notification requirements regarding fingerprints)
C.R.S. 2-4-401 (13.5) (definition of sexual orientation, which includes transgender)
C.R.S. 8-2-126 (limits employers' use of consumer credit information)
C.R.S. 13-80-103.9 (liability for failure to perform an education employment required background check)
C.R.S. 14-14-111.5 (Child Support Enforcement procedures)
C.R.S. 22-2-119 (duty to make inquiries prior to hiring)
C.R.S. 22-2-119.3 (6)(d) (name-based criminal history record check – definition)
C.R.S. 22-32-109 (1)(f) (Board duty to employ personnel)
C.R.S. 22-32-109 (1)(pp) (annual employee notification requirement regarding federal student loan repayment programs and student loan forgiveness programs)
C.R.S. 22-32-109.7 (duty to make inquiries prior to hiring)
C.R.S. 22-32-109.8 (non-licensed personnel – submittal of fingerprints and ~~name-based criminal history record check~~ fingerprinting requirements for non-licensed positions)
C.R.S. 24-5-101 (effect of criminal conviction on employment)
C.R.S. 24-34-301 (7) (definition of sexual orientation, which includes transgender)
C.R.S. 24-34-402 (1) (discriminatory and unfair employment practices)
C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity
GDA, Support Staff Positions

NOTE 1: Specific procedures for background checks, fingerprinting and submission of child support information need to follow as a regulation. The regulation might also include specific procedures for making applications, for screening and for selection of candidates to be recommended to the Board.

NOTE 2: Federal law requires school districts to notify individuals fingerprinted that the fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI). Districts must also notify fingerprinted applicants about the opportunity to challenge the accuracy of the information contained in the FBI identification record and the procedure to obtain a change, correction or update of an FBI identification record. 28 C.F.R. 50.12 (b). Districts must retain documentation that this notification was provided. For sample notification and acknowledgement forms that meet these federal requirements, visit the Colorado Bureau of Investigation's website: <https://www.colorado.gov/pacific/cbi/identification-unit>.

NOTE 3: State law requires school districts to annually distribute to employees "informational

materials related to federal student loan repayment and student loan forgiveness programs, including updated materials received from the department of education." C.R.S. 22-32-109 (1)(pp). In addition to annual distribution, school districts must "distribute the informational materials to newly hired district employees as part of its employee orientation process." Id. Distribution to employees may be made via e-mail "or as part of a mailing or regular communication to employees" Id.



original

File: GDE/GDF

Support Staff Recruiting/Hiring

The Board shall establish and budget for classified positions in the school district on the basis of need and the financial resources of the district.

Recruiting

The recruitment and selection of candidates for these positions shall be the responsibility of the superintendent or designee who shall confer with principals and other supervisory personnel in making a selection. Only qualified paraprofessionals, as defined by the No Child Left Behind Act of 2001, shall be hired to provide instructional support for students in Title I Schoolwide and Targeted Assistance Programs.

All vacancies shall be made known to the present staff. Anyone qualified for a position may submit an application.

Background checks

Prior to hiring any person, in accordance with state law the district shall conduct background checks with the Colorado Department of Education and previous employers regarding the applicant's fitness for employment. In all cases where credit reports are used in the hiring process the district shall comply with the Fair Credit Reporting Act.

All applicants recommended for a position in the district shall submit a set of fingerprints and a notarized form with information about felony or misdemeanor convictions as required by law. (This requirement shall not apply to any student currently enrolled in the district applying for a job.) Applicants may be conditionally employed prior to receiving the fingerprint results.

Hiring

There shall be no discrimination in the hiring process on the basis of race, color, creed, sex, sexual orientation, religion, national origin, ancestry, age, genetic information, marital status or disability.

The Board shall officially appoint all employees upon the superintendent's recommendation; however, temporary appointments may be made pending Board action.

Upon the hiring of any employee, information required by federal and state child support laws will be timely forwarded by the district to the appropriate state agency.

