

**SECTION VII**  
**STUDENT PERSONNEL**

**DISTRICT GOAL**

The goal of the House Municipal Schools is to establish sound academic programs that are cohesive and appropriate to each level of our diverse student population through a continuing process of planning, training, implementing and assessing curricula content and instruction.

**7.1. BILINGUAL-MULTICULTURAL EDUCATION**

The program goals for the New Mexico Standards for Bilingual Multicultural Education are for all students, including English language learners, to demonstrate proficiency in the English language, an understanding of other cultures and proficiency and language skills in at least one language in addition to English.

The School District will take affirmative steps to address the language deficiency of English Language Learners by ensuring that students:

1. Attain English proficiency;
2. Develop high levels of academic attainment in core academic subjects; and
3. Meet the same challenging State academic standards as all students are expected to meet.

When the needs of those students who are non-English speakers or who have limited English proficiency are identified, additional programs will be developed and implemented to provide equal access to the curriculum for those students.

**7.2. EQUAL EDUCATIONAL OPPORTUNITY**

It shall be the policy of the Board to offer a quality of education which provides all children with the necessary skills and attitudes, commensurate with their abilities, to become effective citizens able to take their places in the community, the state, and the nation. This education shall be provided under a policy which is consistent with the provisions of the Constitution of the State of New Mexico, the laws of the State Legislature, the laws of the United States, and policies and regulations established by the Public Education Department.

All programs, activities and policies shall be planned and developed so as to ensure nondiscrimination on the basis of sex, race, national origin, religion, or handicap, and to comply with Title IX of the Education Amendments of 1972 and its rules and regulations.

**7.2.1.            SECTION 504 OF THE REHABILITATION ACT OF 1973**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504 defines a person with a disability as anyone who:

1.        has a mental or physical impairment which substantially limits one or more major life activities such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
2.        has a record of such an impairment; or
3.        is regarded as having such an impairment.

The School District acknowledges its responsibility under Section 504 to avoid discrimination in policies and practices regarding its students. No discrimination against any person with a disability shall knowingly be permitted in any program or practices in the School District.

Under Section 504 the School District has a responsibility to identify, evaluate, and, if the student is determined to be eligible under Section 504, to afford access to appropriate educational services.

The School District will develop a plan to implement the requirements’ under Section 504 of the Rehabilitation Act. This plan will include a due process procedure.

**7.3.        ATTENDANCE**

Each student will attend school one-thousand eighty hours per school year unless extenuating circumstances exist, or there is a reasonable excuse to be absent from school.

**7.3.1.            COMPULSORY SCHOOL ATTENDANCE LAW**

1.        Any qualified student, and any person who, because of his age, is eligible to become a qualified student as defined by the Public School Finance Act (Chapter 22, Article 8 NMSA,1978) until attaining the age of majority, shall attend a public school, a private school, a home school, or a state institution. A person shall be excused from this requirement if:
  - A.        the person is specifically exempted by law from the provisions of this section;
  - B.        the person has graduated from high school;
  - C.        the person is at least seventeen years of age and has been excused by the local School Board or its authorized representative upon a finding that the

person will be employed in a gainful trade or occupation or engaged in an alternative form of education sufficient for the person's educational needs and the parent, guardian or other person having custody and control consents; or

- D. with consent of the parent, guardian, or person having custody and control of the person to be excused, the person is excused from the provisions of this section by the Superintendent of School of the School District in which the person is a resident, and the person is under eight years of age.
  - E. The person having been awarded a Certificate is eligible to continue receiving special education services until receipt of a diploma or until the end of the academic year in which the student turns 22. (Refer to Section VI of Board Policy – Graduation Requirements.)
- 2. A person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the School District in which the person is a resident.
  - 3. Any parent, guardian or person having custody and control of a person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

### **7.3.2. ENFORCEMENT OF STUDENT ATTENDANCE**

- 1. Regular, uninterrupted classroom instruction, classroom participation, and interaction with classmates are essential to the educational process. Preparation and training for subsequent study or employment includes the development of self-discipline through regular class attendance. For these reasons and others, state law requires that all children of appropriate age and condition attend classes regularly. *See* the Compulsory School Attendance Law, § 22-12-1 et seq. This Policy implements state law.

The New Mexico Children's Code provides that if a child has more than ten unexcused absences per semester, the child's family may be designated a "family in need of services," or a ("family in need of court-ordered supervision." N.M. Stat. Ann. §§ 32A-3A-2(A)(1) and 32A-3B-2(A). A child who is permitted by his or her parents to be chronically truant may also be a "neglected child." Id. § 32A-4-2(C)(2). State law requires the schools to report violations of the Compulsory School Attendance Law to the Probation Services Office of the judicial district in which the student resides for investigation to determine whether the student may be a neglected child or a child in a family in need of services, and thus subject to the provisions of the Children's Code. Id § 22-12-7(C). Violations of the compulsory school attendance laws can subject parents to criminal sanctions as provided by New Mexico law. Id. § 22-12-7(D). In addition to any other disposition, the Children's Court may order habitual truant's

driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy. Id. § 22-12-7 (C).

Maintaining regular school attendance is the joint responsibility of parents and educators. In keeping with that obligation, the following rules for school attendance shall be observed and enforced for all students.

A. Definitions

1. **Unexcused Absence:** an absence for which no appropriate excuse has been provided by the student's parent or legal guardian within the time limits provided by this policy. Special family situations may be considered appropriate for excused absence when *prior* approval is received from the Administrator or his/her designee.
2. **Truant:** a student who has accumulated five unexcused absences within any twenty-day period.
3. **Habitual Truant:** a student who has accumulated ten or more unexcused absences within a school year.

B. Attendance Requirements

1. **Parent Notification of Absence:** Parent or guardian shall notify the school each day his or her child will be absent from any class and the reason for the absence; or shall provide a written and signed verification of the reason for the student's absence, to be presented upon the first day a student returns to school from any absence. If student has been absent for 5 or more consecutive days due to illness, the Administrator or his/her designee may require written verification from the student's professional health-care provider.
2. **Prolonged Illnesses:** In cases of chronic or prolonged illnesses expected to last 10 days or more, during which the student is able to do school work., the student's parent or guardian's shall present written verification by the student's professional health care provider of the expected length of the illness and of the student's ability to do school work at home, and the student shall be placed on home-bound study until he or she can return to school.
3. **Make Up of Work Missed; Grades:** Following an excused absence, a student shall be given a reasonable time by the teacher within which to make up the work the student missed during the absence. A student shall not be provided the opportunity to make up the work missed during an unexcused absence.

At applicable grade levels, if an absence is unexcused, or if the student fails to make up the work missed during an excused absence within the time permitted, any work for which a grade was taken will be counted as a zero for such student in the teacher's grade book, and averaged into the student's grades for the relevant grading period.

4. Discipline: In addition to the other measures to be imposed according to this policy, students may receive detention, in-school suspension, or other discipline designed to keep the student in school and progressing academically, for each unexcused absence, at the discretion of the Administrator or the designee. Out-of-school suspension and expulsion will not be used as punishment for truancy or unexcused absences.
5. Notice to Parents of Unexcused Absence: If a student is absent from school without a parent notification of absence, as required by paragraph B.1, above, the Administrator or the designee will, as soon as practicable, contact the parents or legal guardians by telephone or certified mail to give notice of the student's absence and to ascertain and document the reason for the absence.
6. Third Unexcused Absence -- Parent Conference Required: Upon a student's accrual of a third unexcused absence, the school will provide written notice to the student's parent or legal guardian that the parent/guardian shall be required to meet with the Administrator or his/her designee for the purpose of identifying the cause(s) of the unexcused absences, and to establish a plan to prevent future unexcused absences. The plan will be confirmed in writing and signed by the Administrator and the parent or legal guardian during the conference.
7. Fourth Unexcused Absence -- Parent Conference and Notice to Probation Services Office: Upon the student's accrual of a fourth unexcused absence during the school year, the school shall notify the student's parent/guardian that he or she is required to attend a further conference to review the plan to prevent unexcused absences. Notice of the fourth unexcused absence will also be sent to the Probation Services Office for the judicial district in which the student resides for appropriate action, which may include investigation under the Children's Code.
8. Additional Unexcused Absences: Following notification of a student's fourth unexcused absence, the school will continue to provide written notification to the Probation Services Office of a student's accrual of additional unexcused absences.
9. Parent Failure to Meet: If a parent/guardian fails to arrange, or to appear for, a conference regarding unexcused absences within 10 days of notice

from the school, the school will provide written notice to the Probation Services Office of such failure. School staff will cooperate with the Juvenile Probation Office or the District Attorney in enforcement actions.

10. Notice and Reports of Habitual Truancy: The school shall provide written notice of habitual truancy by certified mail to, or by personal service on, the parent/guardian of the student. If a student continues to accrue unexcused absences after written notice of habitual truancy has occurred, the student shall be reported to the Probation Services Office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code.
11. Excessive and Pattern Absences: Habitual student absences shall be monitored for patterns (*i.e.*, every Monday or Friday), and reported as required herein.
12. Distribution of Policy; Acknowledgment of Receipt: A copy of this policy and an acknowledgment form will be issued to each student on the first day of school. The student shall return the acknowledgment form. A student who fails to return a signed form within that time shall be subject to disciplinary actions.

### **7.3.3. PENALTY**

A parent, guardian or one having custody of the student who, after receiving written notice as provided in Item 5 of Policy 7.3.2(B) and after the matter has been reviewed in accordance with Item 10 of Policy 7.3.2(B), knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five (\$25) or more than one hundred dollars (\$100) may be imposed, or the parent, guardian or one having custody of the student may be ordered to perform community service. If violations of the Compulsory School Attendance Law continue, the parent, guardian or one having custody of the student shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500) or incarceration for a period not to exceed six month or both.

### **7.3.4. WRIT OF MANDAMUS**

In addition, to the penalty provided by the provisions of Section 7.3.2.above, the Board may obtain a writ of mandamus or other appropriate relief from the district court compelling a parent, guardian or other person to comply with the provisions of the Compulsory School Attendance Law. Consent of the Attorney General is not required to obtain a writ of mandamus or other appropriate relief.

### **7.3.5. FAMILY IN NEED OF SERVICES ACT**

A family whose child, subject to compulsory school attendance, is absent from school without authorized excuse more than ten days during a school semester may be deemed a family in need of services. A plan for intervention based on the needs of the child and family that incorporates the family's strengths may be developed as part of the assessment and referral process. Compulsory School Attendance deals with early identification. Family in Need of Services becomes involved at intervention and continues into response to provide a continuum that recognizes issues underlying truancy and identify and provide appropriate services to the child.

### **7.3.6. OPEN ENROLLMENT/SCHOOL ATTENDANCE ZONES**

The Board of Education adopts this policy pursuant to the terms of NMSA 22-1-4, also known as the Open Enrollment Act.

The Open Enrollment Act requires that a free public school education be available to any school-age person who is a resident of New Mexico and who has not received a high school diploma or its equivalent. This policy does not apply to students who are not New Mexico residents. The Board retains the discretion to determine whether the School District has sufficient accommodations to offer enrollment to students who are not New Mexico residents.

1. Attendance Area: The attendance area of each school within the School District shall be established annually by the Board of Education.
2. Enrollment Priorities: In-state students shall be enrolled or re-enrolled in each district school according to the following priorities:
  - A. First, persons residing within the attendance area of the school;
  - B. Second, students enrolled in a school ranked as a school that needs improvement or a school subject to corrective action;
  - C. Third, persons who previously attended the school; and
  - D. Fourth, all other applicants for enrollment at the school.
3. Transportation: Transportation shall be provided by the School District for transportation-eligible students residing within the attendance area of the school they attend. Transportation of students residing outside the attendance area of the school they attend shall be the responsibility of the parent/guardian or student. However, the School District will comply with the transportation requirements of the No Child Left Behind Act for students enrolled from a school ranked as a school that needs improvement or a school subject to corrective action.

4. Maximum Class Size: The Superintendent shall determine the maximum allowable class size in the School District by administrative regulation.
  - A. So long as the maximum allowable class size established by the Superintendent or as permitted by law is not exceeded by the enrollment of first-priority students (those residing in the attendance area) or second priority students (those enrolled in a school ranked as a school that needs improvement or a school subject to corrective action), the school shall continue to enroll students on the basis of the priorities established in this policy.
  - B. If the maximum allowable class size would be exceeded by enrollment of an applicant in the third or fourth priority category, the school shall deny such student enrollment.
  - C. Each school shall establish a waiting list of third or fourth priority students who are seeking enrollment in the school and enter the names of such students on the list in the order in which each student sought enrollment.
  - D. As classroom space becomes available in each school, students within the appropriate grade level shall be invited to enroll on the basis of (1) the student's enrollment priority category, and then (2) the order of the student's entry on the waiting list.
5. Denial of Enrollment or of Re-enrollment: Notwithstanding any other provision of this policy, enrollment or re-enrollment of a student to any district school may be denied by the Administrator of such school on the following grounds:
  - A. The student seeking enrollment or re-enrollment has been expelled from another School District in New Mexico or in any other state during the preceding twelve-month period; or
  - B. The student's behavior in a School District in New Mexico or in another state during the preceding twelve-month period makes the student's enrollment or re-enrollment detrimental to the welfare of other students or school personnel.
6. Hearing and Appeal of Denial of Enrollment or Re-Enrollment: A student or the student's parent may appeal a denial of enrollment or of re-enrollment pursuant to Paragraph 5, above, through the procedures established for long-term suspensions and expulsions of students, provided that when the denial of enrollment or re-enrollment was based upon the student's prior expulsion from another School District within the preceding twelve-month period, the admission of evidence of such expulsion shall shift the burden of proof to the student or parents to show that the student should be admitted despite such expulsion. In proceedings

regarding denials under all other circumstances provided under Paragraph 5, above, the burden of sustaining the denial shall remain with the school.

### **7.3.7 ATTENDANCE**

House Municipal Schools will comply with state statute and state administrative code in recording attendance of students and enforcing the compulsory school attendance requirements.

Regular attendance is required of all students enrolled at House Municipal Schools. Student attendance will be recorded at the start of each school day and at the first class period following lunch in the elementary grades. Student attendance will be recorded at the start of each class period in the junior high and high school grades. Student tardiness will also be recorded in the same manner. Absences and tardiness caused by a delay or suspension of school bus services will be excused.

Absences from school should be avoided if at all possible. **An excused absence is defined as an absence due to illness, extreme family emergency, religious commitment, death in the family, school sponsored activity, or other extenuating circumstance that is agreed to by the school administration. When an absence is unavoidable, the parent must send a written notice explaining the student's absence or call the school office to explain the student's absence within twenty-four hours of the absence.** If the parent does not make such notice, the absence is recorded as unexcused. Please note the details below regarding unexcused absences relative to the New Mexico Compulsory School Attendance Law.

- A. "Habitual truant" refers to a student who has accumulated the equivalent of ten or more unexcused absences within a school year.
- B. "Students in need of early intervention" refers to a student who has accumulated five unexcused absences within any twenty-day period; and
- C. "Unexcused absence" is an absence from school or a class for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Laws or rules of the local school board or governing authority of a private school.

**Please note that any absence that is not appropriately excused through a telephone call or written explanation by a parent/guardian within twenty-four hours of the absence is considered unexcused.**

### **Unexcused Absences**

Unexcused absences at House Municipal Schools will be addressed as follows:

1. A student with an unexcused absence is not allowed to receive credit for make-up work for that absence.
2. At the third unexcused absence, school personnel will contact the parent/legal guardian requesting a conference to discuss the unexcused absences. In addition to this conference, a Three Day Absentee Notification letter will be

- sent to the parent/legal guardian of the student. A copy of this letter will be filed in the student's cumulative folder.
3. If a student accumulates a fifth unexcused absence, school personnel will again contact the parent/legal guardian requesting another conference to again discuss unexcused absences. In addition to this conference, a Five Day Absentee Notification letter will be sent to the parent/legal guardian of the student. A copy of this letter will be filed in the student's cumulative folder.
  4. At seven unexcused absences, school personnel will send the parent/legal guardian a Seven Day Notification letter by mail and by certified mail. This letter will request another parent/legal guardian conference. This conference will require the development of a student attendance contract to be signed by all participating in the conference. This letter will also notify the parent/legal guardian that any further unexcused absences will result in the district referring this concern to the Children Youth and Families Department (Child Protective Services Division and/or the Juvenile Justice Division) and the District Attorney's office.
  5. If the student continues to accrue unexcused absences, at the tenth unexcused absence the parent/legal guardian will be notified by certified mail and regular mail that the student is considered a habitual truant in violation of the Compulsory Attendance Law and that the district is taking further action to file a report with appropriate authorities. The district will also immediately refer the concern to the Children Youth and Families Department (Child Protective Services Division and/or the Juvenile Justice Division) and the probation services office of the judicial district where the student resides (District Attorney's office).

### **Excused Absences**

Absences from school should be avoided if at all possible. An excused absence is defined as an absence due to illness, extreme family emergency, religious commitment, death in the family, school sponsored activity, or other extenuating circumstance that is agreed to by the school administration. **When an absence is unavoidable, the parent must send a written notice explaining the student's absence or call the school office to explain the student's absence within twenty-four hours of the absence.**

Absences related to school-sponsored activities are authorized through the authority of the Public Education Department. These activities may include: **FFA, BPA, FCCLA, 4-H, athletics or any other approved school related activity.**

- These absences do not appear on the attendance register.
- Students are to obtain makeup work from teacher and have work completed when returning to school unless prior arrangements have been made with the teacher.
- No student shall be absent from school for extracurricular activities more than 15 days per semester. The New Mexico Secretary of Public Education may issue a waiver relating to the number of absences for participation in a State or National competition

## Return to School Following Absence

These procedures outline the process to be followed when returning to school following an absence not related to a school activity.

- A written statement or a call from the parent/guardian must be presented at the office upon return.
- A class permit from the office is issued to notify the teachers of an excused absence. The class permit allows a student to make up missed work.
- Responsibility for making up missed work lies entirely with the student.
- One day plus the number of days of absence is allowed to make up work. Make-up work not submitted within this time frame will not receive credit.
- Under extenuating circumstances, the superintendent may allow additional time for work completion.

### **Appeal for Attendance Concerns**

The parent or guardian may appeal to the school administration in writing if excessive absences or unexcused absences accumulate. Parents should be aware of the fact that excessive absences and unexcused absences require detailed documented information supporting the request for appeal. The following circumstances would be appropriate to appeal excessive or unexcused absences.

- Hospitalization or illness that requires long-term home care
- Death or serious illness of immediate family member
- Court appearance required by subpoena
- Other extenuating circumstances as agreed upon by administration

A written request from a parent appealing for consideration of excessive absences should be given to the superintendent so a review by teachers and the superintendent can be held and a determination made. This request must be accompanied by appropriate documentation, such as a written statement from a physician with the nature of the illness or other official verification. If the superintendent denies the appeal, the student could then pursue an appeal before the House Municipal School District Board of Education provided a written request for appeal is received in the superintendent's office at least 7 days before the next regular school board meeting.

### **7.3.8. RELEASE TIME**

Students may be released from certain segments of the daily school routine to participate in other specialized educational programs. Such release to be agreed upon by the parents or guardian and approved by the Administrator of the school unit involved.

#### **7.3.8.1. Release Time For Religious Instruction**

Pursuant to NMSA 22-12-3, a student may, subject to approval of the school Administrator, be excused from school to participate in religious instruction for not more than

one class period each school day with the written consent of his parents at a time period not to conflict with the academic program of the school. The Board of Education and school employees shall not assume responsibility for the religious instruction or permit it to be conducted on school property during the school day.

**7.3.9. RE-ADMISSIONS**

Students who have been absent from school for any period of time will be required to submit an excuse from the parent or legal guardian for re-admission. Students who have been absent from school for reasons other than for personal illness or family illness may have additional conditions imposed for re-admission.

Students who are absent ten (10) consecutive days will be disenrolled. To be re-admitted to school, parents must accompany the student to school for a conference prior to re-admission.

Special Education students can only be disenrolled by an IEP committee.

**7.4. SCHOOL ADMISSIONS**

All children residing within the boundaries of the School District will be admitted to the school program pursuant to the provisions of Policy 7.3.6, School Attendance Zones. Students in the School District must have listed on their enrollment form the name of the custodian parent(s) or permanent legal guardian(s).

The Board, in keeping with legislative intent, feels that a free public school education shall be available to any school age person who is a resident of the State of New Mexico and has not received a high school diploma or its equivalent.

Admission, enrollment, and attendance shall be based upon the student meeting and following established procedures, guidelines, and regulations of the school to which the student desires admission.

Any exceptions made in implementing the above policy will be a matter of administrative rules and regulations.

**7.4.1. ENTRANCE AGE**

1. Children reaching the age of five prior to September 1 of the current school year will be eligible for entrance into Kindergarten.
2. Children reaching the age of three may be eligible for services for the developmentally disabled child. (Sections 22-8-2M, 22-13-3D, 22-13-5, 22-13-6, NMSA, 1978)

**7.4.2. RESIDENT STUDENTS**

Resident students are those whose legal residence falls within the boundary of the School District and all other admission requirements have been met.

New Resident Students: Students new to the School District may enter the school program immediately if all other entrance requirements are met.

**7.4.3. ATTENDANCE BY NON-RESIDENT STUDENTS**

Non-resident students shall be permitted to enroll according to the enrollment priorities listed in the District's Open Enrollment/Attendance Zone Policy, 7.3.6.

**7.4.4. ASSIGNMENT TO SCHOOLS AND CLASSES**

**7.4.4.1. Elementary – Grades 1 through 6**

A student applying for admission to grades 1 through 6 on the basis of prior schooling outside the School District will be placed initially on the grade level he/she reached elsewhere. The Administrator will determine subsequently whether there should be any change in the grade placement of the student. In making a determination regarding the grade level placement of a transferring student, the Administrator should consider the age of the student and/or the student's score on a student achievement test administered according to the statewide assessment and accountability system.

**7.4.4.2. Junior High School – Grades 7 through 9**

**7.4.4.2.1. Regular Student**

A student who is within the compulsory school age limits and has completed the sixth grade requirements may re-enroll in grade seven. A student who is within the compulsory school age limits and has failed to complete the sixth grade requirements may be enrolled upon the approval of the Administrator. In making a determination regarding the grade level placement of a transferring student, the Administrator should consider the age of the student and/or the student's score on a student achievement test administered according to the statewide assessment and accountability system.

**7.4.4.2.2. Over-aged Student**

A student who is 15 or over may be directed to the high school for consideration. The Administrator will make recommendations to the high school in such areas.

**7.4.4.3. High School – Grades 10 through 12**

**7.4.4.3.1. Regular Student**

Upon successful completion of grade 9, a student may enroll in the high school. If a student does not have the required number of successfully completed courses at the end of 9<sup>th</sup>

grade and it is more desirable for that student to be in high school than to be in middle school due to his age, he/she may be admitted on probation.

#### **7.4.4.3.2. Over-aged Student**

A student who is over 18 years of age may, upon approval of the Administrator, enroll in school. The student must show a favorable attitude and be satisfactory in his behavior, dress, attendance, and citizenship. The Administrator may determine the program assignment of over-aged students. Special education students are not covered under this policy. (See Special Education Program Standards)

#### **7.4.5. TRANSFERS AND WITHDRAWALS**

Elementary students who have enrolled and attended a school will not be required to transfer when they move from one school zone to another after the school semester is underway. The family will be given the option of remaining in the previous school to complete the semester, or transferring to the new school.

A student of compulsory school age may withdraw from regular school attendance only for the following reasons:

1. to transfer to another school;
2. to work in hardship cases;
3. illness on doctor's recommendations;
4. establish a home school; and
5. exempted by the Superintendent of Schools.

#### **7.4.6. FOREIGN STUDENTS**

##### **7.4.6.1. Admission**

The Board of Education for the School District will admit Foreign Exchange Students with a J-1 visa status (exchange visitors) sponsored by reliable organizations such as the local Rotary Clubs. Dependents of foreign nationals in the United States on long-term visas or waivers due to governmental agreements (*e.g.*, the NATO agreement for the German Air Force) will also be admitted.

#### **7.4.6.2. Placement**

All Foreign Exchange students shall be required to provide verification of attendance at their former school as a basis for placement within the current curriculum of the School District.

#### **7.4.6.3. Certification of Work Completed**

Upon completion of the assigned visitation period of Foreign Exchange students, the Board of Education will authorize issuance of a certificate denoting completion of academic work. The certificate will be awarded only at the end of the regular academic year to those Foreign Exchange students who have completed one full year of academic work. For Foreign Exchange students attending at least one semester, but less than a full school year, the certificate will not be awarded; however, credit earned will be indicated by appropriate entries on the high school transcript.

#### **7.4.6.4. Diplomas**

The Board of Education will not issue a diploma to Foreign Exchange students. The responsibility of issuance of a diploma will reside with the administrative power of the Foreign Exchange student's school system.

#### **7.4.6.5. Ceremonies**

1. A Foreign Exchange student may participate in graduation exercises if mutually acceptable by the High School and the Foreign Exchange student, regardless of his/her completion date of visitation.
2. A Certificate of Completion will be awarded Foreign Exchange students upon completion of their visitation.

#### **7.4.7. NON-ACCREDITED SCHOOL STUDENTS**

Any qualified student and any person who, because of his/her age, is eligible to be a qualified student as defined by the Public School Finance Act (22-8-1-42, NMSA 1978) until attaining the age of majority shall attend a public school, a private school, a home school or a state institution. All students residing within the boundaries of the School District will be admitted to the school program if admittance requirements are met and if direct action has not been taken by the Board or school officials to bar such entrance.

#### **7.4.7.1. Placement**

All students previously enrolled in home school programs or non-accredited schools shall be required to provide verification of attendance at their former school and a notarized listing of subject/courses attesting to completion. This will include transcripts and other data to determine

appropriate grade level placement prior to admission. The Administrator will determine, subsequently, whether there should be any change in the placement of the student. In making a determination regarding the grade level placement of a transferring student, the Administrator should consider the age of the student and/or the student's score on a student achievement test administered according to the statewide assessment and accountability system.

#### **7.4.7.2. Certification of Work Completed**

Secondary students who have previously attended non-accredited high schools or home schools and are requesting credit transfer to be applied towards the School District's High School graduation requirements will be evaluated using the following guidelines:

1. Any transfer credits accepted from non-accredited schools will be on a provisional basis until such time as the student successfully completes the New Mexico High School Competency Exam and passes the final exams for required course offerings.
2. Initial placement of students will be probationary for six weeks pending demonstrable competency through classroom performance.
3. Should the student's performance show noticeable change during the probationary period indicated, the school may recommend a change in placement following a parent conference.
4. Transfer credit will be allowed only for those required courses and electives set forth in State Statutes and Public Education Department regulations and which are similar in scope and content to courses found in the high school course description guide.
5. Transfer credit will be accepted based on the Administrator's evaluation of the transcript.
7. Transfer students from non-accredited schools will be ranked with the graduating class only if the final two semesters are completed in this High School.
8. To graduate from House High School, the student must be enrolled for at least one semester prior to graduation.

#### **7.5. STUDENT AND SCHOOL RIGHTS AND RESPONSIBILITIES**

##### Statement of Policy

A primary responsibility of the School District and its professional staff shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual, and the legal processes whereby necessary changes are brought about.

The school is a community and the rules and regulation of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each right carries with it a corresponding obligation.

The right to attend public school is not absolute. It is conditional on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through established processes.

Teachers, administrators, and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for learning in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly, safe environment in the public schools. In discharging their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed by students. The School District has both the authority and responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established.

Nothing in this regulation shall be held to affect the due process rights of employees or their use of any local School District complaint procedure. This regulation does not address employment disputes.

#### **7.5.1. OBJECTIVE**

To provide a comprehensive framework within which the School District can carry out their educational mission and exercise their authority and responsibility to provide a safe environment for student learning and further, to provide students and parents with an understanding of the basic rights and requirements necessary to effectively function in the educational community.

#### **7.5.2. DEFINITIONS**

For the purpose of this policy, any words, terms, or phrases defined herein shall have the meanings stated.

1. "Administrative authority" means the local School District Superintendent, a Administrator, or a person authorized by either to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers but only to the extent of their authority as established under written local School Board policies.
2. "Criminal acts" are acts defined as criminal under federal and state law and any applicable municipal or county criminal ordinances.
3. "Delinquent acts" are acts so defined in Section 32A-2-3A, NMSA 1978 of the Delinquency Act.

4. “Detention” means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.
5. “Disciplinarian” means a person or group authorized to impose punishment after the facts have been determined. Under these rules, the Hearing Authority shall also be the Disciplinarian unless otherwise provided for good cause by the Superintendent.
6. “Disruptive conduct” means willful conduct which:
  - A. Materially and in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or
  - B. Leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.
7. “Expulsion” means the removal of a student from attendance at all schools of the School District, either permanently or for an indefinite time exceeding 10 school days.
8. “Gang related activity” means conduct prohibited by the School District’s policy on Gang Activity.
9. “Hearing Authority” means the person who presides at the formal hearing, hears the evidence, decides culpability, and determines punishment. The Superintendent, Associate Superintendent for Student Personnel, and Director for Instruction shall serve as Hearing Authority on a rotating or alternative basis in all formal hearings, except in instances in which the administrator who would otherwise serve as Hearing Authority was directly involved in, or witnessed, the incident(s) in question, has prejudged disputed facts, or is actually biased for or against any person who will actively participate in the hearing. In such cases, one of the other administrators eligible to serve as Hearing Authority shall do so.
10. “Immediate removal” means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.
11. “In-school suspension” means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.
12. “Legal limits” include the requirements of the federal and state constitutions and governing statutes, standards, and regulations, and also include the fundamental

common-law requirements that rules of student conduct be reasonable exercises of the school's authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression that must be balanced against the school's need to foster an educational atmosphere free from undue disruptions to appropriate discipline.

13. "Long-term suspension" means the removal of a student from attendance at all schools of the School District for a specified or indefinite period of time exceeding 10 school days.
14. "Parent" means the natural parent, a guardian, or other person or entity having custody and control of a student who is subject to the Compulsory School Attendance Law, Section 22-12-1, *et seq.*, NMSA 1978, or the student if he/she is not subject to compulsory attendance.
15. "Public school" means the campus of and any building, facility, vehicle, or other item of property owned, operated, controlled by, or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.
16. "Refusal to cooperate with school personnel" means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.
17. "Refusal to identify self" means a person's willful refusal, upon request from school personnel known or identified as such to the person, to identify him/herself accurately.
18. "Review authority" is a person or group authorized by the Board to review a disciplinarian's final decision to impose a long-term suspension or expulsion. Under these rules, the Board of Education shall be the Review Authority unless the Board determines otherwise in specific cases.
19. "Sexual harassment," regarding students, means conduct prohibited by the School District's Student Sexual Harassment Policy.
20. "School personnel" means all members of the staff, faculty, and administration employed by the local School Board. The term includes school security officers, school bus drivers and their aides, and also authorized agents of the schools, such as volunteers or chaperones whose responsibilities include supervision of students.
21. "Student" means a person who is enrolled in one or more classes at a public school or a person who was a student during the previous school year and is

participating in a school sponsored activity connected with his or her prior status as a student.

22. “Temporary suspension” or “short-term suspension” means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

### **7.5.3. GENERAL PROVISIONS**

#### **7.5.3.1. Jurisdiction Over Students**

All officials, employees, and authorized agents of the public schools whose responsibilities include supervision of students shall stand in *loco parentis* with regard to any students whom they are required to supervise whenever students are lawfully subject to school control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the school’s authority.

The foregoing is intended to reflect the common law regarding the rights, duties, and liabilities of public school authorities in supervising, controlling, and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law, or Public Education Department regulation.

#### **7.5.3.2. School Authority Over Non-Students**

In furtherance of the School District’s compelling interest in the orderly operation of the public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

1. On School Property - School officials may prohibit entry to and provide for the removal from any public school building or grounds any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, which may use reasonable physical force to accomplish the removal. Alternately, a person who refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process, or disorderly conduct. A person who does identify him/herself and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this regulation. The person may also be subject to arrest by law officers if he/she is committing any crime.
2. Off School Property - Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students’ conduct at or near schools or school sponsored activities may constitute a criminal offense, including the crimes of interference with the educational

process, disorderly conduct, or criminal trespass (after refusing a lawful request to leave), school authorities may request law enforcement agencies to arrest the offenders.

**7.5.3.3. Severability**

Any part of this regulation found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

**7.5.4. RULES OF CONDUCT**

The following acts are prohibited in all schools within the School District.

**7.5.4.1. Prohibited Activities**

The commission of, or participation in, the activities designated below is prohibited in all schools in the School District and whenever students are subject to school control.

1. Criminal or delinquent acts;
2. Gang related activity as described in the School District's Policy on Gang Related Activity;
3. Sexual harassment;
4. Disruptive conduct;
5. Refusal to identify self; and
6. Refusal to cooperate with school personnel.

**7.5.4.2. Regulated Activities**

Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by the School Board as they deem appropriate to local conditions. Conduct by non-students, which affects school operations, may be regulated with legal limits pursuant to any forms of authority described above.

1. School attendance.
2. Use of and access to the public premises, including:
  - A. Restrictions or conditions upon the bringing of vehicles onto school property;

- B. Prohibition of or conditions on the presence of non-school persons on school premises while school is in session; and
  - C. Reasonable standards of conduct for all persons attending school sponsored activities or other activities on school property.
3. Students' dress and personal appearance.
  4. Use of controlled substance, alcohol, or tobacco on school premises or during school sponsored activities.
  5. Speech and assembly within the public schools.
  6. Publications distributed in the public schools.
  7. The existence, scope, and conditions of availability of student privileges, including extra-curricular activities and rules governing participation.
  8. Possession or custody of a weapon on school premises or at a school-sponsored activity, in violation of the School District's Weapons Policy or NMSA 22-5-4.7. The Special Rule provisions apply to students with disabilities.
  9. The discipline of students for out-of-school conduct has a direct and immediate effect on school discipline or the general safety and welfare of the school.

**7.5.5. ENFORCING RULES OF CONDUCT**

**7.5.5.1 Enforcing Attendance Requirements**

Formal enforcement action under the School District's Attendance Policy, the Compulsory Attendance Law, or the Family in Need of Services Act, shall be initiated whenever a student's absences indicate that law or policy is being violated. An administrative authority that has reason to believe a student is violating the Board's Attendance Policy may take whatever further action is deemed appropriate under such policy.

**7.5.5.2. Search and Seizure**

The Board of Education, in recognition of the necessity of conducting searches and seizures of employees and students from time to time in order to enforce school policies and discipline, adopts the following policy regarding searches and seizures. School property assigned to a student and a student's person or property while under the authority of the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

1. Definition – As used in this policy “contraband” means any substance, material or object prohibited from school pursuant to school policy or state or federal law, including drugs, alcohol, fireworks, or weapons.

2. Notice of Search Policy – Students shall be provided a copy of the policy at the beginning of each school year or upon admission for students entering during the school year.
3. Rules Regarding Searches and Seizure – With respect to both employees and students, the School District reserves the right to search persons, personal effects, and vehicles as follows:
  - A. A pat-down search of a person may be conducted on the basis of a reasonable, individualized suspicion that such person is in possession of contraband. Any such search shall be conducted in private by an authorized school official of the same sex as the person to be searched and in the presence of a witness of the same sex. Strip searches are not permitted.
  - B. Lockers, desks, and similar storage facilities are school property and remain at all times under the control of the school; however, persons using such facilities are expected to assume full responsibility for the security of their lockers and desks and similar facilities. Periodic general inspections of lockers, desks, and similar facilities may be conducted by school officials for any reason, at any time, without notice and without consent.
  - C. Persons are permitted to park on school premises as a matter of privilege, not of right. Every student who wishes to drive or park vehicles on school premises shall file a copy of their vehicle insurance, their driver license and a completed application for permission for student parking in the district office. Submitting this information to the office constitutes permission to park the vehicle on school premises and as such shall constitute express permission by the student and parent that the vehicle may be searched by, or at the direction of, authorized school officials at any time it is on school premises, and a waiver of any and all claims arising from any such searches. The School District also retains the authority to conduct routine patrols of school parking lots and inspections of the exteriors of automobiles on school property. Such patrols and inspections may be conducted without notice and without consent.
  - D. In any of the forgoing enforcement actions, the administration is authorized to use dogs whose reliability and accuracy for sniffing and detecting contraband has been established. The dogs will be accompanied by a qualified and authorized dog trainer-handler who will be responsible for the dog's actions. Any indication by the dog that an illegal or unauthorized substance or object is present on school property or in a vehicle on school property shall be reasonable cause for a search by school officials.

4. Implementation of searches and seizures shall be governed by administrative guidelines promulgated by the Superintendent.
5. Seizure of Items – Illegal items, legal items that threaten the safety or security of others, and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student’s parent or returned to the student when and if the administrative authority deems appropriate.
6. Notification of Law Enforcement Authorities – Unless a local School Board policy provides otherwise, an administrative authority shall have the discretion to notify the local Children’s Court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

#### **7.5.5.3. Basis for Disciplinary Action**

A student may appropriately be disciplined by administrative authorities in the following circumstances:

1. for committing any act which endangers the health or safety of students, school personnel, or others for whose safety the public school is responsible, or for conduct which reasonably appears to threaten such dangers if not restrained, regardless of whether an established rule of conduct has been violated;
2. for violating valid rules of student conduct established by the Board or by an administrative authority, when the student knew or should have known of the rule in question or that the conduct was prohibited; or
3. for committing acts prohibited by this policy, when the student knew or should have known that the conduct was prohibited.

#### **7.5.5.4. Selection of Disciplinary Sanctions**

Administrative authorities shall impose appropriate sanctions for student misconduct.

1. School Discipline and Criminal Charges – Appropriate disciplinary actions may be taken against students regardless of whether criminal charges are also filed in connection with an incident.
2. Nondiscriminatory Enforcement – School rules shall be imposed and enforced without regard to the race, religion, color, national origin, ancestry, sex, or disability of any student, *provided however*, that different disciplinary actions may be imposed upon difference students for violations of the same rule or for the same type of misconduct on the basis of differences in the manner, severity,

duration, or impact of the violation or misconduct, or upon any similarly pertinent factors or considerations.

2. Individual Culpability – Students may not be punished as a group for the acts of individuals, even when the individuals guilty of misconduct within the group cannot otherwise be identified.

#### **7.5.5.6. Detention, Suspension and Expulsion**

Where detention, suspension and/or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed below. Suspension or expulsions of students with disabilities shall be subject to the further requirements below.

#### **7.5.5.7. Discipline of Students with Disabilities**

Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits.

1. Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth below.
2. Temporary suspensions or short-term suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Paragraph 4 below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Paragraph 3 below.
3. Program Prescriptions. A student with a disability's individualized education program (IEP) need not affirmatively authorize disciplinary actions, which are not otherwise in conflict with the regulation. However, the IEP Committee may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP Committee may not prohibit the initiation of proceedings for long-term suspension or expulsion, which are conducted in accordance with this regulation.
4. Immediate Removal. Immediate removal of students with disabilities may be done in accordance with the procedures below.

#### **7.5.6. PROCEDURE FOR DETENTIONS, SUSPENSION AND EXPULSIONS**

The authority of the Board to prescribe and enforce standards of conduct for public school students must be exercised consistently with the constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violation of school rules. But it is a property right which may only be denied where school authorities have adhered to the procedural safeguards required to afford students due process of law.