Adopted: September 10, 2013

LEGAL REFS.: 15 U.S.C. §1681 *et seq.* (Fair Credit Reporting Act)

20 U.S.C. §6319 (paraprofessional requirements under No Child Left Behind Act of 2001)

42 U.S.C. §653 (a) (Personal Responsibility and Work Opportunity Reconciliation Act)

42 U.S.C. §2000ff *et seq.* (Genetic Information Nondiscrimination Act of 2008)

34 C.F.R. 200.58, 200.59 (federal regulations regarding paraprofessional qualifications)

C.R.S. 13-80-103.9 (*liability for failure to perform an education employment required background check*)

C.R.S. 14-14-111.5 (*Child Support Enforcement procedures*)

C.R.S. 22-2-119 (*duty to make inquiries prior to hiring*)

C.R.S. 22-32-109 (1)(f) (*Board duty to employ personnel*)

C.R.S. 22-32-109.7 (*duty to make inquiries prior to hiring*)

C.R.S. 22-32-109.8 (*fingerprinting requirements for non-licensed positions*)

C.R.S. 24-5-101 (*effect of criminal conviction on employment*)

C.R.S. 24-34-402 (1) (*discriminatory and unfair employment practices*)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity

GDA, Support Staff Positions

GDA*, Title I Paraprofessionals

Revised Sample Regulation

File: GCE/GCF-R

NOTE: While Colorado school districts are not required by law to adopt a regulation on this subject, some content in this sample reflects legal requirements school districts must follow. This sample contains the content/language that CASB believes best meets the intent of the law. However, the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Professional Staff Recruiting/Hiring

Applications of all regular professional personnel to be employed by the district will be processed according to this procedure. Short-term, temporary or interim appointments may be made directly by the superintendent, subject to the approval of the Board of Education, without following the advertising procedure.

1. Vacancies

All regular vacancies will be advertised by the department of personnel.

2. Applications

All applications will be submitted to the personnel office.

Current employees may apply for supplemental pay positions by submitting a letter outlining their qualifications for the position they are seeking.

All applicants will report to the personnel office and complete an application form.

3. Initial screening and interview

The personnel office will screen applications and conduct the initial interview with all applicants. The objectives of the screening and initial interview process are to:

- a. Determine if a teacher applicant meets applicable licensure requirements under state and federal law.
- b. Determine the suitability of an applicant for a specific position.
- c. Determine those applicants who are most qualified for the position.
- d. Ensure eligible applicants from the district's priority hiring pool, if applicable, receive first opportunity to interview, as required by law.
- e. Discuss with an applicant any district policies and procedures pertinent to the job and to the employment process.

4. Background checks

Prior to hiring and in accordance with state law, the personnel office shall:

- a. Conduct a background check through the Colorado Department of Education (the department) to determine the applicant's fitness for employment.

The department's records shall indicate if the applicant has been convicted of, pled *nolo contendere* to, received a deferred sentence, or had his or her license or authorization denied, annulled, suspended or revoked for a felony or misdemeanor crimes involving unlawful sexual behavior, unlawful behavior involving children or domestic violence. The department shall provide any available information to indicate whether the applicant has been dismissed by or resigned from a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of evidence according to information provided to the department by a school district and confirmed by the department in accordance with state law. The department shall also provide information regarding whether the applicant's license or certification has ever been denied, suspended, revoked or annulled in any state, including but not limited to any information gained as a result of an inquiry to a national teacher information clearinghouse.

Information of this type that is learned from a different source shall be reported by the district to the department.

The department will not disclose any information reported by a school district unless and until the department confirms that the allegation resulted in the person's name being placed on the state central registry of child protection.

- b. Contact previous employers of the applicant to obtain information or recommendations relevant to the applicant's fitness for employment.

NOTE: If the district employs any non-licensed administrators, the following section should be added to this regulation.

5. Fingerprinting non-licensed administrators

- a. All non-licensed applicants selected for employment in an administrative position must submit a complete set of fingerprints taken by a qualified law enforcement agency, an authorized district or BOCES employee or any third party approved by the Colorado Bureau of Investigation.
- b. Non-licensed applicants selected for employment must also submit a completed form, as required by state law, to certify, under penalty of perjury, either that he or she has never been convicted of a felony or misdemeanor charge, not including any misdemeanor traffic offense, or that he or she has been convicted of a felony or misdemeanor charge (not including any misdemeanor traffic offense). The form must specify the felony or misdemeanor, the date of conviction and the court entering judgment.

- c. The school district will release the fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. When the results of the fingerprint-based criminal history record check reveal a record of arrest without a disposition, the district shall require the employee to submit to a name-based criminal history record check.
- d. Although an applicant may be conditionally employed prior to receiving the results, he or she may be terminated if the results are inconsistent with the information provided on the form. In accordance with state law, the employee or applicant shall be terminated or disqualified from district employment if the results disclose a conviction for any of the following offenses:
- (1) felony child abuse, as described in C.R.S. 18-6-401;
 - (2) a crime of violence, as defined in C.R.S. 18-1.3-406 (2);
 - (3) a felony involving unlawful sexual behavior, as defined in C.R.S. 16-22-102 (9);
 - (4) felony domestic violence, as defined in C.R.S. 18-6-800.3;
 - (5) a felony drug offense, as described in C.R.S. 18-18-401 *et seq.*, committed on or after August 25, 2012;
 - (6) felony indecent exposure, as described in C.R.S. 18-7-302;
 - (7) attempt, solicitation or conspiracy to commit any of the offenses described in items 1-6; or
 - (8) an offense committed outside of this state, which if committed in this state would constitute an offense described in items 1-7.