The administrative authority shall have the power to suspend from the privileges of the school any student guilty of gross misconduct or continual insubordination to school organization and/or regulations. Any student who is disruptive to other students with particular reference to gang activity, vandalism, truancy, fighting, gambling, insubordination, hazing, foul and abusive language, sexual harassment, use of drugs or alcohol or possession of weapons may be suspended at the option of the building Administrator and the Superintendent of Schools subject to certain conditions for reinstatement.

When a student is suspended or expelled from school, he/she is not to be on any school campus or attend any school-sponsored activity for the duration of the suspension or expulsion. Failure to comply may result in legal or other disciplinary action against the student.

The right to expel a student, however, is a position retained by the Board of Education.

This Section does not apply to long-term suspension or expulsion of students who are disabled pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of disabled students are set forth in Section 7.5.6 below.

1. Immediate Removal - "Immediate removal" means the removal of a student from school for one day or less under emergency conditions and without a prior hearing. Students whose presence post a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:
  - A. A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible.
  - B. Students shall be reinstated after no more than one school day unless within that time a temporary suspension is so imposed after the required rudimentary hearing.
  - C. The school shall exert reasonable efforts to inform the student's parent of charges against the student and the action taken as soon as practicable. If direct contact is not established by the middle of the school day following the immediate removal, the school shall forthwith prepare a written notice with the required information and deposit the notice for mailing to the parent's address of record.

2. Temporary Suspension - “Temporary suspension” or “short-term suspension” means the removal of a student from school for a specified period of ten (10) school days or less after a rudimentary hearing conducted in accordance with the requirement below.

A student facing temporary suspension shall first be informed of the charges against him or her and if she/he denies them shall be told what evidence supports the charge(s) and be given an opportunity to present his/her version of the facts. The following rules apply:

- A. The “hearing” may be an informal discussion with the student and may follow immediately after the “notice” is given. It may be conducted in the school administrative authority’s office, or in any other place that is private and free of distractions.
- B. Unless the administrative authority decides a delay is essential to permit a fuller explanation of the facts, this discussion may take place – and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred.
- C. If the student admits the charge, the administrative authority may impose a temporary or short-term suspension.
- D. A student who denies a charge of misconduct shall be told what act(s) he/she is accused of committing, shall be given an explanation of the evidence supporting the accusation(s), and shall then be given the opportunity to explain his or her version of the facts. The administrative authority is not required to divulge the identity of informants other than school personnel. She/he is required to disclose the substance of all evidence on which she/he proposes to base a decision in the matter.
- E. In conducting the informal hearing, the administrative authority is not required to provide for advance notice to the student’s parents.
- F. The administrative authority is not required to allow the student to secure counsel or be represented by a third party, to confront or cross-examine witnesses supporting the charge(s) or to call witnesses to verify the student’s version of the incident, but none of the foregoing is prohibited.
- G. The administrative authority is not required to divulge the identity of informants provided there is good cause to withhold such information, such as a reasonable likelihood of harm to the informant.
- H. The school shall make reasonable efforts to inform the student’s parent of the charges against the student and their possible or actual consequence as

soon as practicable. If direct contact has not been established by the end of the first full day of suspension, the school shall on that day deposit a written notice with the required information for mailing to the parent's address of record.

I. A student may not be suspended from school for more than ten (10) school days on the basis of an informal hearing alone. Suspensions beyond ten (10) days are long-term suspensions and require that the student be afforded a formal hearing, as provided in Paragraph 5 of this Section.

3. In-School Suspension - "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in an alternate classroom or other designated area at the same school or elsewhere.

In-school suspension may be imposed with or without further restrictions of student privileges. Any student who is placed in an in-school suspension that exceeds ten school days must be provided with an instructional program that meets both local educational requirements and the Educational Standards for New Mexico Schools. Student privileges, however, may be restricted for longer than ten (10) days.

In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as outlined above.

4. Detention - "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school. Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that it does not entail removing the student from any of his or her regular classes.

5. Long-Term Suspension and Expulsion - "Long-term suspension" means the removal of a student from school for a specified time exceeding ten (10) days.

"Expulsion" means the removal of a student from school either permanently or for an indefinite time exceeding ten (10) school days. The Superintendent or designee will initiate procedures leading to long-term suspensions or expulsion. A temporary suspension may be imposed while the procedures for long-term suspensions or expulsion are activated. However, where a decision following the required formal hearing is delayed beyond the end of the temporary suspension, the student must be returned to school pending the final outcome of the hearing.

A. Definitions

(1) Hearing Authority: Disciplinarian - "Hearing authority" means the Superintendent or designee who is designated to hear evidence and determine the facts of a case at a formal hearing authority. The

same person will perform both functions, but no person shall act as hearing authority, or disciplinarian, in a case in which (s)he has previously been involved, except as an initiating administrative authority.

- (2) “Review authority” is the School Board who will review the hearing authority’s final decision to impose a long-term suspension or expulsion if the aggrieved student after the formal hearing wishes to exercise this right to review this decision.

B. Initiation of Procedures - An administrative authority shall initiate procedures for long-term suspension or expulsion of a student by designating a hearing authority and disciplinarian, scheduling a formal hearing in consultation with the hearing authority and preparing and serving a written notice meeting the requirements below.

- (1) Service of Notice - The written notice shall be addressed to the student, through his or her parent(s), and shall be either personally delivered or mailed to the parent.
- (2) Timing of Hearing - The hearing shall be scheduled no sooner than five (5) nor later than ten (10) school days from the date of delivery or mailing of the notice whichever is earlier. The hearing authority may grant or deny a request to delay the hearing.
- (3) Contents of Notice - The written notice must contain all of the following information.
  - (a) The school rule(s) alleged to have been violated, a concise statement of the alleged act(s) of the student on which the charge(s) are based, and a statement of the proposed penalty;
  - (b) The date, time and place of the hearing, and a statement that both the student and parent are entitled and urged to be present;
  - (c) A clear statement that the hearing will take place as scheduled unless the hearing authority grants a delay or the student and parent agree to waive the hearing and comply voluntarily with the proposed disciplinary action, and a clear and conspicuous warning that a failure to appear will not delay the hearing and may lead to imposition of the proposed penalty by default;

- (d) A statement that the student has the right to be represented at the hearing by legal counsel, a parent, or some other designated representative;
- (e) A complete description of the procedures, which will govern the conduct of the hearing;
- (f) The name, business address, and telephone number of a contact person through whom the student, parent, or designated representative may request a delay or seek further information; and
- (f) Any other information, materials, or instructions deemed appropriate by the administrative authority that prepares the notice.

C. Delay of Hearing: Student's Status During Delays - The hearing authority shall have discretion to grant or deny a request by the student or the appropriate administrative authority to postpone the hearing. Where a student has been suspended temporarily and a postponed hearing will not occur until after the temporary suspension has expired, the student shall be returned to school at the end of the temporary suspension unless:

- (1) The student and parent have knowingly and voluntarily waived the student's right to return to the school pending the outcome of the formal proceedings, or
- (2) The appropriate administrative authority has conducted an interim hearing pursuant to a written local School Board policy made available to the student which affords further due process protection sufficient to support the student's continued exclusion pending the outcome of the formal procedures, or
- (3) The provisions of the following paragraphs apply.

D. Waiver of Hearing - Voluntary Compliance or Negotiated Penalty. A student and his or her parent may elect to waive the hearing and review and negotiate a mutually acceptable penalty with the hearing authority. Such a waiver and compliance agreement shall be knowing, intelligent, and made voluntarily, and shall be evidenced by a written document signed by the student, the parent(s), and the hearing authority.

E. Procedure for Hearing and Decision - The following rules govern the conduct of the hearing and the ultimate decision.

- (1) The school shall have the burden of proof of misconduct.

- (2) The student and his or her parent shall have the following rights, any of which may be waived in writing.
  - (a) The right to be represented by legal counsel or other designated representative;
  - (b) The right to present evidence, subject to reasonable requirements of substantiation at the discretion of the hearing authority and exclusion of evidence deemed irrelevant or redundant;
  - (c) The right to confront and cross-examine adverse witnesses, subject to reasonable limitation by the hearing authority;
  - (d) The right to have a decision based solely on applicable legal rules, including the governing rules of student conduct, and the evidence presented at the hearing.
- (3) The hearing authority shall determine whether the alleged act(s) of misconduct have been proved by a preponderance of the evidence presented at a hearing at which the student and/or a designated representative have appeared.
- (4) If no one has appeared on the student's behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent, received notice of the hearing. If so, the hearing authority shall review the school's evidence to determine whether it is sufficient to support the charge(s) of misconduct.
- (5) The hearing authority that is also a disciplinarian shall impose the proposed sanction or other appropriate measure if he/she finds that the allegations of misconduct have been proved.
- (6) Arrangements to make a tape recording or keep minutes of the proceeding shall be made by the administrative authority that scheduled the hearing and prepared the written notice.
- (7) The hearing authority may announce a decision on the question of whether the allegation(s) of misconduct have been proved at the close of the hearing. The hearing authority that is also the disciplinarian may also impose a penalty at the close of the hearing.
- (8) The hearing authority shall prepare and mail or deliver to the student, through the parent, a written decision including reasons therefore within five working days after the hearing. The hearing authority shall include in the report a statement of the penalty, if any, to be imposed.

- (9) The hearing authority's decision shall take effect immediately upon notification to the parent, either at the close of the hearing or upon receipt of the written decision. If notification is by mail, the parent shall be presumed to have received the notice on the fifth calendar day after the date of mailing.
- F. Effect of Decision - If the hearing authority decides that no allegation(s) of misconduct have been proved, or declines to impose a penalty despite a finding that an act or acts of misconduct have been proved the matter shall be closed. If the hearing authority imposes any sanction on the student, the decision shall take effect immediately upon notification to the parent, even if the student subsequently appeals to the review authority.
- G. Right of Review - A student aggrieved by the hearing authority's decision after a formal hearing shall have the right to have the decision reviewed by the School Board if the penalty imposed was at least as severe as a long-term suspension or expulsion, an in-school suspension exceeding one school semester, or a denial or restriction of student privileges for one semester or longer.
- (1) The right of review must be exercised by delivering a written request for review to the Superintendent within ten (10) school days after *the earlier of* the Hearing Authority's announcement of its decision or the student's receipt of the written decision.
- (2) If the request for review is based in whole or in part, upon a contention that there is newly discovered evidence, the request shall so state, and shall specify why such evidence could not reasonably have been discovered in time for the hearing before the Hearing Authority, and why it is contended that the newly discovered evidence would change the outcome of the prior hearing.
- (3) If the request for review is based in whole or in part, upon a contention that a factual determination of the Hearing Authority was arbitrary, capricious, or not supported by substantial evidence, the request shall so state, and shall specify the bases for such contention.
- H. Conduct of Review - The School Board shall be bound by the hearing authority's factual determination unless the student persuades the review authority that a finding of fact was arbitrary, capricious, or unsupported by substantial evidence or that new evidence which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing would manifestly change the factual determination. Upon any such finding, the review authority shall have discretion to receive new evidence or conduct a *de novo* hearing.

- I. Scope of Review - The scope of review shall be limited to a determination of whether the penalty imposed by the Hearing Authority was appropriate. The Board may, in its discretion, affirm or modify the penalty, and the Board's modification may include either reducing or increasing the penalty. The Board shall be bound by, and shall not reconsider, the factual determinations upon which the Hearing Authority based its decision unless,
- (1) the student and parent/guardian includes in the notice request for review and proves to the Board's satisfaction that
    - (a) new evidence has come to light since the hearing before the Hearing authority, and
    - (b) such evidence could not reasonably have been discovered by the student and parent or guardian in time for the hearing; and
    - (c) the newly discovered evidence would clearly change a factual determination material to the outcome; or
  - (2) the student and parent/guardian includes in the request for review, and proves to the Board's satisfaction, that a finding of fact by the Hearing Authority was arbitrary, capricious, and supported by substantial evidence, meaning that there is no credible evidence in the record that, if believed by the Hearing Authority, would support the determination, regardless of whether there was contrary evidence as well.
- J. Form of Review - The Board may determine the form of its review which may include one or more of the following:
- (1) The Board's review of the record of the hearing and decision;
  - (2) Submission of a written statement to the Board by the student and parent/guardian followed after a specified number of days by the submission of a written response to the Board by the Hearing Authority; or
  - (3) Presentation of an oral statement to the Board by the student or the parent or guardian, followed by an oral response to the Board by the Hearing Authority at a meeting of the Board, *provided*, that in the event of a hearing in person is granted by the Board, the student and parent or guardian shall have the right to determine whether such hearing is held in public or in executive session.
- K. Effect of Review Authority's Decision - The Board shall reach a decision regarding the review by majority vote, subject to any requirements for keeping the student's identity confidential. The Board may announce its decision at the conclusion of any hearing held on the review, and in any event, shall issue a

written decision within ten (10) days of its decision. The School Board's decision shall be the final administrative action to which a student is entitled.

**7.5.7. PROCEDURES FOR LONG-TERM SUSPENSION OR EXPULSION OF STUDENTS WITH DISABILITIES**

1. Initial Determinations

When a student with a disability or a student whom the administrative authority has reason to suspect may have a disability violates a rule of conduct as set forth in this regulation, which may result in long-term suspension or expulsion, the following procedures shall apply:

- A. The administrative authority shall conduct an informal administrative conference to determine if disciplinary action is warranted. The purpose of the conference shall be to:
  - (1) Conduct interviews;
  - (2) Afford the student an opportunity to explain the alleged misconduct;
  - (3) Determine whether the student has an IEP or a plan in accordance with 504 of the Rehabilitation Act of 1973 (hereinafter "504") in effect and whether the IEP or 504 plan contains alternative disciplinary strategies; and
  - (4) Determine whether a referral for formal evaluation should be made if an IEP or 504 plan is not in effect and a disability is suspected.
- B. The administrative authority shall make a determination as to whether the conduct warrants long-term suspension or expulsion.
- C. Nothing herein shall preclude the administrative authority from imposing a short-term suspension and/or seeking an injunction from a court of competent jurisdiction.

2. Parent Notification

- A. Upon a determination by the administrative authority that long-term suspension or expulsion will not be pursued, the administrative authority shall notify the student's parent(s) of the incident.
- B. Upon a determination by the administrative authority that the student's IEP or 504 plan sets forth alternative discipline strategies for the behavior,

the administrative authority shall implement the alternative strategies and notify the parent(s) accordingly.

- C. Upon a determination by the administrative authority that an IEP or 504 plan is not in effect for the student and that a referral for formal evaluation should be made, the administrative authority shall refer the student for formal evaluation and shall notify the parent(s) in accordance with applicable requirements.
- D. Upon a determination by the administrative authority that long-term suspension or expulsion will be pursued and that an IEP or 504 plan is in effect for the student, the administrative authority shall notify the parent(s) as follows:
  - (1) Scheduling of the IEP meeting in accordance with the requirements of the IDEA-Part B and 34 CFR Part 300, or 504, and 34 CFR Part 104, as applicable; and
  - (2) Contemplated disciplinary action.

### 3. Manifestation Inquiry

- A. The administrative authority shall convene the IEP or 504 meeting to determine if the student's behavior is a manifestation of the disability and whether the student's IEP or 504 plan is appropriate.
  - (1) If the determination is made that the behavior is a manifestation of the disability, the IEP/504 Committee shall revise the IEP or 504 plan as needed to address the needs of the student. The student may not be suspended or expelled from school for more than ten (10) school days unless the School District obtains an order from a court of competent jurisdiction to remove the student from school or to change the student's placement.
  - (2) If the determination is made that the behavior is not a manifestation of the disability but that the student's program is inappropriate, the IEP/504 Committee shall revise the IEP/504 plan. The student may not be suspended or expelled from school for more than ten (10) school days unless the School District obtains an order from a court of competent jurisdiction to remove the student from school or to change the student's placement.
- B. If the determination is made that the misbehavior is not a manifestation of the disability and the student's program is appropriate, the administrative authority may proceed to initiate long-term suspension or expulsion proceedings.

4. Special Rule Regarding Weapons
  - A. This rule shall apply when a student with a disability is determined to have brought a weapon to school.
  - B. A student who has a disability in accordance with Part B of the IDEA and who is determined to have brought a weapon to school may be immediately placed in an interim alternative educational setting for not more than forty-five (45) calendar days during the manifestation inquiry. The interim alternative educational setting shall be determined by the IEP Committee, which includes the student's parent(s). Parental consent to the alternative placement is not required.
  - C. If the parent(s) of the student placed in an alternative educational setting pursuant to this Special Rule request(s) a due process hearing pursuant to Part B of the IDEA, the student shall remain in the alternative educational setting during the pendency of any proceedings, unless the parent(s) and administrative authority agree otherwise.
  - D. If, upon final determination, it is decided that bringing the weapon to school is unrelated to the student's disability, the administrative authority may proceed to initiate long-term suspension or expulsion proceedings.
5. Alternative Educational Services During the Period of Long-Term Suspension or Expulsion
  - A. Alternative educational services for a student with a disability upon whom a long-term suspension or expulsion has been imposed for behavior not related to the disability shall be provided as follows:
    - (1) During the period of disciplinary exclusion from school, each student who is disabled pursuant to the IDEA must continue to be offered a program of appropriate educational services that is individually designed to meet his/her unique learning needs. Such services may be provided in the home, in an alternative school, or in another setting.
    - (2) School Districts may cease educational services to students who are disabled pursuant to 504 during periods of disciplinary exclusion from school that exceed ten (10) school days if students who are not disabled do not continue to receive educational services in similar circumstances.

B. Provision of Alternative Education Services

- (1) The parent(s) shall be notified of the IEP/504 meeting.
- (2) An IEP is developed to reflect the alternative educational services and placement to be provided to the student during the period of the long-term suspension or expulsion.
- (3) If the parent(s) request a due process hearing, the student shall remain in the alternative educational setting.

C. Local school boards shall adopt policies stating whether a student will receive grades and/or credit during the period of long-term suspension or expulsion.

**7.5.8. EDUCATIONAL SERVICES FOR LONG-TERM SUSPENDED OR EXPELLED STUDENTS**

A student who has been validly expelled is not entitled to receive any educational services from the local School District during the period of the exclusion from school. A student will not receive grades and/or credit during the period of expulsion.

A student who has been placed on long-term suspension upon approval by the Superintendent or his or her designee shall be provided alternative educational services during the period of long-term suspension. A student completing course work may receive grades and/or credit during the period of long-term suspension.

**7.5.9. EDUCATIONAL SERVICES FOR STUDENTS CHARGED WITH SERIOUS CRIMES**

The Board finds as follows:

1. It is no longer uncommon for students to be charged with serious crime.
2. Such crimes frequently take place off school grounds and apart from school hours or activities, and are thus unrelated to the student's status as a student.
3. Students charged with such crimes are also often released pending trial or even while awaiting sentencing.
4. Consequently, such students remain able to continue attending school.
5. The presence of such students at school, however, creates a distraction and a disruption to the educational process.

6. Specifically, the presence of students charged with serious crimes tends to create apprehension, fear, or diversion on the part of other students and school staff, to the detriment of the necessary educational atmosphere.

WHEREFORE:

The Board adopts the following policy:

1. The student charged with or convicted of a serious crime unrelated to his or her status as a student who wishes to continue his or her education may do so only according to the terms and conditions, and under the circumstances provided herein.
2. Any such student who wishes to continue his or her education during the pendency of his or her criminal proceedings must submit a written request to do so to the district Administrator.
  1. Upon receipt of such a request, the Administrator may develop a plan to provide continued educational services to the student on an off-campus, homebound, or other alternative basis.
  2. The student shall be limited to the alternative educational plan until: (a) he or she is acquitted of the charge or charges; or (b) he or she is removed from or leaves the School District.
  3. The terms of this policy shall also be applied to any new student validly seeking to be enrolled in the School District.

**7.5.10. INTERVIEWS WITH STUDENTS**

A student may not be interviewed during school hours by any person, except an employee of the District, without the approval of the Administrator or parent/guardian. Student interviews by an employee of the District are limited to student supervisory staff as pertains to curriculum, discipline, student welfare, counseling, school activities and performance.

**7.5.11. COOPERATION BETWEEN LAW ENFORCEMENT AGENCIES AND SCHOOL PERSONNEL**

**INTRODUCTION**

The following policy shall be observed in connection with all contacts by law enforcement with students. A copy of this policy shall be provided to all licensed school personnel, who shall be responsible for observing it. A copy of this policy also shall be provided to all local law enforcement and social services agencies so that mutual cooperation may be promoted.

The following provisions govern school personnel's cooperation with law enforcement and social services agencies in regard to criminal law enforcement and child abuse investigations, and are not in derogation of the customary authority of school administrators to conduct interviews and investigations, or otherwise to take action as part of the enforcement of school discipline and order.

## **I. OFFICIAL CONTACT WITH STUDENTS IN SCHOOLS**

- A. **Administrative Authorization Required:** Law enforcement officers, including investigators employed by public agencies authorized to investigate child abuse, may not be permitted contact with any student except by the Superintendent, and pursuant to the procedures and requirements set forth in this policy.
- B. **Verification, Documentation, and Parental Notification Procedures:** Prior to any student being produced by a school Administrator for any contact with officers, the Administrator or his or her designee shall:
1. Write down the name, badge number, and agency of the officer(s), together with the date and time of appearance,
  2. Confirm by telephone with the agency that employs the officer(s) their identity and authorization in seeking contact with the student, and record the name and position of the person confirming such information and the time of such confirmation; and
    - (a) in instances in which the officer(s) have appeared at the school to interview or make an arrest of a student for suspected criminal activity, the Administrator shall also determine and write down the agency's justification for conducting an interview or arrest of a student at school when such criminal activity has not been:
      - (i) committed at the school,
      - (ii) committed during school-sponsored activities,
      - (iii) committed on school grounds, or
      - (iv) when such criminal activity involves crimes committed at the school for which assistance has not been requested by the Administrator; and
    - (b) in instances in which the officer(s) is acting pursuant to an arrest warrant, a search warrant, or other court document, the Administrator shall obtain a copy of such document.

3. Contact the student's parent(s) or guardian, notify them of the contact, and record the time of notification and the name of the person notified;
  - (a) If upon the initial request for contact by the officer(s) or agency, the Administrator is directed by either not to attempt to notify the student's parent(s) or guardian or to obtain the attendance of the student's parent(s) or guardian,
    - (i) that direction should be added to the information recorded by the Administrator pursuant to this section, and
    - (ii) the officer should be asked to sign the statement; and
    - (iii) if the officer refuses to sign the statement, the Administrator should note on the statement that the officer refused to sign.

**C. Administrative Monitoring of Contact with Students**

1. After completion of the Verification, Documentation, and Parental Notification Procedures, and upon Administrative Authorization, as described in this policy, a law enforcement officer may conduct an investigation within the school building and upon school grounds and interview students as possible witnesses in the Administrator's office or other administrative office.
2. The Superintendent should consider whether he/she or his/her designee should be present during the interview on the basis of the age and special needs of the child, and in light of the provision of the Children's Code that such interviews shall be conducted "in a manner and place that protects the child . . . from trauma and embarrassment." N.M. Stat. Ann. § 32A-4-5 (D).
3. Reasonable attempts shall be made to keep the identity of those interviewed confidential.
4. Neither the Superintendent nor his or her designee any other district employee shall disclose any written statements made or the content of statements given during the interview, except he/she may disclose statements made or the content of statements given during the interview to
  - (a) the student interviewed and to his or her attorney or parents,
  - (b) to the district attorney, or other law enforcement agencies; and

- (c) if the Administrator deems it appropriate to legitimate disciplinary goals, to other school officials.
- 5. If the investigation focuses on a particular student as a suspect of a crime, the school Administrator and the police officer shall follow the general guidelines set forth in this policy with respect to interrogation, search, and arrest. In addition, the Administrator shall follow the advice of rights provisions of Section II.B, below.
- 6. The school Administrator shall keep a record of the procedural steps followed by the police in conducting interrogations, and any instance in which the Administrator acts to preclude or terminate an interrogation.
- 7. All writings and records created pursuant to these procedures shall be retained as part of the school's records.

## **7.5.12. SECONDARY STUDENT EXPRESSION & ASSOCIATION**

### **A. STUDENT EXPRESSION**

#### **1. Definitions**

- (a) **Publication:** Any expression by speech, gesture, writing, or pictorial representation, including questionnaires and petitions.
- (b) **School publication:** Any publication produced or distributed under the supervision of a faculty sponsor.
- (c) **Student publication:** Any publication produced or distributed by students without faculty sponsorship, excluding students' interpersonal written communications.
- (d) **Distribution:** Making available or displaying a publication on any school property, or at official school functions immediately before, during, or immediately after curricular or extracurricular school activities.
- (e) **Noncurriculum-related student group:** Any student group organized around subject matter that does not *directly* relate to the body of courses (curriculum) offered by the school. Subject matter is related to the curriculum when:
  - (i) the subject matter of the group is actually taught or will soon be taught in a regularly offered course; or

- (ii) the subject matter of group concerns the body of course as a whole; or
  - (iii) participation in the group is required for a particular course; or
  - (iv) participation in the group results in academic credit.
- (f) Limited open forum: A limited open forum exists whenever a public secondary school permits one or more non-curriculum related student groups to meet on school premises during non-instructional time. A “limited open forum” is not created, however, by activities traditionally sponsored by the school, but not directly related to the curriculum, such as athletic activities, school plays, and school talent shows, etc.
- (g) Meeting: Includes those activities of student groups that are permitted under a school's “limited open forum” and are not directly related to the school curriculum.
- (h) Non-instructional time: Time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends, including lunch periods.
- (i) Sponsorship: The school’s assignment of a participating faculty sponsor to a curriculum related student club or group, *provided* the attendance or assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes only does not constitute sponsorship of the club, group, or meeting.

## 2. Standards

- (a) Although secondary school students are subject to greater restrictions than adults in society generally, the school seeks to promote student expression as part of the inculcation of the values and habits necessary to the maintenance of a democratic society. Students are thus encouraged to exercise the rights of freedom of speech consistent with the limitations and standards with respect to time, place, and manner appropriate to the special characteristics of the school environment, as set forth below.
- (b) The schools will not tolerate student expression that will materially and substantially interfere with the requirements of appropriate discipline in the operation of the schools. As minimum Standards of Expression, the schools will prohibit the distribution of student publications or school publications that:

- (i) Are obscene, lewd, or profane;
- (ii) Are defamatory;
- (iii) Include statements that invade the personal privacy rights of students, parents, faculty, or other school personnel, or that explicitly subject students, parents, faculty, or other school personnel to ridicule;
- (iv) Will materially or substantially disrupt the work of the schools on the basis of objective facts; or
- (v) Advocate, promote, or support illegal violence or other illegal activity.

### **3. School Publications**

- (a) A variety of student expression and opinion will be encouraged in official school publications, such as the school newspaper, yearbook, etc.
- (b) With regard to such school publications produced or distributed under the school's sponsorship, the school is entitled to set higher standards, and to exercise greater control, and will refuse to disseminate student expression in school sponsored publications that does not meet those standards. By such means, the school may disassociate itself from speech that is, for example, prejudiced, vulgar, profane, or unsuitable for immature audiences, inadequately researched, ungrammatical, or poorly written. The school may control production or distribution of school publications so long as a valid educational purpose is served by such control.

### **4. Student Publications**

- (a) Students and student initiated groups may also engage in expression that is not school sponsored, but the school will not tolerate student expression that is inconsistent with the Standards of Expression set forth above, even though such expression could not be censored by government outside the schools.
- (b) Student expression shall not be regarded as disruptive or otherwise inappropriate merely because it expresses unpopular or controversial views, or a religious viewpoint.

- (c) The school does not select or sponsor the content of any student publication, but regulates such content according to the Standards of Expression set forth herein, and nothing in this policy shall be construed as prohibiting the publication of materials with religious or political content, provided such material does not otherwise violate the prohibitions, limitations, and standards set forth herein. All such student publications shall bear the name of the student or students or the student organization or organizations that issued them.
- (d) Procedure
  - (i) Any student who wishes to distribute a student publication that is not school sponsored, including posting notices on any bulletin boards or other places that may be available for such purpose, shall obtain prior permission from the building Administrator or designated faculty representative. Such student is entitled to meet personally with the Administrator or faculty representative to discuss the appropriateness of publication. The student or his representative may support the appropriateness of distribution with relevant witnesses and materials.
  - (ii) The Administrator or faculty representative shall grant or deny permission to distribute in writing within one school day of the student's request. The student shall be notified of the decision within one day of the proposed publication's submission for review, and of the procedures for an appeal.
  - (iii) In the event that the student seeking permission is dissatisfied with the Administrator's decision, the student may, within two school days of the issuance of such decision, appeal the decision to the superintendent of schools, by notifying the Administrator in writing of the desire to appeal.
  - (iv) The superintendent shall issue a written decision within three school days of the notice of appeal.
  - (v) In the event the student seeking permission is dissatisfied with the superintendent's decision, the student may, within two school days of the issuance of such decision, appeal the decision to the board of education, by notifying the superintendent in writing of the desire to appeal. The board

shall render its decision in writing within three school days of the notice of appeal.

- (e) Students may wear and display political or religious buttons, arm-bands, and other forms of symbolic expression, consistent with the student dress code, but may not wear or display any such items that do not conform to the Standards of Expression set forth in this policy.
- (f) School authorities may uniformly restrict the use of bulletin boards to school announcements, and may limit notice by students generally, and by organizations according to the categories of the organizations, including notices of out of school activities of general interest to students, to designated bulletin boards or to the daily announcements over the school intercom as described below, but such limitations shall not be applied on the basis of the content of expression.

## **5. Distribution Procedures**

- (a) Distribution of printed material shall be conducted in an orderly manner and shall not disrupt school operations. The Administrator may, when reasonably necessary to protect student safety or the operation of the school, designate specific sites within the school at which student publications may or may not be distributed or posted, consistent with the purposes of this policy to permit and facilitate the dissemination of student publications.
- (b) Leaflets or other handouts may be distributed only prior to the beginning of the school day, during the student's or students' lunch period, or following the end of the school day. The posting of posted materials may take place only prior to the beginning of the school day, during the student's or students' lunch period, or following the end of the school day. Posted materials may remain posted for up to fifteen (15) school days and the student or students who posted the materials are responsible for removing them after that time.

## **B. Student Association - Student Clubs and Groups**

### **1. Types of clubs or groups permitted at school:**

- (a) School-Sponsored Clubs are student clubs or groups that are *sponsored* by the school because their purposes and goals are directly related to the school's curriculum, such as Spanish Club.
- (b) Student-Initiated Clubs are student clubs or groups initiated by students that are *recognized*, but not sponsored by, the school because their purposes and goals are not related to the curriculum, but which are permitted to meet at school during non-instructional time; and
- (c) Outside Clubs or Groups are youth clubs or groups, such as Boy Scouts and Girl Scouts, which include students as members, but which are neither sponsored nor recognized by the school, and which are merely permitted the use of school facilities after school hours on an equal basis with other community groups.

### **2. Limited Open Forum**

- (a) No secondary school within the District is required to create a "limited open forum." The administration of each school may decide whether to create or maintain a limited open forum based upon the best interests of the school and its students.
- (b) If a school creates or maintains a limited open forum at the school, however, it may not discriminate against students who wish to conduct a meeting of a non-curriculum related group at the school on the basis of the religious, political, philosophical, or other content of the speech at such meetings. Subject to reasonable control of the time, place, and manner of the speech and meetings, the secondary school may not deny other non-curricular student-initiated clubs equal access and opportunity to hold meetings on school premises during non-instructional time, on the basis of the content of their speech, opinions or beliefs.
- (c) A school that has opted to create or maintain a "limited open forum" shall uniformly provide and ensure that the meetings of non-curriculum related student-initiated groups:
  - (i) Are voluntary and student-initiated;
  - (ii) Are not sponsored by the school, the government, or its agents or employees;

- (iii) Do not materially and substantially interfere with the orderly conduct of educational activities within the school; and
  - (iv) Are not directed, controlled, conducted, or regularly attended by non-school persons.
- (d) If the student meetings are religious, faculty members and other employees or agents of the school may not sponsor such meetings, and may attend only in a non-participatory, custodial capacity upon assignment by the administration, *provided*, that the administration shall promptly assign any faculty member who is willing to serve in such non-participatory and custodial capacity.
- (e) In a secondary school in which a “limited open forum” is provided, school employees shall not, during duty time:
- (i) Influence the content of any political or religious activity by students in the school;
  - (ii) Require any person to participate in political or religious activity in the school;
  - (iii) Provide any public funding for any political or religious activity by students other than the cost incidental to the space for the student meetings;
  - (iv) Compel other school employees to attend any meeting unrelated to such employees’ duties;
  - (v) Sanction meetings that would otherwise be unlawful;
  - (vi) Sponsor political or religious meetings, except this provision shall not prohibit a faculty member’s attendance at such meetings in a custodial capacity;
  - (vii) Attend politically or religiously oriented meetings of student-initiated non-curriculum related groups other than in a non-participatory capacity;
  - (viii) Allow meetings that materially and substantially interfere with the orderly conduct of educational activity within the school; or

- (ix) Allow non-school persons to direct, conduct, control, or regularly attend activities or meetings of student-initiated non-curricular groups.

**3. Student Clubs shall be formed as follows:**

- (a) Students who wish to form a School-Sponsored Club shall make a request to the Administrator for approval and sponsorship.
- (b) Students who wish to form a Student-Initiated Club shall make a request to the Administrator for approval and recognition.
- (c) Both types of clubs must be open to all students on an equal basis, must be voluntary, and must operate on the basis of the procedural guidelines established by the student council acting in concert with the Administrator.
- (d) School-Sponsored Clubs shall be assigned a faculty sponsor, and if no faculty member is willing to accept such appointment, the formation of the club may be delayed or denied.
- (e) Student-Initiated Clubs shall be assigned a faculty supervisor pursuant to the terms of paragraph 2.d., above, and, if the club is religiously oriented, the faculty member shall be limited to non-participatory and custodial responsibilities; if no faculty member is willing to act as a faculty supervisor, the formation of the club may be delayed or denied.
- (f) Approval of the formation of any club will not be denied on the basis of the speech or viewpoint of the club or its members, except that such approval may be denied if the proposed clubs meetings would materially and substantially interfere with the orderly conduct of educational activity within the school, or would impede the ability of the administration to maintain order and discipline on school premises, to protect the well being of students and faculty, to assure that attendance at religious meetings is voluntary, and to make such regulations as required by considerations of time, place and manner.
- (g) Lists of School-Sponsored Clubs sponsored by the school, and of Student-Initiated Clubs recognized by the school, will be maintained by the school.

#### **4. Student-Initiated Non-Curricular Clubs - Additional Restrictions**

In addition to other limitations and restrictions governing students and student organizations, all non-curricular, Student-Initiated Clubs are subject to the following limitations:

- (a) Meetings or activities at school of religiously oriented Student-Initiated Clubs may include no employees or agents of the school except in a nonparticipatory, custodial capacity; and
- (b) Persons from outside the school may not direct, conduct, control, or regularly attend meetings or activities of such clubs at school. Clubs may, however, invite guest speakers to address the club from time to time.

#### **5. Access to School Facilities**

School-Sponsored Clubs, Student-Initiated Clubs, and Outside Clubs and Groups will be afforded reasonable access to school facilities, provided:

- (a) The club or group provides a written request for such use, including a description of the program and the size of the group expected, to the Administrator reasonably in advance of such use; and
- (b) In the case of an Outside Club or Group, the group also complies with other District requirements for such use.

#### **6. Penalties for Violations**

Students found to have violated this policy shall be subject to disciplinary action.

### **7.6. DISCIPLINE POLICIES**

1. The local Board of Education shall establish student discipline policies and shall file them with the New Mexico State Department of Education Public Education Department. The Board shall involve parents, school personnel and students in the development of these policies, and a public hearing shall be held during the formulation of these policies.
2. The School District's discipline policies shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which may include corporal punishment, detentions, in-school suspension, school service, suspension or expulsion.

3. An individual school within the School District may establish a school discipline policy provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the Board's discipline policy, it shall submit its policy to the Board for approval.
4. Student/parent handbooks developed by secondary school units shall be presented to the Board for review prior to implementation.
5. No school employee who, in good faith, reports any known or suspected violation of the school discipline policy or, in good faith, attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of his/her efforts to enforce any part of the policy.

#### **7.7. STUDENT SUBSTANCE ABUSE**

It shall be the policy of the School District to maintain and enforce "Drug-Free Schools" and "Smoke-Free Schools."

The Board of Education for the School District recognizes that abuse of alcohol and other drug use are problems afflicting our society and that they are treatable health-related problems. Health problems of youth are primarily the responsibility of the home and community. The school shares that responsibility because substance-abuse problems often interfere with school behavior, student learning, maximum possible development, and the educational process.

Due to the serious nature of substance abuse, the schools will seek to intervene with students manifesting signs of use of alcohol, drugs and tobacco products. The School District will educate students, aid them, and pursue disciplinary actions aimed at protecting the educational process and the welfare of other students.

The Administrator of each school shall establish and oversee the work of an interdisciplinary referral and assessment team for students, the Student Assistance Team. The counseling staff may be included as available and needed. Individual team members may exclude themselves as necessary because of personal considerations relative to specific clients and/or situations. The Superintendent may assign other duties in other assistance areas such as guidance and training for supervisors and employees regarding the implementation of this policy.

In order to help ensure a safe, positive, and productive learning environment, no student shall distribute, dispense, possess, use, transport, give, sell, or be under the influence of any alcoholic beverage, malt beverage or fortified wine or other intoxicating liquor, tobacco products or unlawfully manufacture, distribute, dispense, possess or use, give, sell, or transport or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid or any other controlled substance, as defined in schedules 1 through V of section 202 of the Controlled Substance Act (21 U.S.C., Statute 812) and as further defined by regulation at 21 C.F.R. 1300.11 through 1300.15, or use, possess, dispense, sell, give or

transport any drug paraphernalia, prescription drugs without a prescription, solvents, or other substances used for intoxication, mind or mood alteration or “look-alike” drugs, before, during, or after school hours at school, during any school programs, or in any other school premises as defined below.

“School premises” means in any school building or on any school premises; in any school-owned vehicle or in any other school approved vehicle used to transport students to and from school or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the School District.

“School program” means any school-sponsored or approved activity, event, or function on or off school premises where students are under the jurisdiction of the School District or during any period of time when school employees are supervising students on behalf of the School District.

As used in this policy, “drug paraphernalia” means equipment or apparatus designed for or used for the purpose of measuring, preparing, packaging, distributing, or facilitating the use of controlled substances or other substances prohibited by this policy.

A student who violates the terms of this policy may be suspended from extracurricular activity participation or suspended or expelled from school and/or be required to satisfactorily participate in an approved drug abuse assistance or rehabilitation program. If such student failed to satisfactorily participate in such a program, the student shall be suspended or expelled from school, at the discretion of the Board. The Board shall also possess the discretion to require non-discriminatory random drug testing of students who are engaged in any interscholastic activity, which is under the jurisdiction of the New Mexico Activities Association.

Any school employee who knows or in good faith suspects any student of using or abusing alcohol or drugs shall report such use or abuse to the school Administrator or assistant Administrator. No employee who in good faith reports any known or suspected instances of alcohol or drug use or abuse shall be held liable for civil damages as a result of such report or the efforts to enforce any school policy or regulation regarding drug or alcohol use or abuse.