The district will notify the district attorney of inconsistent results for action or possible prosecution.

- e. The school district will charge the applicant a nonrefundable fee of \$_____ to cover the direct and indirect costs of fingerprint processing. *[NOTE: This fee shall be an amount equal to the direct and indirect costs to the district of fingerprint processing.]* The applicant may pay the fee over a period of 60 days after employment. The fee will be credited to the fingerprint processing account.

6. Credit reports

The personnel office will not obtain a credit report on an applicant unless the office has first notified the individual in writing, in a document consisting solely of the notice, that the district would like to obtain a credit report and requesting the individual's written authorization to obtain the report. A credit report will only be requested when the applicant submits a written authorization.

The personnel office will not rely on a credit report in denying an application unless the office has first supplied the applicant with a disclosure that includes a copy of the credit report and a summary of the applicant's rights. If an application for employment is denied because of the credit report, the personnel office will give the applicant notice that the action has been taken, as well as:

- a. the name, address and phone number of the credit bureau supplying the report;
- b. a statement that the credit bureau was not involved in the decision to deny the application; and
- c. a notice of the individual's right to dispute the information in the report.

7. Placement interview

- a. Determine whether the applicant can handle the specific assignment.
- b. Determine the best applicant for the position.
- c. Discuss with the candidate any building or departmental regulations pertinent to the job.

8. Selection

In the selection of *secondary teachers*, the principal and department chairman will interview the qualified applicants. The decision regarding selection will be made by the principal, considering mutual consent placement provisions in law where applicable.

In the selection of *elementary teachers*, the principal will interview the qualified applicants. The decision regarding selection will be made by the principal and personnel director, considering mutual consent placement provisions in law where applicable.

In the selection of *athletic coaches*, the principal and director of athletics will interview the qualified applicants, and the decision regarding selection will be made by the principal, the director of athletics and the personnel director. In the selection of assistant athletic coaches, the head coach of that sport will be involved in the interview process.

In the selection of *department chairpersons*, the principal and director of secondary education will interview the qualified applicants, and the decision regarding selection will be made by the principal, the director of secondary education and the personnel director.

If the department chairman, director of athletics, head coach, personnel director or director of secondary education are not available at a time when a selection must be made, the selection will be made by those applicable persons present under the specific direction of the superintendent.

9. Contract or job offer

Only the personnel office is authorized to offer new or supplemental pay contracts and/or jobs to current employees or applicants.

10. Information report to state

In accordance with federal and state law, the personnel office will report the name, address and social security number of every new employee to Colorado State Directory of New Hires, P.O. Box 2920, Denver, Colorado 80201-2920.

This report, due within 20 days of the date of the hire or on the first payroll after the 20 days have expired, shall be submitted even if the employee quits or is terminated before the report is due. Upon termination, the employee's last known address, the fact of the termination, and the name and address of the employee's new employer, if known, shall be reported to the applicable court or agency.

Upon receiving a Notice of Wage assignment, the district shall remit the designated payment within seven days of withholding the income according to instructions contained in the Notice. Child support withholding takes priority over other legal actions against the same wages.

(Approval date)

NOTE 1: Regarding the requirement that an applicant submit a completed form certifying his or her criminal history, state law defines "convicted" as: "[A] conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a guilty plea accepted by a court, a plea of nolo contendere, and the imposition of a deferred sentence or suspended sentence by the court." C.R.S. 22-32-109.8 (8)(a). Any district form used to certify a nonlicensed applicant's criminal history should reflect this broad definition of "convicted" to ensure that a nonlicensed applicant discloses the legally required information.

NOTE 2: When the Colorado Bureau of Investigation (CBI) provides an update to the Colorado Department of Education (CDE) regarding those school employees previously subject to a fingerprint-based background check, CDE must provide that update to school districts. Each school district must then cross-check its employee list with the update and take appropriate action if necessary. C.R.S. 22-2-119 (4)(b).