Sanction against students shall be in accordance with prescribed School District administrative regulations and procedures.

### **7.7.1 TOBACCO-FREE POLICY**

The House Municipal Schools Board of Education recognizes its responsibility to promote the health, welfare and safety of students, staff and others on school property and at school-sponsored activities. Research conclusively proves that:

- Tobacco use is the single most preventable cause of death in the United States;
- Regular use of tobacco is ultimately harmful to every user’s health, directly causing cancer, respiratory and cardiovascular diseases, adverse pregnancy outcomes and premature death;

- Secondhand smoke is a threat to the personal health of everyone, especially persons with asthma and other respiratory problems;
- Nicotine is a powerfully addictive substance;
- Tobacco use most often begins during childhood or adolescence;
- The younger a person starts using tobacco, the more likely he or she will be a heavy user as an adult;
- Many young tobacco users will die an early, preventable death because of their decision to use tobacco;
- Use of tobacco interferes with students' attendance and learning; and
- Smoking is a fire safety issue for schools.

Prevention programs in schools are most effective when supplemented by strong tobacco-free policies and when they are a part of broader school, community and state efforts to reduce youth tobacco use. In light of this information, and to be consistent with school curriculum and federal and state law, it is the intent of the Board to establish a tobacco-free environment.

**TOBACCO USE PROHIBITED**

No person is permitted to use tobacco in any way at any time, including non school hours, in any school building, on any school property or grounds (including parking lots and athletic fields), at any school-sponsored event or activity off-campus, or in any vehicle owned, leased, rented or chartered by the House Municipal School District.

**TOBACCO POSSESSION**

No Student is permitted to possess any tobacco product or paraphernalia in any school building, on any school property or grounds (including parking lots and athletic fields), at any school-sponsored event or activity off-campus, or in any vehicle owned, leased, rented or chartered by the House Municipal School District.

**TOBACCO DISTRIBUTION**

Distribution or sale of tobacco products, including any smoking device (e.g., hookah or e-cigarette), is prohibited on school property or grounds, and at any school-sponsored event or activity off-campus or in any school vehicle.

**TOBACCO PROMOTION**

Tobacco advertising is prohibited on school property or grounds, at any school-sponsored event or activity off-campus, and in all school sponsored publications. The school will request tobacco-free editions of all publications in school libraries. Students are prohibited from wearing or possessing tobacco promotional items on school property, grounds or at any school-sponsored event or activity off-campus. School acceptance of gifts, funding or parent/classroom educational materials from the tobacco industry is prohibited.

**TOBACCO CESSATION**

Referrals and access to community resources and programs to help students and staff overcome tobacco addiction shall be provided to staff and students. School counselors, health services or community agencies are encouraged to establish voluntary tobacco-use cessation programs at school.

**NOTICE AND COMMUNICATION**

Signs communicating this policy shall be prominently posted and properly maintained where tobacco use and smoking are regulated by this policy, including all building entrances, grounds

and vehicles. Signs shall include, "Tobacco-Free Schools" to ensure that students, staff and visitors know that the policy covers all tobacco and tobacco-related products.

The House Municipal Schools shall also notify students, parents/guardians, staff, contractors and other school visitors annually of the tobacco-free policy in written materials, including, but not limited to, handbooks, manuals, contracts, newspapers and newsletters.

### **ENFORCEMENT**

Enforcement of this policy shall be equitable and consistent, in accordance with the student behavior code, and employee personnel policies.

Student violations of this policy will lead to progressive disciplinary action up to and including suspension from school. Students who violate the policy will be offered cessation resources, including information about the New Mexico QuitLine and website. Parent notification is mandatory for all violations involving their child.

#### **First Offense:**

- Student conference with school administrator
- Alternative to Suspension education session with school counselor, nurse or school-based health center staff
- Completion of online tobacco education course: [www.teen.smokfree.gov](http://www.teen.smokfree.gov) or other assignment from Progressive Discipline: Assignments for Students who violate Tobacco Policy, (a resource document in the Compliance and Enforcement section.)

#### **Second Offense:**

- In-school suspension or immediate removal from school (parent required to pick up student)
- Parent/student conference with school administrator
- Counseling session with school counselor, nurse or school-based health center staff to develop a No Use at School Plan (document available in the NM Tobacco-Free Schools toolkit) for refraining from tobacco use and possession at school
- Assignment from Progressive Discipline: Assignments for Students who violate Tobacco Policy (document available in the NM Tobacco-Free Schools Toolkit)

#### **Third Offense or More:**

- Out-of-school suspension (with disciplinary hearing for fourth offense)
- Review of No Use at School Plan to prevent further violations
- Community service

Employee violations of this policy will lead to disciplinary action in accordance with personnel policies and may include verbal warning and/or written reprimand.

Violations by visitors will result in the following action:

- First offense: verbal notification of the policy and warning
- Second offense: request to leave school property or, if off-campus, event or activity
- Third offense: removal from school property, event or activity

All indoor and outdoor school-sponsored events on campus (e.g., athletic events, meeting or functions by community groups renting school property) must be tobacco-free. All indoor and

outdoor school-sponsored events off-campus must be tobacco-free. This policy must be clearly stated in all contracts, correspondence, and verbal and written announcements to all attendees and contractors.

### **REPORTING**

Persons observing a violation of this policy should bring it to the attention of school administrators, school security personnel or other school staff. School officials or the health and security personnel receiving a report will investigate and take action to resolve the issue as soon as possible.

### **TRACKING AND EVALUATION**

The superintendent or designee will review district results of biannual New Mexico Youth Risk and Resiliency Surveys to determine impact on tobacco-related attitudes and behaviors. In addition, the District will track student violations, and utilize the data to plan appropriate prevention and enforcement efforts.

### **TOBACCO EDUCATION**

Instruction to discourage the misuse of tobacco shall be included in the health education provided to meet New Mexico K-12 health education. Related courses in secondary school curriculum shall be taught in a manner supportive of health education regarding tobacco. Instruction shall be aimed at improving tobacco prevention knowledge, attitudes and related skills. In addition, the district will support community and student efforts to prevent tobacco use and eliminate exposure to secondhand smoke.

### **ADMINISTRATIVE RULES**

The superintendent will develop administrative regulations as necessary to implement this policy, including provisions for notification and communication of the school's policy; disciplinary consequences; and procedures for filing and handling complaints about violation of the school's policy.

The superintendent shall ensure that the school's tobacco-use prevention program, policies, curricula, training and cessation programs are evaluated at regular intervals. The input of students, staff, parents and others from the community will be encouraged.

This policy shall be enforced at all times.

### **Legal References:**

- New Mexico Public Education Department 6.12.4.8 NMAC 1994. Tobacco, Alcohol and Drug Free School
- U.S. Department of Education—No child Left Behind, Title IV C, Sections 4301-4304, Part A. Safe and Drug-Free Schools and Communities

### **DEFINITIONS**

**Tobacco Product:** means substances that include, but are not limited to, any cigarette, cigar, pipe, bidi, clove cigarette and any other smoking product; as well as spit tobacco, also known as smokeless. Dip, chew and snuff, and any other spit tobacco product in any form, or any other items containing or reasonably resembling tobacco or tobacco products such as e-cigarettes and hookahs.

**School Property:** means any building, structure or vehicle owned, leased or contracted by the district.

**School Grounds:** means property surrounding buildings and structures, athletic grounds, parking lots or any other outdoor property owned, leased or contracted by the district.

## **7.8. WEAPONS IN SCHOOL**

The Board of Education recognizes that the presence of weapons in school not only creates unacceptable risks of injury or death, but also creates a climate that undermines the educational purposes of the schools. Accordingly, it is the policy of the Board of Education to forbid the possession, custody and use of weapons by unauthorized persons on school property or during school-sponsored activities.

This policy shall not preclude the possession, custody or use of weapons for legitimate purposes related to established job functions or in furtherance of approved educational programs or goals so long as the School Superintendent is advised of such purpose and approves such possession, custody or use for a limited purpose.

This policy is enacted to implement the requirements of the federal Gun-Free Schools Act, 20 U.S.C., § 7151 and NMSA 1978, § 22-5-4.7, and it is the intention of the Board that it be interpreted broadly to meet the goals of these provisions of law.

1. Definitions: For the purposes of this policy, a “weapon” shall mean any weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. The term “weapon” shall also include, but is not limited to, the following:
  - A. Any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion, compressed gas, or by any other means of propulsion at high speed sufficient to cause significant injury or damage. A “firearm” or “gun” also includes any look-alike device, such as a starter gun, that by its appearance, may be used to intimidate or frighten.
  - B. Any explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or similar device.
  - C. Any knife, including all pocket knives or other knives, regardless of length of blade.
  - D. Any other item or device which may be used as a weapon, even if manufactured for a nonviolent purpose, that have a potentially violent use, including, but not limited to, air guns, paint guns, numchucks, Chinese stars, or any “look-a-like” objects that resemble objects that have a potentially violent use, if, under the surrounding circumstances, the purpose of keeping or carrying the objects is for use, or threat of use, as a weapon.

2. Special Rule as to Students with Disabilities:
  - A. For purposes of this special rule as applied to students with disabilities who may be placed in an interim alternative educational setting for bringing a weapon to school or school function, the definitions of a weapon set forth above shall not include a pocket knife with a blade of less than 2½ inches in length. The procedures of Section 6 below shall apply to students with disabilities.
3. Prohibitions: It is the policy of the Board that no student shall bring a weapon to a school, nor carry or keep any weapon on school property while attending or participating in any school activity, including during transportation to or from such activity.
4. Enforcement: This policy shall be enforced according to the Board's Student Search and Seizure Policy. Disciplinary actions pursuant to this policy shall follow the procedures prescribed by the Public Education Department Regulation on Student Rights and Responsibilities and the policies of the School District.
5. Penalties for Violations:
  - A. Any student found to be in violation of this policy shall be subject to discipline, including long-term suspension and expulsion.
  - B. In compliance with the federal Gun Free Schools Act and Section 22-5-4.7 NMSA 1978, any student found to be in violation of this policy due to possession of weapon as defined in this policy, shall, at a minimum, be expelled from school for a period of not less than one year, provided, that the Superintendent or the Board of Education may modify such penalty in appropriate cases in their discretion.
6. Procedures Applicable to Students with Disabilities:
  - A. **As it applies to students with disabilities**, this policy shall also be interpreted in a manner consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1401. *et. seq.*, as amended.
  - B. In accordance with the provisions of 20 U.S.C. § 1415(k) of the IDEA, a student with a disability who is determined to have brought a weapon (as limited by the special rule above) to a school or school function under the jurisdiction of the School Board may be placed in an appropriate interim alternative educational setting, as specified by the IEP team or a hearing officer, for a period of not more than forty-five (45) calendar days.

- C. The procedural requirements of 20 U.S.C. § 1415(k) and State Educational Standards shall be met when imposing disciplinary penalties upon a student with a disability.

**7.8.1. CHILD IN POSSESSION OF A FIREARM ON SCHOOL PREMISES**

Provisions for the detention of a student who possesses a firearm on school premises enacted July 1999 to the Children’s Code provides:

1. If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of the federal Gun Free Schools Act of 1994 or Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child’s actions to a law enforcement agency and the Children, Youth and Families Department.
2. Upon receipt of a report pursuant to Subsection A of Section 30-7-2.1 NMSA, the law enforcement agency shall immediately conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.
3. If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency shall immediately take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in the Subsection C of Section 32A-2-10 NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

**7.9. GANG ACTIVITY**

The Board recognizes that the harm done by the presence and activities of gangs in the public schools exceeds the immediate consequences of such activities such as violence and destruction of property. Gang activities also create an atmosphere of intimidation in the entire school community. Both the immediate consequences of gang activity and the secondary effects are disruptive and obstructive to the process of education and school activities.

It is therefore the policy of the Board of Education that gangs and gang activities are prohibited in the schools, according to the following:

1. Definition: For purposes of this policy a “gang” is any group of two or more persons whose purposes include the commission of illegal acts or acts in violation of disciplinary rules of the School District.

2. Prohibitions: No student on or about school property or at any school activity shall:
  - A. Wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign or other item that evidences or reflects membership in, or affiliation with any gang;
  - B. Engage in any act, either verbal or nonverbal, including gestures or handshakes, showing membership or affiliation in any gang; or
  - C. Engage in any act in furtherance of the interests of any gang or gang activity, including, but not limited to:
    - (1) soliciting membership in, or affiliation with, any gang;
    - (2) soliciting any person to pay for “protection,” or threatening any person, explicitly or implicitly, with violence or with any other illegal or prohibited act;
    - (3) painting, writing, or otherwise inscribing gang-related graffiti, messages, symbols, or signs, on school property;
    - (4) engaging in violence, extortion, or any other illegal act or other violation of school policy; and
    - (5) soliciting any person to engage in physical violence against any other person.
3. Enforcement: Disciplinary actions pursuant to this policy shall follow the procedures prescribed by the Public Education Department Regulation on Student Rights and Responsibilities, as amended, and the policies of the School District.

### **7.9.1 Cyber-Bullying**

**Cyber-Bullying is the use of electronic information and communication devices, to include but not limited to, e-mail messages, instant messages, text messages, cellular telephone communications, Internet blogs, Internet chat rooms, Internet postings, and defamatory websites, that:**

- 1. Deliberately threatens, harasses, intimidates an individual or group of individuals; or**
- 2. Places an individual in reasonable fear of harm to the individual or damage to the individuals property; or**

**3. Has the effect of substantially disrupting the orderly operation of the school. School district owned, operated, or supervised technologies is any computer, networking system, electronic equipment, or any other equipment or device that may be used by a person to communicate to another which is owned, leased, operated, or under the control or supervision of the school and or district staff.**

**Reporting procedure and investigation:**

**Any student or staff member who believes he/she has reason to believe a student or staff member has knowledge or reason to believe another student or staff member is being subjected to or has been subjected to cyber- bullying shall immediately fill out the Bullying/harassment form and report to the buildingPrincipal or designee.**

**The building Principal or designee shall investigate all reports of such conduct. Any investigation regarding an allegation of cyber- bullying will provide all parties the appropriate due rights.**

**If the investigations results show:**

**No cyber- bullying occurred: the Principal will inform the affected parties of the investigation results.**

**Cyber-bullying occurred: the student will be subjected to appropriate discipline.**

**Discipline and consequences:**

**Bullying of any kind will not be tolerated House Municipal Schools. Appropriate consequences for students who commit an act of cyber bullying will be enforced. Depending of the severity of the incident, administration reserves the right to deal with each incident as a case by case situation.**

**Consequences:**

- 1. First offense- mediation, stay-away contract, parent phone call**
- 2. Second offence- mediation or ISS, parent phone call**
- 3. Third offense- mediation, ISS or possible Expulsion, parent phone call**
- 4. Fourth offense- ISS/Expulsion, parent phone call**

### **Reprisal or retaliation prohibited:**

**The House Municipal Schools prohibits reprisal or retaliation against any person who reports an act of cyber-bullying. The Principal will determine the appropriate consequences for any student who engages in reprisal or retaliation.**

### **Consequences for false accusation:**

**Consequences and appropriate action for a student found to have falsely accused another of an act of cyber- bullying shall be disciplined in the range from mediation up to and including suspension and expulsion.**

### **7.10. THREATS OF VIOLENCE BY STUDENTS**

1. Threats of violence toward other students, school staff members, or school facilities generally are prohibited and may result in suspension or expulsion, regardless of whether the student has engaged in such conduct previously.
2. All employees and students are required to report evidence of threats of violence to their building Administrator or to the Superintendent. Such reports shall be investigated by the building Administrator or his/her designee.
3. All such reports shall be documented by the Superintendent or his/her designee, and, in regard to any that are not sufficiently credible to warrant investigation, all reasons and basis for such conclusion shall be stated in the documentation.
4. In cases of threats that may constitute a violation of the criminal law, the Superintendent or his/her designee shall notify law enforcement authorities.
5. Students who are charged with violations of this policy shall be placed on short-term suspension pending investigation of the charge. Those found through a due process hearing to have violated this policy shall be subject to discipline, including long-term suspension (temporary or indefinite removal from school) or expulsion (permanent removal from school).
6. As a condition or conditions of a student's return to school from short-term or long-term suspension for violation of this policy, the Superintendent or his/her designee shall consider, and may impose, the following, individually or in any combination, as well as other conditions deemed necessary or appropriate:
  - A. That the parent of such student shall provide a documented opinion by a licensed professional that the student does not represent a threat of harm to himself/herself or to others, and, for a period to be determined by the

Superintendent or his/her designee, that the parents provide regular documented updates of such opinion;

- B. That the parents of such student agree that, for a period to be determined by the Superintendent or his/her designee, a parent shall check the student for weapons at home, and shall accompany the student to the school office upon arrival at school at the beginning of each school day, at which time the student shall be searched for weapons or other contraband by school personnel;
  - C. That the parent of such student agree that, for a period to be determined by the Superintendent or his/her designee, the student shall be prohibited from leaving campus during the school day, and that during any non-class time, the student shall remain in a monitored, segregated environment;
  - D. That the parent of such student agrees that, for a period to be determined by the Superintendent or his/her designee, the student shall be transported home from school by the parent at the end of the school day;
  - E. That the parent agree that for a period to be determined by the Superintendent or his/her designee, the student shall not be permitted to participate in any extracurricular activities or school functions except classroom instruction during the school day; and
  - F. That the parent agree that, for a period to be determined by the Superintendent or his/her designee, the student will not be permitted to enter or be present on school premises except during the regular school day and that the parent will enforce such prohibition by appropriate means.
7. In permitting a student to return to school from a short term or long-term suspension, conditions imposed by the Superintendent or his/her designee, including those set forth in paragraph 6 above, shall be incorporated into a written agreement to be signed by the parents or parent of the student in question.
8. In permitting a student to return to school from a short-term or long-term suspension, the Superintendent or his/her designee shall document the reasons and basis for permitting such return and such documentation shall include reasons and basis for imposing or not imposing the conditions set forth in paragraph 6.

**7.11. PROHIBITING VIOLENCE, INTIMIDATING AND HOSTILE OR OFFENSIVE CONDUCT**

The effective education of our students requires a school environment in which students feel safe and secure. The Board of Education is committed to maintaining an environment conducive to learning in which students are safe from violence, threats, name calling, intimidation, and unlawful harassment.

1. Definitions

- A. “Unlawful harassment” means verbal or physical conduct based on a student’s actual or perceived race, color, national origin, gender, religion, or disability and which has the purpose or effect of substantially interfering with a student’s educational performance or creating an intimidating, hostile or offensive environment. Sexual harassment of students is further addressed by a separate policy of the Board, Sexual Harassment 7.12.
- B. “Bullying” means intimidating verbal or physical conduct toward another student when such conduct is habitual or recurring.
- C. “Name calling” means the chronic, habitual, or recurring use of names or comment to or about a student regarding the student’s actual or perceived physical or personal characteristics when the student has indicated by his or her conduct, that the names or comments are unwelcome, or when the names or comments, by their nature, are clearly unwelcome, inappropriate or offensive.

2. Prohibitions

- A. It is the policy of the Board of Education to prohibit violence, threats, name-calling, bullying, intimidation, assault, battery, extortion, robbery, vandalism, and other victim-based misconduct that creates an intimidating, hostile or offensive environment, regardless of motive or reason. The Board will not tolerate such victim-based misconduct by students or staff.
- B. It is the policy of the Board to encourage students who are victims of such physical or verbal misconduct to report such claims. Students or their parents may report such conduct to any Administrator, assistant Administrator, or counselor.

3. Reporting

Any employee who, as a result of personal observation or a report, has reason to believe that a student is a victim of conduct prohibited by this policy, whether the conduct is by another student or by another employee, must notify his or her Administrator or supervisor, or the Superintendent of such observation or report it as soon as possible.

4. Investigation

- A. All reports of physical or verbal misconduct in violation of this policy shall be promptly investigated by the school Administrator or his/her designee.
- B. In assessing the existence of a violation of this policy and the appropriate discipline, the Administrator or designee shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and any prior history of conduct prohibited by this policy on the part of the violator.

5. Sanctions

- A. Any employee found to have engaged in misconduct in which a student is a victim of violence, threats, name calling, bullying, assault, battery, extortion, robbery, vandalism, etc., shall be subject to employee discipline, up to and including termination or discharge, subject to any applicable procedural requirements.
- B. Any student found to have engaged in misconduct in which another student is a victim of violence, threats, name calling, bullying, assault, battery, extortion, robbery, vandalism, etc., shall be subject to discipline, including but not limited to suspension or expulsion, subject to any applicable procedural requirements.

The effective education of our students requires a school environment in which students feel safe and secure. The Board of Education is committed to maintaining an environment conducive to learning in which students are safe from violence, threats, name calling, intimidation and unlawful harassment.

**7.12. PROHIBITING HAZING**

The Board of Education finds that practices known under the term “hazing” are dangerous to the physical and psychological welfare of students, and should be prohibited in connection with all school activities.

**7.12.1. DEFINITION**

Hazing includes, but is not limited to,

- 1. Engaging in any offensive or dangerous physical contact, restraint, abduction, or isolation of a student, or

2. Requiring or encouraging a student to perform any dangerous, painful, offensive, or demeaning physical or verbal act, including the ingestion of any substance, exposure to the elements, deprivation of sleep or rest, or extensive isolation, or
3. Subjecting a student to any dangerous, painful, offensive, or demeaning conduct reasonably likely to create extreme mental distress, as a condition of membership in, or initiation into, any class, team, group, or organization sponsored by, or permitted to operate under, the auspices of, a school of the School District, or for similar or related purposes, *provided*, that such conduct shall not be considered hazing when it is a recognized and integral part of the particular sport or activity.

**7.12.2. PROHIBITION**

Hazing is prohibited in all schools of the School District, whether on or off school property, and whether during or outside school hours.

**7.12.3. ENFORCEMENT AND REPORTING**

School officials, employees, and volunteers

1. Shall not permit or tolerate hazing;
2. Shall intervene to stop hazing that is threatened, found, or reasonably known or suspected to be occurring; and
3. Shall report known or suspected hazing to the school Administrator or the Superintendent.

Any student who believes he or she has been the victim of hazing shall report the matter to the school Administrator or the Superintendent.

**7.12.4. INVESTIGATION**

1. All reports of hazing shall be investigated promptly by the school Administrator or his/her designee. Where violations of criminal law may have occurred, the Administrator, in consultation with the Superintendent or his/her designee, shall report the matter to the appropriate law enforcement agency.
2. Upon completion of the investigation, the Administrator shall submit a written report on the investigation and its results to the Superintendent.

**7.12.5. DISCIPLINE**

1. Students found to have engaged in hazing shall be subject to discipline by school or District authorities according to applicable procedural requirements. Such discipline may include suspension or expulsion.
2. Employees who fail to discharge their duties under this policy, as set forth in paragraph C, shall be subject to discipline according to applicable procedural requirements. Such discipline may include reprimand, suspension, discharge, or termination.

### **7.13. SEXUAL HARASSMENT**

The effective education of our students requires a school environment in which students feel safe and secure. Sexual harassment of students, whether by employees or by other students, impairs the proper atmosphere for education and creates an inequitable climate for learning.

Nationwide survey information indicates that the problem is widespread. A majority of students - both boys and girls - reported that they have experienced some form of sexual harassment in school. Those students reported that their experiences had a variety of negative effects on themselves and their education. Some of the results reported were that students did not want to go to school or did not want to participate in class as much, found it harder to pay attention in class or to study, thought about changing schools, or wondered if they could graduate.

In addition to its negative effect upon education, sexual harassment negatively affects the characters of young people, both the harassers and the victims of harassment. That is particularly so in view of the special vulnerability of students at different stages of their personal development. It is clear that sexual harassment, whether verbal or by other conduct, can create stress and distraction, and upsetting feelings of fear, inferiority, or anger, which are detrimental to the education of young people. Toleration of sexual harassment also sends the wrong message regarding appropriate social conduct. Sexual harassment is inappropriate behavior in school because it is inappropriate behavior in society.

It is also illegal. Title IX of the federal Education Amendments of 1972 provides that schools must provide an educational program that offers equal educational benefits for boys and girls. Decisions of the United States Supreme Court and the United States Department of Education make clear that sexual harassment of student by employees or by other students may violate the law

Sexual harassment is also illegal. Title IX of the federal Education Amendments of 1972 requires that schools must provide an educational program that offers equal educational benefits for boys and girls. Decisions of the United States Supreme Court and the United States Department of Education make clear that sexual harassment of student by employees or by other students may violate the law.

The Board of Education therefore prohibits harassment of any student on the basis of sex and will not tolerate sexual harassment of students by employees or by other students.

The intent of this policy regarding conduct between employees and students is clear and straightforward: No employee of the school district may engage in any conduct of a sexual nature with any student, regardless of the student's age, ability to consent, or actual consent.

The intent of this policy regarding conduct **among** students requires some further discussion. Much of the conduct described in the detailed specification of this policy - including sexually-oriented name-calling, graffiti, teasing, etc. - clearly has no place in school, and would not be welcomed by anyone. Requests for dates or other age-appropriate expressions of interest or affection, however, are not characteristically inappropriate, and can even contribute to the socialization process that is a large part of education. Accordingly, requests for dates and other age-appropriate expressions of interest between students is not sexual harassment unless the student to whom such requests or expressions are directed has indicated that they are unwelcome. When a student has made reasonably clear that he or she does not welcome the requests or attention by the other student, it is sexual harassment for the other student to continue to make such requests or give such attention. In other words, you **do** have to take "No" for an answer.

#### **7.13.1. DEFINITIONS AND STANDARDS OF CONDUCT**

Between an employee and a student, sexual harassment is **any** conduct of a sexual nature. Between students, sexual harassment is **unwelcome** conduct of a sexual nature. Specific definitions follow.

1. Conduct of a Sexual Nature
  - (a) Conduct of a sexual nature may include, but is not limited to:
  - (b) Verbal or physical sexual advances, including subtle pressure for sexual activity;
  - (c) Repeated or persistent requests for dates, meetings, and other social interactions;
  - (d) Sexually-oriented touching, pinching, patting, staring, pulling at clothing or intentionally brushing against another;
  - (e) Showing or giving sexual pictures, photographs, illustrations, messages, or notes;
  - (f) Writing graffiti of a sexual nature on school property;
  - (g) Comments or name calling to or about a student regarding alleged physical or personal characteristics of a sexual nature;

- (h) Sexually oriented “kidding, teasing”, double-entendres, and jokes; and any harassing conduct to which a student is subjected because of or regarding the student’s sex.

2. Standard of Conduct for Employees:

No employee may engage in conduct of a sexual nature with a student at any time or under any circumstances, regardless of whether such conduct takes place on school property or in connection with any school-sponsored activity.

3. Standard of Conduct for Students:

Unwelcome Conduct of a Sexual Nature:

- (a) Verbal or physical conduct of a sexual nature by one student of another may constitute sexual harassment when the allegedly harassed student has indicated, by his or her conduct, that the conduct is unwelcome, or when the conduct, by its nature, is clearly unwelcome or inappropriate.
- (b) A student who has initially welcomed conduct of a sexual nature by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

**7.13.2. REPORTING, INVESTIGATION AND SANCTIONS**

1. Reporting

It is the express policy of the Board to encourage students who feel they have been sexually harassed by a school employee or by another student or students to report such claims.

A. Sexual Harassment by a School Employee:

- (1) Any student who believes he or she has been subjected to any conduct of a sexual nature by a school employee may tell a counselor or Administrator.
- (2) A student who believes they have been sexually harassed by a school employee but feels uncertain about who to tell, or feels uncomfortable telling any counselor or Administrator, should tell his or her parent(s) about the problem and ask for the parent(s) help in reporting the sexual harassment to appropriate school personnel.

- (3) A student who believes they have been sexually harassed by a counselor or a Administrator, or by any other administrator should seek the assistance of his or her parent(s) in reporting such harassment to the Superintendent or to a member of the Board.

B. Sexual Harassment by a Student or Students:

- (1) A student who believes he or she has been sexually harassed by another student or other students may tell a teacher, counselor, or Administrator or assistant Administrator.
- (2) A student who believes he or she has been sexually harassed by another student or students, and who feels uncertain about who to tell, or feels uncomfortable telling any counselor, or Administrator, should tell his or her parent(s) about the problem, and ask for the parent(s) help in reporting the sexual harassment to appropriate school personnel.
- (3) An employee who believes they have been sexually harassed by a student or students shall report such conduct to the immediate supervisor.
- (4) Reporting by Employees Mandatory. Any employee who receives any report of sexual harassment of a student, whether the report is given by a student, a parent, or another employee, must notify his or her immediate supervisor or the Superintendent of such report, regardless of whether the employee receiving the report considers the report credible or significant.

2. Investigation:

All reports of sexual harassment of students will be appropriately and promptly investigated by the Superintendent or designee. In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated.

3. Sanctions:

- (1) Any employee found to have engaged in sexual harassment shall be subject to sanctions including, but not limited to, verbal warning, written reprimand, suspension, discharge, or termination, subject to applicable procedural requirements.
- (2) Any student found to have engaged in sexual harassment of a student or employee shall be subject to discipline, including but not limited to,

suspension or expulsion and subject to applicable procedural requirements.

#### **7.14. DRESS CODE**

Standards for dress and appearance for School District students will be established. These standards will be contained in the elementary and secondary student handbooks.

Student uniforms may be implemented at a school with seventy-five percent (75%) approval from parents of the school and with the approval of the Board of Education.

#### **7.15. COMPLAINTS AND GRIEVANCES**

Every effort shall be made by administrators and faculty members to resolve problems through effective utilization of School District resources in cooperation with the student and parent or guardian.

##### **7.15.1. COMPLAINT PROCEDURE**

In the event that a problem is not resolved, the following complaint procedure will be followed by the student and parent or guardian.

1. Teacher
2. Superintendent

##### **7.15.2. COMPLIANCE WITH TITLE IX**

Complaints and grievances concerning compliance with Title IX and its rules and regulations shall follow the District's Title IX Grievance Procedures found as part of the District's Title IX Policy, in Section IX of these Policies. **[SECTION IX TO THE POLICIES WILL INCLUDE THE DISTRICT'S TITLE IX POLICIES.]**

#### **7.16. GUIDANCE PROGRAM**

A guidance and counseling program will be established in support of the instructional program.

##### **7.16.1. EDUCATIONAL GUIDANCE**

Counselors will provide educational guidance at all levels of the school system. Such guidance to include pre-enrollment advice and course selection, the designing of a four-year course plan for grades 9-12, assistance in establishing effective study habits, and the administration and interpretation of the student testing program.

### **7.16.2. PERSONAL GUIDANCE**

Counselors will provide guidance to students. Such guidance can be solicited by the student or initiated by the counselor, teacher, Administrator, or parent. Discretion will be exercised by the counselor in the utilization of information obtained from a student.

### **7.16.3. VOCATIONAL GUIDANCE**

Counselors will provide vocational guidance to students.

## **7.17. STUDENT WELFARE**

In order for the instructional program to have the desired effects on students, everyone connected with the School District, including the Board, will be concerned with student welfare. This concern will be set forth by tangible means and procedures in order to establish a base from which instruction will occur without the interruption of problems, which are basically of a welfare nature.

### **7.17.1. STUDENT INSURANCE PROGRAMS**

The Board may make student insurance available through school-wide policies under the following conditions:

1. Student accident insurance or health care insurance is available, on an annual group policy basis, with the premium paid by the student. The obligation of the Board ends after the insurance is made available for student purchase.
2. Student accident insurance is available for athletic participation in grades 7 through 12. Athletic participants in grades 7 through 12 must either purchase student accident insurance or provide coverage by another accident policy. The obligation of the Board ends after the insurance is made available for student purchase.

### **7.17.2. STUDENT AID PROGRAMS**

The Board will encourage local business and social organizations to make grants in aid available to deserving students. School personnel will maintain an extensive program of information and education pertaining to the availability of grants and scholarships. Counseling personnel in particular will provide assistance to deserving students in applying for such aid.

### **7.17.3. STUDENT HEALTH SERVICES**

The Superintendent will establish and maintain such student health services as are necessary to ensure the protection of all students from communicable diseases, to detect health

problems that would hinder the teaching and learning process, to detect health problems that would limit the activities of a student, and to establish sound practices for students.

An adequate plan shall be designed to care for the student who is either ill or has been involved in an accident while at school.

If a student health problem exists which cannot be included in the above frame of reference, school personnel will recommend to the parent or guardian that professional services be secured for specialized assistance.

#### **7.17.4. STAFF OBSERVATIONS**

Teachers should be alert at all times for signs of student health problems. When health deviations are detected at any time by the teacher or any other school personnel, they should be noted and reported to the school nurse.

#### **7.17.5. HEALTH EXAMINATIONS**

1. Students engaging in competitive sports must have a physical examination each year prior to the opening of the sports season. School authorities should receive and have on file a copy of each examination report.
2. Athletes who become seriously sick or injured during the sports season may not participate further in school athletics during the season without written permission from a physician.
3. It is recommended that parents have their children receive regular medical and dental examinations.

#### **7.17.6. HEALTH SCREENING TESTS**

##### **7.17.6.1 Vision**

Every student should be screened for vision defects each year, using the Snellen vision testing chart, within the first 8 to 10 weeks of school, if possible. Students suspected of having vision defects should have further testing and follow-up by the nurse.

##### **7.17.6.2 Hearing**

The minimum requirements for audio testing are 1<sup>st</sup>, 3<sup>rd</sup>, and 6<sup>th</sup> grade students, as well as students referred by physicians, school personnel, or parents. Results of tests and professional examinations should be entered in the cumulative health records.

**7.17.7. HOME RESPONSIBILITY**

Parents have the primary responsibility for the health of their children. Services rendered by the school are no substitute for the health care the parents should provide for their children.

**7.17.8. IMMUNIZATIONS REGULATIONS**

It is unlawful for any student to enroll in school unless he/she has been immunized, as required under the rules and regulations of the Health Services Division of the Health and Environment Department, and can provide satisfactory evidence of such immunization. Provided that if he/she produces satisfactory evidence of having begun the process of immunization, he may enroll and attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent to refuse or neglect to have his/her child immunized, as required by Section 24-5-2 NMSA.

The following immunizations are required for all students of public, private or parochial elementary and secondary schools, as well as all those students in early childhood education facilities under the New Mexico Department of Education, and all children in licensed preschool or child care centers, except for those children who have been legally exempted from these immunizations: Diphtheria, Pertussis, Tetanus, Poliomyelitis, Measles and Rubella.

HIB (Haemophilus Influenza Type B) - This only applies for children who are under sixty (60) months, or five (5) years of age. At least one dose after fifteen (15) months of age up to sixty (60) months regardless of the number of doses previously received.

The manner and frequency of the administration of the required immunizations shall be prescribed by schedule issued from time to time by the Director of Health Services Division, Health and Environment Department.

**7.17.8.1. Exemption from Immunization**

- A. A student, through his parent or guardian, may file with the Superintendent a request for exemption from immunization by submitting:
  - 1. a certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or
  - 2. affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or
  - 3. affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

- B. Upon filing and approval of such certificate, affidavits or affirmation, the child is exempt from the legal requirement of immunization for a period not to exceed nine months on the basis of any one certificate, affidavits or affirmation.

**7.17.9. CHRONIC COMMUNICABLE DISEASE**

**POLICY GOVERNING EDUCATION OF STUDENTS**  
**WHO HAVE OR ARE CARRIERS OF COMMUNICABLE DISEASES**

1. The Board recognizes that the health and safety of the students of this District are primary concerns and that it is necessary, in order to protect student health and safety, to adopt a policy governing the manner in which the Board and its administration will protect the health and safety of all students when any current or potential student is infected with a communicable disease. This policy is adopted in order to protect the legitimate interests and rights of students with communicable diseases or who are carriers of communicable diseases, while also protecting the health and safety of the remaining students in the District.

2. No student, otherwise qualified to attend the schools of this District, shall be denied admission, suspended, expelled, segregated, restricted from curricular or extra-curricular activities, have his or her educational program changed nor otherwise be denied the benefits of the educational program as a result of the student being a carrier of or having any communicable disease, unless the procedures specified herein have been followed.

3. For the purposes of this policy, communicable diseases are defined as diseases which can be transmitted from person to person and include, but are not limited to, the following:

Measles  
Acquired Immune Deficiency Syndrome  
(HTLV-III) (AIDS)  
AIDS Related Complex (ARC)  
Hepatitis B Virus  
Chicken Pox  
Whooping Cough  
Diphtheria  
Typhoid Fever  
Rubella  
Salmonella  
Cytomegalovirus  
Herpes Simplex

Communicable diseases may be of short term or long term duration. Short term communicable diseases are those which generally last no more than ten days. Included in that category are chicken pox, whooping cough, and rubella. Long term communicable diseases are those which last longer than ten days.

4. Parents or guardians of students attending or enrolling in the schools of the District have an obligation to disclose, to the appropriate administrator, the fact that the child is a carrier of or is infected with a communicable disease, as soon as the parent or guardian becomes aware of the condition.

5. School attendance and educational decisions regarding students having short term communicable diseases should be handled by the Administrator as advised by the school nurse in conjunction with the school physician.

6. For communicable diseases of short and well known duration, parents or guardians shall absent their children from school during the contagious period. In the event that the parents or guardians refuse to do so, the Administrator shall suspend the child for up to ten (10) days, following the procedures governing short term suspensions of students.

7. Any decision affecting the educational program or attendance of a student who is a carrier of or who has a long-term communicable disease will be based upon competent medical advice and will balance the rights of the infected student against the legitimate interest of the District in protecting the health and safety of the remaining students.

8. The District will not require mandatory testing or screening of students for communicable diseases as a condition precedent to registration or admission to school, either initially or annually. However, if school authorities have reasonable cause to believe that a student has or is a carrier of a communicable disease, such student may be required to submit an appropriate medical examination, at the expense of the District.

9. For communicable diseases of less well-determined duration, parents or guardians may voluntarily choose to absent their children from school, without compliance with the procedures of paragraphs 11 through 16 hereof, for any period during which the child's condition is infectious or communicable, provided that such absence is supported by a statement to that effect prepared by a medical doctor or other competent medical professional. A determination as to whether alternative instruction will be provided in such circumstances will be made on a case-by-case basis, based upon other policies of the Board, the length of the absence, the severity of the condition and other factors considered relevant by school authorities.

10. The number of personnel who are aware of the child's condition shall be kept to the minimum needed to assure proper care of the child and to deal with situations where the potential for transmission may increase (*e.g.*, bleeding injury).

11. Decisions concerning the educational program and placement setting for those students who have or are carriers of long term communicable diseases will be made by a committee composed of the following: (1) the child's physician; (2) the child's parents or legal guardians; (3) the school personnel with whom the child will interact and who are familiar with a child's educational and physical care needs; (4) the superintendent or his or her designee; and (5) any other person, to be appointed to the committee by the superintendent, whose expertise would be useful to the committee in reaching and implementing its decision.

12. In determining the educational program and placement setting for any student who has or is a carrier of a long term communicable disease, the following factors will be evaluated: (1) the nature of the disease; (2) the age of the student; (3) the behavior of the student; (4) the neurologic development of the student; (5) the physical condition of the student; (6) the expected type of interaction which the student will have with other individuals in the proposed placement setting; (7) the degree to which other individuals may be exposed to infectious organisms; (8) the hygienic practices of the student; (9) the risk of transmission of the disease from the student to those individuals with whom he or she will interact; and (10) any other pertinent factor reasonably related to the decision.