NOTE 3: An employee who is terminated or an applicant who is disqualified from district employment for a felony domestic violence and/or a felony drug offense may reapply for district employment after five years have passed since the date the offense was committed. C.R.S. 22-32-109.8 (6.5)(b). For a felony domestic violence offense, the applicant must also show successful completion of any court-ordered treatment. Other exceptions to this provision allow the district to conduct an assessment to determine if the applicant poses a risk to district students or staff, and also allow the applicant to submit a written request for reconsideration by the district. C.R.S. 22-32-109.8 (6.5)(d). The law includes the specific factors the district must consider. Id.

NOTE 4: Federal law requires school districts to notify individuals fingerprinted that the fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI). Districts must also notify fingerprinted applicants about the opportunity to challenge the accuracy of the information contained in the FBI identification record and the procedure to obtain a change, correction or update of an FBI identification record. 28 C.F.R. 50.12 (b). Districts must retain documentation that this notification was provided. For sample notification and acknowledgement forms that meet these federal requirements, visit the Colorado Bureau of Investigation's website: <https://www.colorado.gov/pacific/cbi/identification-unit>.

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File: GCE/GCF-R

Professional Staff Recruiting/Hiring

Applications of all regular certificated personnel to be employed by the district will be processed according to this procedure. Short-term, temporary or interim appointments may be made directly by the superintendent, subject to the approval of the Board of Education, without following the advertising procedure.

1. Vacancies

All regular vacancies will be advertised by the department of personnel.

2. Applications

All applications will be submitted to the personnel office.

Current employees may apply for supplemental pay positions by submitting a letter outlining their qualifications for the position they are seeking.

All applicants will report to the personnel office and complete an application form.

3. Initial screening and interview

The personnel office will screen applications and conduct the initial interview with all applicants. The objectives of the screening and initial interview process are to:

- a. Determine the suitability of the applicant for the specific position.
- b. Determine those applicants who are most qualified for the position, giving due consideration to the district's affirmative action plan.
- c. Discuss with the applicants any district policies and procedures pertinent to the job and to the employment process.

4. Background checks

Prior to hiring, the personnel office will:

- a. Check with the Colorado Department of Education to determine if there is any information on record indicating the applicant has been convicted of a crime involving unlawful sexual behavior or unlawful behavior involving children. The department's records will indicate if the applicant has been convicted of, pled *nolo contendere* to or received a deferred sentence or

had his or her certificate annulled, suspended or revoked for such crimes. The department also will provide any available information to indicate whether the applicant has been dismissed by or resigned from a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior which was supported by a preponderance of evidence according to information provided to the department by a school district and confirmed by the department in accordance with state law.

The department will not disclose any information reported by a school district unless and until the department confirms that the allegation resulted in the person's name being placed on the state central registry of child protection.

- b. Contact previous employers of the applicant to obtain information or recommendations relevant to the applicant's fitness for employment.

5. Placement interview

- a. Determine whether the applicant can handle the specific assignment.
- b. Determine the best applicant for the position, giving due consideration to the district's affirmative action plan.
- c. Discuss with the candidate any building or departmental regulations pertinent to the job.

6. Selection

In the selection of *secondary teachers*, the principal and department chairman will interview the qualified applicants, and the decision regarding selection will be made by the principal.

In the selection of *elementary teachers*, the principal will interview the qualified applicants, and the decision regarding selection will be made by the principal and personnel director.

In the selection of *athletic coaches*, the principal and director of athletics will interview the qualified applicants, and the decision regarding selection will be made by the principal, the director of athletics and the personnel director. In the selection of assistant athletic coaches, the head coach of that sport will be involved in the interview process.

In the selection of *department chairpersons*, the principal and director of secondary education will interview the qualified applicants, and the decision regarding selection will be made by the principal, the director of secondary education and the personnel director.

If the principal, department chairman, director of athletics, head coach, personnel director or directors of secondary education are not available during a vacation period and at a time when a selection must be made, the selection will be made by those applicable persons present under the specific direction of the superintendent.

7. Contract or job offer

Only the personnel office is authorized to offer new or supplemental pay contracts and/or jobs to current employees or applicants.

8. Information report to state

In accordance with federal and state law, the personnel office will report the name, address and social security number of every new employee to Child Support Enforcement, 1375 Sherman Street, Denver, Colorado 80203.

This report, due within 20 days of the date of the hire or on the first payroll after the 20 days have expired, shall be submitted even if the employee quits or is terminated before the report is due. Upon termination, the employee's last known address and the fact of the termination shall be reported to the applicable court or agency.

Upon receiving a Notice of Wage assignment, the district shall remit the designated payment within 7 days of withholding the income according to instructions contained in the Notice. Child support withholding takes priority over other legal actions against the same wages.

CUSTER COUNTY SCHOOL DISTRICT C-1

Approval date January 16, 2006