13. An unrestricted educational program and placement setting will be the primary goal for any student who has or is a carrier of a long term communicable disease. Restrictions upon a student's educational program and/or placement will be imposed only when the committee determines that the risks of an unrestricted program and placement outweigh the benefits which the student may receive from an unrestricted program.

14. The educational program and/or placement setting established by the committee for any student who has or is a carrier of a long term communicable disease will be reevaluated, and modified if necessary, as often as the circumstances will require, but in no event will the educational program and/or the placement setting continue without reevaluation at least once per school year. Any reevaluation will be done by the committee taking into account those factors listed in paragraph 12.

15. All school personnel and all members of the committee appointed according to the provisions of this policy shall maintain the student's right of confidentiality with respect to the fact that the student has or is a carrier of a long term communicable disease, and with respect to any records, documents, statements, letters or memoranda developed or prepared by the committee; provided, however, that nothing herein shall prohibit or prevent the disclosure of information that may be permitted or required by state or federal law or regulations promulgated thereunder.

16. The parent or guardian of a student who has or is a carrier of a long term communicable disease aggrieved by a program or placement decision made pursuant to this policy may appeal that decision to the Board of Education by requesting a hearing, in writing, within 10 calendar days of the program or placement decision. Such hearing will be held at a time convenient to the parties and shall be held in closed session. The decision of the Board shall be final.

**7.17.10. "DO NOT RESUSCITATE" ORDERS FOR STUDENTS**

1. The Board adopts this policy concerning "Do Not Resuscitate" (DNR) orders, pursuant to Sections 24-7A-1 to 24-7A-18, NMSA, the "Uniform Health Care Decisions, Advanced Health Care Decisions in New Mexico" (Uniform Health Care Decisions Act), and, having consulted with legal counsel, makes the following findings therefore:

- A. Although the schools are not generally health care institutions, they do provide limited health care, and, under certain circumstances, a school nurse or other health-related employee of the School District may be considered a “health care provider” within the meaning of the Uniform Health Care Decision Act;
- B. The Uniform Health Care Decisions Act provides immunity for the health care provider, for a health care institution, or for an individual acting as an agent or surrogate in compliance with the statute, for complying, attempting to comply, or for declining to comply with a health care decision of a patient or his or her agent, or for making a health care decision for another;
- C. A health care provider or health care institution may decline to comply with the advance health care decisions of a patient for reasons of conscience or on the grounds that a health care decision requires “medically ineffective health care or health care contrary to generally accepted health care standards.” NM Statute Annotated § 24-7A-7(F);
- D. Accordingly, there is no requirement in the law that a school or school personnel comply with a DNR order;
- E. In addition, the uncertainties and risks associated with compliance with DNR orders make such compliance inappropriate for the schools:
  - (1) The Uniform Health Care Decisions Act does not address the liability of a school district for potential emotional or physical injuries to other students, or to school employees, by the trauma involved in allowing a student to die in their presence in instances in which it might not be possible to separate the dying student from others;
  - (2) Because the Uniform Health Care Decisions Act does not address what type of injuries or illnesses are applicable to DNR orders, and because problems in the scope of a DNR order may not always be apparent when the order is accepted, school personnel may be faced with grave and uncertain decisions in emergency situations concerning the scope of a DNR order - for example, if a student has sustained an injury unrelated to his or her illness or condition - that school personnel are neither trained nor even willing to make;
    - (a) Individual health care providers, such as a school nurse, could, consistent with the Uniform Health Care Decisions Act, decline to comply with a DNR order, regardless of school policy, thereby raising issues of potential School

District liability for its employee's refusal to follow a pro-DNR policy;

- (b) As the Uniform Health Care Decisions Act requires the health care provider to attempt to contact parents before implementing a decision to withhold life-sustaining treatment, the schools appear to have an interest in protecting the life of the child while this attempt is being made, thereby placing school personnel in the position of having to render aid to a student in a medical emergency while attempting to contact parents, only to cease rendering aid once contact has been made; and
  - (c) Finally, as schools have an obligation under the federal Individuals with Disabilities Act (IDEA) to provide disabled students with a free, appropriate public education, compliance with a DNR order might discriminate against the child based on his or her disability or deny the child the right to a free appropriate public education or other federally-protected rights.
- F. Accordingly, it is the policy of the Board that DNR orders shall not be accepted, honored, or followed by any employee of the School District while such employee is on duty for the School District.
- G. School District employees who are health care providers, as part of their duties and in lieu of compliance with a DNR order, shall:
- (1) Immediately inform a parent or guardian of a student who presents a DNR order on behalf of the student, of their refusal to comply with the DNR order pursuant to this policy;
  - (2) Provide care for the student until transfer of the student can be made; and
  - (3) Unless the student or the student's parent or guardian refuses care, make all reasonable efforts to assist the transfer of the student to another facility that is willing to comply with the health care decisions of the student or the student's parent or guardian.

## **7.18. STUDENT SOCIAL SERVICES**

School personnel will be responsible for working with students and parents in the area of social services. It is expected that most referrals of need will originate with the classroom teacher and be referred to the Administrator, nurse, counselor, and community agency.

## **7.19. SCHOOL BREAKFAST AND LUNCH PROGRAM**

It shall be the policy of the Board to support the nutritional needs of students as promoted through the National School Lunch Program.

1. Information on the availability of an application for free or reduced price breakfast and lunch will be provided to all parents either by letter or announcement through the use of regular news media.
2. The Superintendent's designee shall have responsibility for determining from the application which individual children are eligible for a free or reduced price breakfast and lunch under the established policy criteria of size of family, income, and the number of children in school.
3. If for some reason the parent does not make an application for a free or reduced price breakfast and lunch, the designee has the authority to issue the permit.
4. In addition, the designee may authorize children to be served free or reduced price breakfasts and lunches if, in the opinion of the designee, the child is in need of food because of unusual circumstances or an emergency.
5. The identity of children receiving free or reduced price breakfasts and lunches will be protected by the use of procedures set forth by the United States Department of Agriculture through the Public Education Department, Student Nutrition Bureau.
6. The names of children determined to be eligible for free or reduced price breakfasts and lunches will not be published, posted or announced in any manner to other children and that such children will not be required as a condition for receiving such lunches to:
  - A. use a separate lunchroom;
  - B. go through a separate serving line;
  - C. enter the lunchroom through a separate entrance;
  - D. work for their lunch - children who want to work for their lunch may do so by applying at the Administrator's office;
  - E. use a different medium of exchange in the lunchroom than paying children; or
  - F. eat a different breakfast or lunch than paying children.
7. Adults are not eligible for free meals.

## **7.20. STUDENT ACTIVITIES**

### **7.20.1. ACTIVITIES PARTICIPATION**

#### **7.20.1.1. Eligibility Requirements for Student Activities**

House Municipal Schools strives to provide both co-curricular and extra-curricular activity programs that appeal to all students. The school attempts to provide a diversified and balanced program of activities including not only school-sponsored interscholastic athletic programs but also programs in student government, class organizations, class activities, social activities, etc. Efforts shall be made to encourage participation by students in as many activities as appropriate within the framework of their academic program. Students participating in any activity that is under the jurisdiction of the New Mexico Activities Association must meet the eligibility criteria as a minimal standard for participation.

A student shall not be failing in any class and maintain a 2.5 grade point average or better for the immediate previous six-week grading period, including the last six-week grading period of grade eight (8).

A student shall be enrolled in at least four (4) academic classes as part of their full-time enrollment schedule.

All class work counted for eligibility must be acceptable for graduation.

The grade point average is based on a 4.0 scale with an allowance for consideration of honors points.

No student shall be absent from school for school-sponsored interscholastic extracurricular activities in excess of fifteen days per semester, and no class may be missed in excess of fifteen times per semester.”

The student and the parents/guardians shall be notified of ineligibility in a manner such that confidentiality is maintained.

Students whose behavior presents a problem or jeopardizes school discipline may be ineligible for participation in any school-sponsored activities, both co-curricular and extra-curricular activities, until such time as their behavior warrants reinstatement.

A physical form and medical insurance are required for students wishing to participate in athletics or sports activities. Those students also will be required to comply with all rules as established by the coach, sponsor and/or school administration.

Students shall be in school on the day of a contest/activity or the last school day in the school week preceding any school-sponsored activity. Exceptions to this requirement will be considered only for severely extenuating circumstances in conference with the parent, activity sponsor/coach and Superintendent or designee.

- NOTE: Eligibility for participation in the fall 2008 programs will be based on the new 2008-2009 requirements beginning with the last six-week grading period of the 2007-2008 school year. This means that the requirements for eligibility for the last six-week grading period of this school year will be a 2.5 GPA with failing grades.

#### **7.20.1.2. Extra-curricular Activities**

Extracurricular activities are school sponsored activities which are not required by law or educational standards for New Mexico schools which require time either during or outside of the regular school day for practice meetings, events, performances or interscholastic competition.

#### **7.20.1.3. Co-curricular Activities**

Co-curricular activities are activities that are an extension of classroom instruction which are required by law, Education Standards for New Mexico Schools, or local Board policy which require no more than five (5) hours per week or twenty (20) hours per month of time for a student outside of the regularly scheduled instructional day for practice, meeting, events or performances. Co-curricular activities do not require students to be absent from class other than the sponsoring class for practice, meetings, events or performances. GPA and attendance requirements of the Public School Code do not apply to co-curricular activities. Performance such as band, orchestra or choir concerts, club meetings, art shows or field trips that are rated, ranked or competitive will be classified as extracurricular.

#### **7.20.2. OUT-OF-STATE TRIPS**

1. All requests for school-sponsored, out-of-state trips for students must be submitted by the building Administrator to the Superintendent or his/her designee for approval. All out-of-state trips must also be approved by the Board of Education.
2. All locally approved out-of-state trips over three hundred (300) miles from the nearest border of New Mexico will be submitted to the New Mexico Activities Association for approval thirty (30) days prior to the anticipated departure date. The New Mexico Activities Association limits the number of such trips to one per academic year for each sport or activity.

#### **7.20.3. ACTIVITIES FEES**

The Superintendent will design a program of finance to adequately support the student activity program. Such support may be partially provided for in the annual operational budget and the remainder will be provided by the students.

**7.20.4. ACTIVITIES FUNDS MANAGEMENT**

1. Student activity funds and auxiliary funds shall include student activity, cafeteria and any other internal fund or account that receives and disburses money under the supervision of any school official or employee.
2. School activities are those activities that are financed in whole or in part by the operation of the school activity program and have their money accounted for in the individual school. They may be of a classroom or extra-classroom nature and may include student clubs, organizations, student publications, sale of merchandise, or other class activities.
3. Regardless of the methods used to finance school activities, the Board of Education is ultimately responsible for the funds; even though the operation of these funds may be delegated to various school employees.
4. The Board of Education shall require that accurate records be kept of all monies collected and disbursed in accordance with Section 22-8-37 NMSA, 1978 Compilation. All such funds shall be subject to audit at the discretion of the Board, the administration and/or state agencies.
5. All schools should deposit funds in the business office the day funds are received. Money received and receipted shall be deposited in the bank in a timely manner as soon as practical.

**7.21. STUDENT ASSOCIATION**

Participation and membership in activities shall be governed by principles and policies that encourage wide participation. The activities program shall provide a means for increasing student leadership abilities, encouraging special student interests and skills, and providing opportunities for giving students a voice in school affairs.

**7.21.1.**

**See Section 7.5.12, Secondary Student Expression and Association**

**7.21.2. STUDENT GOVERNMENT**

Each secondary school will organize a student council. The Superintendent or his/her designee will design an effective program of student government around the student council concept.

### **7.21.3. CLASS SPONSORS**

All student class sponsors must be certified employees approved by the school Administrator.

### **7.22. STUDENT SOCIAL EVENTS**

The Superintendent will establish rules and regulations to effectively govern student social activities with the following limitations:

1. Social activities at the elementary schools will be held to a minimum and will involve seasonal class parties, school performances and inter-school activities.
2. All social events will be held in school facilities unless off campus facilities are approved by the Administrator.
3. All social events will be adequately supervised by school personnel.

### **7.23. STUDENT PERFORMANCES**

Public performances of the activity groups are to be supervised by the school in order to provide for the proper expenditure of time and effort by students. Such performances may not be held for purposes which contribute to private gain or advantage.

Bands and other music groups are not to be used for commercial, political, or controversial functions.

#### **7.23.1. PERFORMANCES FOR STUDENTS**

Each school unit will provide educational experiences outside the classroom through the use of student assemblies. Programs for such assemblies may draw from the community; however, community individuals, groups, or organizations must have the permission of the Administrator before presenting an assembly to a school unit.

### **7.24. STUDENT SERVICES**

The Board encourages students to volunteer for service to the School System or the community. School personnel will encourage students in such endeavors and establish effective guidelines for student volunteer service.

#### **7.24.1. SCHOOL SERVICE**

Student volunteer service may be utilized where possible in the School System, but particularly at the secondary level in office practice, lab assistants, tutors, and teacher aides.

### **7.24.2. PUBLIC SERVICE**

Student volunteer service to the public will not infringe on class time and will comply with all school rules and regulations.

### **7.24.3. SOLICITATIONS**

Solicitations of any type are discouraged by the Board. However, there will be occasions when solicitations for a specific cause can be justified.

#### **7.24.3.1. Sale or Use of Student Lists for Direct Marketing**

No person shall be allowed to use, sell or distribute student lists from the School District for the purpose of marketing goods or services by phone or mail. It is also prohibited to use such lists to obtain access to families for the purpose of solicitation. The provisions of this policy do not apply:

1. to legitimate educational purposes, which are determined by rules and regulations developed by the Public Education Department; or
2. when a parent of a student authorizes the release of the student's personal identifying information in writing to the school Administrator.

Student directories containing names, addresses, telephone numbers, social security numbers and other similar identifying information may only be used for legitimate educational purposes if approved by the Superintendent or his designee.

Any person receiving a solicitation may bring an action against a person who violates this New Mexico law and policy. If a person has been found to be in violation, they shall be required to pay actual monetary damages or the sum of five hundred dollars (\$500), whichever is greater, and reasonable attorney's fees to the person receiving the solicitation. (Section 22-21-2 NMSA 1978).

Individuals desiring to use student lists for legitimate educational purposes are to submit their request in writing to the Superintendent of Schools. Requests for directory use are to specify the classification of directory requested and the purpose for which it will be utilized.

#### **7.24.3.2. Solicitation of Students**

No organization may solicit funds from students without the approval of the Superintendent.

Distribution of materials not approved by the Superintendent or his designee is not permissible.

### **7.24.3.3. Solicitations by Students**

Students are not to solicit funds, goods, or materials in the name of the School System unless specifically approved to do so on a project basis by the Superintendent or his/her designee. A statement signifying that students are duly representing a school of the District signed by the Administrator shall be required of any student soliciting funds on behalf of the School District.

### **7.24.4. GIFTS**

The Board discourages the giving of gifts under any circumstances in connection with the School System. However, there will be occasions when gift giving under controlled circumstances can be justified. The Superintendent will outline directions for school personnel in the area of gifts.

#### **7.24.4.1. Student Gifts to School**

Students giving a gift to an individual school is acceptable. Students should be taught proper procedures for performing a generous act. They should never be coerced into giving a donation.

#### **7.24.4.2. Gifts to Students**

School personnel may give token gifts to students. Such gifts should be presented with no conditions attached and, if given during the school day, should be given to every student in a given room.

### **7.24.5. CONTESTS FOR STUDENTS**

The Board discourages the participation of students in contests sponsored by outside groups. However, the Superintendent will establish directions for school personnel to follow in participating in contests, which are of an educational value, such as Americanism essays, spelling bees and scholarship projects.

### **7.24.6. AWARDS AND SCHOLARSHIPS**

Students selected by reputable organizations to receive awards and scholarships are a positive reflection upon the School System. School personnel will provide every opportunity for deserving students to receive recognition for achievement. Such awards and scholarships should not jeopardize a student's standing with the New Mexico Activities Association or his standing as an amateur.

#### **7.24.7. STUDENT-COMMUNITY RELATIONS**

It is the aim of the School District to have students display a high standard of morals, conduct, dress, attitudes, courtesy and friendliness. Our schools are judged on the basis of any or all of these characteristics as found, or not found, in each student at all times.

Conduct of students is the joint responsibility of the student, home, school and community. All must work together to see that students respect authority and to observe high standards of personal conduct.

#### **7.24.8. STAFF-STUDENT RELATIONS**

It is our aim to teach students to become increasingly self-directive because self-direction is the best preparation for social life. Self-discipline is the goal toward which we constantly strive. The student will become increasingly self-directive if positive effort is taken on the part of his/her teachers to guide him/her. This may not occur unless the teacher realizes his/her responsibility as a sympathetic guidance to grow in self-direction and yet not stifle the student's sense of responsibility for making decisions about his/her behavior.

Growth and development of self-discipline are slow processes and should not be hurried. At no time should students be given so much freedom that they lose control of their behavior. School attendance is required by law, but the privilege of attending school carries with it the responsibility of being a good citizen.

#### **7.24.9. ANOMALOUS STUDENTS**

NOTE: This section includes students for whom special policy dispensations may have to be made. Where practical and possible, the Board will provide special programs or make exceptions in existing programs in order to meet the needs of students in unusual circumstances.

##### **7.24.9.1. Exceptional Students**

Students who meet the State defined categories for exceptional children are eligible for Special Education programs.

Educational programs for exceptional children shall be established in a local public school system. Joint programs may be established between systems upon the mutual approval of the local Boards affected.

##### **7.24.9.2. Special Education**

School Districts are required to provide special education sufficient to meet the needs of all exceptional children as provided by statute (Section 22-13-5 NMSA, 1978). All Special Education programs shall be provided in accordance with Standards for Special Education.

1. “Special Education means the provision of services additional to, supplementary with, or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials and equipment to meet the needs of exceptional children” (Section 22-13-6a NMSA, 1978).
2. “Exceptional Children means the children whose abilities render regular public school services inconsistent with their education needs” (Section 22-13-6B NMSA, 1978).

#### **7.24.9.3. Drop-Outs**

School personnel will make every attempt to keep a student from dropping out of school.

The Administrator will maintain a record of drop outs including the cause for leaving school and what efforts were put forth to keep him/her in school.

The instructional program will be constantly evaluated to determine whether the needs of potential dropouts are being met.

#### **7.24.9.4. Post-Secondary**

Refer to Section 7.4.7 - NON ACCREDITED SCHOOL STUDENTS.

#### **7.24.9.5. Community Education**

Where practical and possible, instructional programs may be offered for community education.

#### **7.24.10. STUDENT RECORDS**

For the purpose of this policy, the School District uses the following definitions of terms.

Student: Any person who is enrolled and attends or has attended a school in the School District.

Eligible Student: A student or a former student who has reached age 18 or is attending a postsecondary school.

Parent: Either natural parent of a student, a guardian, or an individual authorized to act as a parent or guardian in the absence of the student’s parent or guardian.

School Official: A person employed by the School District as an administrator, supervisor, instructor, or support staff member, including health or medical staff; a person elected to the School Board; a person employed by or under contract to the School District to

perform a special task, such as an attorney, auditor, medical consultant, or therapist; a person who is employed by the School District for law enforcement purposes.

Legitimate Educational Interest: An interest is deemed legitimate if the school official is performing a task that is specified in his or her position description or by contractual agreement in connection with the operation, maintenance, management, or programs and functions of the School District, performing a task related to the student's education; performing a task related to the discipline of a student; providing a service or benefit relating to the student or student's family, such as healthcare, counseling, job placement, or financial aid; maintaining the safety and security of the campus.

Education Records: Any record (in handwriting, print, tapes, film, or other medium) maintained by the School District, or an agent of the School District, which contains information directly related to a student except:

1. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records created and maintained by the District Law Enforcement Unit for law enforcement purposes.
3. An employment record that relates exclusively to an individual in his or her capacity as an employee of the School District and which is not available for other use.
4. Alumni records which contain information about a student after he or she is no longer in attendance at the School District and do not relate to the person as a student.

#### **7.24.10.1. Maintenance of Records**

The School District shall maintain a cumulative record folder for each student attending its schools. The cumulative record folder shall contain all the education records identified in the definition above and not include any record that qualifies as an exception to the definition.

The following types of files shall be considered education records and shall be included in the cumulative file:

1. Identification information, including name, sex, race, birthplace, and birth date;
2. Family data;
3. Medical health records and emergency medical information;
4. Attendance records;

5. Academic or scholastic records;
6. Standardized test scores;
7. Records of educational or vocational plans;
8. Records of interests, activities and honors.
9. Teacher evaluations, if shared with anyone else;
10. Counselor evaluations, if shared with anyone else;
11. Information pertaining to special services provided for students; and
12. Records of incidents of unsatisfactory behavior or imposition of discipline.

Records that may be purged shall be removed from the record and properly disposed of unless a request for a review by a parent or student is pending. At a minimum, the student's record shall be reviewed for records to be purged when the student has completed elementary school, middle school, and high school. Records, which may be purged, include those previously designated as such.

#### **7.24.10.2. Transcripts**

Permanent student records shall include a transcript of high school credits. All high school transcripts shall include credits required for graduation, credits earned, rank, number of students in graduating class, and graduation date. Additionally, the transcripts will show whether the student earned a diploma or certificate and performance on the New Mexico High School Competency Examination.

#### **7.24.10.3. Use and Inspection of Education Records**

The school must make every effort to keep student records confidential and out of the hands of those who might use them for other than legitimate purposes. Information of a highly confidential and personal nature about students that counselors, teachers, and other school personnel acquire must be respected as confidential. School personnel will regard parents and guardians as having every right to access information in their student's file, if the student is less than eighteen (18) years of age.

1. The contents of the official folder of a student should not be sent outside the Office of the Registrar or other records office except in circumstances specifically authorized by the Administrator or the custodian of the other records.
2. Either parent, although divorced or separated, is allowed access to the educational records of their child unless specified by court order.

3. An administrator is authorized to require proper identification of any parent or guardian, or any individual requesting records for release or review.
4. Parents or eligible students who wish to inspect and review student records shall submit a request in writing to the Administrator of the student's school which identifies as precisely as possible the record or records he or she wishes to inspect. When he receives a written request for review of the records from a parent or a student who has a right to inspect the records, the Administrator shall schedule the review. The appointment date should be as early as possible, but never later than forty-five (45) days after the request was made.
5. The inspection and review shall be made in the office of the Administrator or at another place designated by him. A school official competent in interpreting student records shall be present to explain the implications of the records that are examined. After inspection, the parent or eligible student may request copies of the records inspected. Parents or eligible students who live further than fifty (50) miles from the place where the records are kept may request copies of the records without first inspecting them at the District's designated place. In such a case, the District will copy the records at the requestor's expense and mail the records by registered mail, return receipt requested.
6. When a record contains information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the portion of the record that pertains to other students. At the discretion of school officials, the names of the students may be excised or deleted from the record in order to permit inspection.
7. Any other request for transcripts, grade reports, or other information requested by a third party must be accompanied by written approval from the parent or guardian unless the student is eighteen (18) years of age. If the student is eighteen (18) years of age, written approval from the student must be presented by the third party before records will be released.
8. Any third party reviewing or obtaining records must complete a form, which specifies the purpose for which the information will be used, what information was reviewed or obtained, and the signature of the third party. The completed form must then be placed into the student's cumulative record.
9. The School District reserves the right to deny a parent or eligible student a copy of the student's education records in the following circumstances, unless failure to provide a copy would effectively prevent the parent or eligible student the right to inspect and review education records:
  - A. The parent or student has an unpaid financial obligation to the School District.

- B. The education record requested is an exam or set of standardized test questions, covered by the publisher's restriction or copyright.
- 10. The fee for copies requested of education records shall not exceed \$0.25 per page, which includes copy time and postage.

**7.24.10.3.1. Disclosure of Education Records**

The School District will disclose information from a student's education records only with the written consent of the parent or eligible student, except that the School District may disclose or permit inspection or disclosure, without consent when disclosure is for the reasons enumerated below:

- 1. To school officials who have a legitimate educational interest in the records, including for purposes related to financial aid.
- 2. To officials of another school, upon request, in which a student seeks or intends to enroll. In such a case, the parent or eligible student shall receive notice of the request.
- 3. To certain officials of the U.S. Department of Education, the Comptroller General, the State and local education authorities, in connection with an audit or an evaluation of certain State or federally supported education programs.
- 4. In connection with a student's request for or receipt of financial aid to determine the eligibility, amount, or conditions of the financial aid, or to enforce the conditions of the aid.
- 5. To State and local officials or authorities if specifically required by State law adopted before November 19, 1974.
- 6. To organizations conducting education related studies for or on behalf of the School District.
- 7. To accrediting organizations to carry out their functions.
- 8. To parents of an eligible student if the student is a dependent for tax purposes.
- 9. To comply with a judicial order or a lawfully issued subpoena. In such a case, school officials shall make reasonable efforts to notify the parent or eligible student to permit them to challenge disclosure if desired.
- 10. To appropriate parties in a health or safety emergency, or in connection with any investigation of child abuse or neglect if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

11. State and local authorities, within a juvenile justice system, pursuant to specific State law.
12. The disclosure is to an alleged victim of any crime of violence, as that term is defined in Section 16 of Title 18, United States Code, of the results of any disciplinary proceeding conducted by an institution of post secondary education against the alleged perpetrator of that crime with respect to that crime.
13. To individuals requesting directory information as designated by the School District.

The School District will maintain a record of all requests for and/or disclosure of information from a student's education records. The record shall be kept in each student's cumulative file and shall indicate the name of the party making the request, any additional information to whom the information may be redisclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the parent or eligible student.

The School District may disclose personally identifiable information from an educational record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

**7.24.10.3.2. Special Education Access Right**

1. Policy manuals are located in each administrative unit and are available for review.
2. Parents have the right to inspect and review any education records relating to their children which are collected, maintained, or used by the School District. The agency will comply with the request to review before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child.

The right to inspect and review education records under this section includes:

- A. The right to a response from the School District to reasonable requests for explanations and interpretations of the records; the right to request that the School District provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- B. The right to have a representative of the parent inspect and review the records.

The School District may presume that the parent has authority to inspect and review records relating to his/her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

**7.24.10.3.3. Notification of Rights Under FERPA**

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over eighteen (18) years of age (“eligible students”) certain rights with respect to the student’s education records. They are:

1. The right to inspect and review the student’s education records within forty-five (45) days of the day the School District receives a request for access. Parents or eligible students should submit to the school Administrator a written request that identifies the record(s) they wish to inspect. The Administrator will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.
2. The right to request the amendment of the student’s education records, that the parent, or eligible student believes are inaccurate or misleading. Parents or eligible students may ask the School District to amend a record that they believe is inaccurate or misleading. They should write the school Administrator, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the School District decides not to amend the record as requested by the parent or eligible student, the School District will notify the parent or eligible student of the decision and advise them to their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.
3. The right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the School District has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, (such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks). A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

4. Copies of the complete FERPA policy adopted by the School District may be obtained from the Student Personnel office or from the Administrator's office of each school in the School District.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School District to comply with the requirements of FERPA. The office that administers FERPA is:

Family Policy Compliance Office U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-4605

In compliance with 34 C.F.R. Section 99.7 of the regulations adopted pursuant to the Federal Educational Rights and Privacy Act, parents shall be notified of their rights under such statute by:

- A. Annual publication in student handbook; or
- B. Letter sent via U.S. Mail at the beginning of the academic year.

**7.24.10.3.4. Disclosure of Directory Information**

1. The School District classifies the following as directory information:
  - A. Student's name;
  - B. Parent's name;
  - C. Address;
  - D. Telephone listing;
  - E. Electronic mail address;
  - F. Date and place of birth;
  - G. Grade level;
  - H. Participation in officially recognized activities and sports;
  - I. Weight and height of members of athletic teams;
  - J. Dates of attendance (Dates of attendance shall be construed to mean periods of time such as certain academic year, semester, or quarter. The term does not include specific daily records or attendance.);

- K. Diplomas and awards received;
- L. Student's photograph; and
- M. Most recent previous school attended by the student.

School officials may release this information to any person without the consent of the parents or the student. Any parent or eligible student who objects to the release of any or all of this information without his consent must notify, in writing, the Administrator of the school where the records are kept. The objection must state what information the parent or student does not want to be classified as directory information. If no objection is received, information designated above will be classified as directory information until the beginning of the next school year.

- 2. Extreme caution is applied when any information is released in response to telephone inquiries. Urgent request for student information, *i.e.*, immediate whereabouts, based upon an apparent emergency, will be determined by the school Administrator.
- 3. Prior consent is not required for the School District to disclose student information to comply with a judicial order or lawfully issued subpoena. However, the School District must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance.

#### **7.24.10.4. Digital Data, Photo, and Publishing**

The School District will make every effort to protect the personal and intellectual property rights of their students. Additionally, the School District will attempt to protect students from unwanted identification and communications.

Students' digital or non-digital data, work, name or photo, will not be published on any School District-controlled web site without the express written permission of the student and their parent/guardian. A student's name and photo will never be published together at any time on any School District-controlled web site, where persons outside the School District could identify a student.

All student work that is published will be given appropriate references and credit, where due and when possible. Ultimately, the ownership of all work is retained by the student, but copyrighted publishing rights will be extended to the School District for their use, free from any fees, for as long as they maintain the information on School District property/servers.

#### **7.24.10.5. *Military Access to Students***

- 1. The School District's Board of Education adopts this policy in compliance with the No Child Left Behind Act.

2. The high school(s) are required to disclose the names, addresses, and telephone numbers of high school students upon request by military recruiters and institutions of higher learning, unless individual students or their parents request that the information not be released without prior written consent. The high school(s) will inform students and parents that they may request that such student information not be released without prior written consent. The high school(s) will request parents/students (grades 9-12) to complete a form indicating whether they grant permission for the release of the student's information to military recruiters, prospective employers and post-secondary institutions.
3. School Administrators are prohibited from excluding military recruiters from high school campus(es) if they do not similarly exclude prospective employers or post-secondary institutions from recruiting students.

**7.24.11. STUDENT FEES, FINES AND CHARGES**

1. Students shall be assessed the cost for lost or damaged items, such as textbooks, laboratory equipment, small tools and appliances, etc.
2. Material fees will not be assessed for required courses.
3. Students who enroll in elective courses, which produce student projects as a part of the requirements of the course, will be assessed the cost of materials utilized to produce the project. The project will become the property of the student upon completion.
4. Students who enroll in elective courses which utilize consumable supplies and materials may be assessed a reasonable fee for such supplies and materials.
5. The Board does not intend for the policy to hamper, impede, or deprive any student in the pursuit of a sufficient public school education.
6. The Superintendent will formulate and administer fair and equitable rules and regulations for the collection of student fees, fines, and charges. Such rules and regulations will not unduly penalize a student for late or nonpayment of such charges and assessments.
7. The parent, guardian, or student may be held responsible for the loss, damage, or destruction of instructional material while the instructional material is in the possession of the student. The School District may withhold the grades, diploma and transcripts of the student responsible for damage or loss of instructional material until the parent, guardian or student has paid for the damage or loss. (Section 22-15-10 NMSA, 1978) rule applies to instructional materials or textbooks.

8. The Superintendent will formulate and administer rules and regulations which will make it possible for charges and assessments to be waived in those instances where a student or his/her parents are not financially able to pay.
9. The Superintendent will keep the Board informed concerning the assessment of fees, fines, and charges.

**7.25. PROTECTION OF PUPIL RIGHTS AMENDMENT (PPRA)**

The Protection of Pupil Rights Amendment (PPRA) affords parents certain rights regarding the District's conduct of surveys, collection and use of information for marketing purposes and certain physical examinations. The Board of Education adopts this policy, which was developed in conjunction with parent input, to comply with the provisions of PPRA.

- A. Parents have the right to inspect, upon written request, any survey created by a third party before the survey is administered or distributed by a school to students and any procedures for granting the request in a timely manner.
- B. The District must obtain prior written parental consent before minor students are required to participate in any U.S. Department of Education funded survey, analysis, or evaluation that reveals information concerning the following items:
  1. political affiliations or beliefs of the student or the student's parent;
  2. mental and psychological problems of the student or the student's family;
  3. sex behavior or attitudes;
  4. illegal, anti-social, self-incriminating, or demeaning behavior;
  5. critical appraisals of other individuals with whom respondents have close family relationships;
  6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
  7. religious practices, affiliations, or beliefs of the student or student's parent; or
  8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

If the survey, analysis, or evaluation is not funded by the U.S. Department of Education, parents have a right to inspect, upon written request to the Administrator, the instrument. Parents also have the right to opt their child out

from participation by submitting a written request to the Administrator, of such survey, analysis or evaluation funded by sources other than the U.S. Department of Education.

- C. Parents have the right to inspect, upon written request to the Superintendent's Office, any instructional material used as part of the educational curriculum for students.
1. Instructional material is defined as "instructional material that is provided to a student, regardless of format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet)."
  2. The term does not include academic tests or academic assessments.
- D. The District shall provide information to parents about the administration of physical examinations or screenings that the schools may administer to students. Parents have the opportunity to opt their child out from participating in any non-emergency, invasive physical examination or screening that is (1) required as a condition of attendance; (2) administered by the school scheduled by the school in advance; and (3) not necessary to protect the immediate health and safety of the student, or of other students. Parents may opt their child out of such physical examinations or screenings by proving a written request to the Administrator of the school.
- PPRA does not apply to any physical examination or screening that is permitted or required by State law, including examinations or screenings permitted under State law without parental notification.
  - "Invasive Physical Examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.
- E. Unless the District first receives parental permission, it will not engage in the collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling, or otherwise providing the information to others for that purpose.
- F. Parents have the right to inspect, upon request, any instrument used in the collection of information from students for the purpose of marketing or selling, or otherwise providing the information to others for that purpose. Additionally, Section 22-21-2 NMSA 1978 prohibits the sale or use of student, faculty or staff lists with personal identifying information obtained from a public school or a local school district for the purpose of marketing goods or services directly to

students, faculty or staff or their families by means of telephone or mail. The provisions of Section 22-21-2 NMSA 1978 do not apply to:

1. To legitimate educational purposes, which are determined by rules and regulations developed by the Public Education Department; or
2. When a parent of student authorizes the release of the student's personal identifying information in writing to the school or District. For the purposes of Section 22-21-2 NMSA 1978, "personal identifying information" means the names, addresses, telephone numbers, social security numbers and other similar identifying information about students maintained by a public school or local school district.

The requirements concerning activities involving the collection and disclosure of personal information from students for marketing purposes do not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following:

1. College or other post-secondary education recruitment, or military recruitment.
  2. Book clubs, magazines, and programs providing access to low-cost literacy products.
  3. Curriculum and instructional materials used by elementary schools and secondary schools.
  4. Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude or achievement information about students.
  5. The sale by students of products or services to raise funds for school-related or education-related activities.
  6. Student recognition programs.
- G. Schools will directly notify parents of the District's PPRA policies at least annually, at the beginning of the school year. Schools will also notify parents within a reasonable period of time if any substantive change is made to these policies.
- H. The District offers parents an opportunity to opt their child out of participation in the following activities:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information, or otherwise providing that information to others for that purpose.
  - “Personal Information” means individually identifiable information including: 1) a student or parent’s first and last name; 2) home address; 3) telephone number; or 4) social security number.
2. The administration of any third part (non-Department of Education funded) survey containing one or more of the above described eight items of information.
3. Any non-emergency, invasive physical examination or screening that is:
  - 1) required as a condition of attendance;
  - 2) administered by the school and scheduled by the school in advance and not necessary to protect the immediate health and safety of the student, or of other students.
  - PPRA does not apply to any physical examination or screening that is permitted or required by State law, including examinations or screenings permitted under State law without parental notification.
  - “Invasive Physical Examination” means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

Requests for opting students out of the above activities must be submitted in writing the Administrator.

- I. Each school of the District must indicate specific or approximate dates during the school year when these activities are scheduled.
- J. Parents or students who believe their rights under PPRA may have been violated may file a complaint with the U.S. Department of Education by writing the Family Policy Compliance Office. Complaints must contain specific allegations of fact giving reasonable cause to believe that a violation of PPRA occurred.

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C 20202-5901

Parents or students who believe their rights under PPRA may have been violated are urged to contact the Superintendent's Office for assistance before filing a complaint with the U.S. Department of Education.

- K. Surveys that may be used with students to elicit the type of information protected by PPRA include the Youth Risk Behavior Survey and the Search Institute Profiles of Student Life: Attitudes and Behaviors or other similar instruments. Because these surveys are not funded through programs administered by the U.S. Department of Education, parental consent is not required. However, parents will be provided with notice of when the survey will be administered and an opportunity to inspect the survey and/or opt their child out of the survey prior to the administration of the survey.

**7.25.1. NOTIFICATION OF RIGHTS UNDER THE PROTECTION OF PUPIL RIGHTS AMENDMENT (PPRA)**

The following notice shall be used to provide parents with notice of rights under the Protection of Pupil Rights Amendment.

**Dear Parents:**

The Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h and its accompanying regulations 34 CFR Part 98, afford parents certain rights regarding the District's conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include the right to:

- 1) Consent before students are required to submit to a survey that concerns one or more of the following protected areas ("protected information survey"), but only if the survey is funded in whole or in part by a program of the U.S. Department of Education.
  - Political affiliations or beliefs of the student or student's parent;
  - Mental or psychological problems of the student or student's family;
  - Sex behavior or attitudes;
  - Illegal, anti-social, self-incriminating, or demeaning behavior;
  - Critical appraisals of others with whom respondents have close family relationships;
  - Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
  - Religious practices, affiliations, or beliefs of the student or parents; or

- Income, other than as required by law to determine program eligibility.
- 2) Receive notice and an opportunity to opt a student out of:
- Any other protected information survey, regardless of funding;
  - Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
  - Activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.
- 3) Inspect, upon request and before administration or use:
- Protected information surveys of students;
  - Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
  - Instructional material used as part of the educational curriculum.

These rights transfer to from the parents to a student who is eighteen (18) years old or an emancipated minor under State law.

In consultation with parents, the School District has developed and adopted policies regarding these rights, as well as procedures to protect student privacy in the administration of protected information surveys and the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. The School District will directly notify parents of these policies at least annually at the start of each school year and after any substantive changes. The School District will also directly notify parents of students who are scheduled to participate in the specific activities or surveys covered by PPRA, through the U.S. mail or e-mail. The school will also provide an opportunity for parents to opt their children out of participation of the specific activity or survey.

If the schools have identified the specific or approximate dates of the activities or surveys at the beginning of the school year, the School District will provide notice to parents at that time. For surveys and activities scheduled after the school year starts, parents will be provided reasonable notification of the planned activities and surveys and be provided an opportunity to opt their child out of such activities and surveys. Parents will also be provided an opportunity to review any pertinent surveys.

The following is a list of the specific activities and surveys covered under this notification requirement:

- Collection, disclosure, or use of personal information for marketing, sales or other distribution.
- Administration of any protected information survey not funded in whole or in part by ED.
- Any non-emergency, invasive physical examination or screening as described above.

Parents who believe their rights have been violated may file a complaint with:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C 20202-5901

Questions regarding the Protection of Pupil Rights Amendment (PPRA) requirements may be addressed to:

SUPERINTENDENT OF SCHOOLS  
PO Box 673  
HOUSE, NM 88121  
575 279 7353

First Reading	19 November 2007
Second Reading	17 December 2007
Adopted	17 December 2007
Revised	13 June 2011
Revised	19 August 2013
Revised	21 April 2014