

# DRAFT UPDATE

## General Personnel

### Compliance with the Fair Labor Standards Act

#### Job Classifications

The Superintendent will ensure that all job positions are identified as either "exempt" or "non-exempt" according to State law and the Fair Labor Standards Act (FLSA) and that employees are informed whether they are "exempt" or "non-exempt." "Exempt" and "non-exempt" employee categories may include certificated and non-certificated job positions. All non-exempt employees, whether paid on a salary or hourly basis, are covered by minimum wage and overtime provisions.

#### Workweek and Compensation

The workweek for District employees will be 12:00 a.m. Sunday until 11:59 p.m. Saturday. Non-exempt employees will be compensated for all hours worked in a workweek including overtime. For non-exempt employees paid a salary, the salary is paid for a 40-hour workweek even if an employee is scheduled for less than 40 hours. "Overtime" is time worked in excess of 40 hours in a single workweek.

**Commented [AP1]:** CAUTION: Please review policy language to assure the workweek listed aligns with District practice and all Collective Bargaining Agreements. If necessary, please include edits with your Response Form.

Issue 84, February 2014

#### Overtime

The School Board discourages overtime work by non-exempt employees. A non-exempt employee shall not work overtime without his or her supervisor's express approval. All supervisors of non-exempt employees shall: (1) monitor overtime use on a weekly basis and report such use to the business office, (2) seek the Superintendent or designee's written pre-approval for any long term or repeated use of overtime that can be reasonably anticipated, (3) ensure that overtime provisions of this policy and the FLSA are followed, and (4) ensure that employees are compensated for any overtime worked. Accurate and complete time sheets of actual hours worked during the workweek shall be signed by each employee and submitted to the business office. The business office will review work records of employees on a regular basis, make an assessment of overtime use, and provide the assessment to the Superintendent. In lieu of overtime compensation, non-exempt employees may receive compensatory time-off, according to Board policy 5:310, *Compensatory Time-Off*.

**Commented [AP2]:** This deletion is not intended to encourage overtime. Rather, it is made to align with the realities that districts budget for overtime and that overtime is frequently less expensive than hiring a contractor or a new employee.

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#### Suspension Without Pay

No exempt employee shall have his or her salary docked, such as by an unpaid suspension, if the deduction would cause a loss of the exempt status. ~~Certificated-Licensed~~ employees may be suspended without pay in accordance with Board policy 5:240, *Professional Personnel - Suspension*. ~~Non-certificated-licensed~~ employees may be suspended without pay in accordance with Board policy 5:290, *Educational Support Personnel - Employment Termination and Suspensions*.

#### Implementation

The Superintendent or designee shall implement the policy in accordance with the FLSA, including its required notices to employees. In the event of a conflict between the policy and State or federal law, the latter shall control.

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LEGAL REF.: 820 ILCS 105/4a.  
Fair Labor Standards Act, 29 U.S.C. §201 et seq., 29 C.F.R. Parts 516, 541, 548,  
553, 778, and 785.

CROSS REF.: 5:240 (Suspension), 5:290 (Employment Termination and Suspensions), 5:310  
(Compensatory Time-Off)

ADOPTED: October 22, 2009

# DRAFT UPDATE

Meridian Community Unit School District #223

5:180

## General Personnel

### Temporary Illness or Temporary Incapacity

A temporary illness or temporary incapacity is an illness or other capacity of ill-being that renders an employee physically or mentally unable to perform assigned duties. During such a period, the employee can use accumulated sick leave benefits. However, income received from other sources (worker's compensation, District-paid insurance programs, etc.) will be deducted from the District's compensation liability to the employee. The School Board's intent is that in no case will the employee, who is temporarily disabled, receive more than 100 percent of their gross salary.

Those insurance plans privately purchased by the employee and to which the District does not contribute, are not applicable to this policy.

If illness, incapacity, or any other condition causes ~~an~~ a teacher or other licensed employee to be absent in one school year, after exhaustion of all available leave, for more than 90 consecutive work days, such absence may be considered a permanent disability and the Board may ~~consider beginning~~ begin dismissal proceedings subject to State and federal law, including the Americans with Disabilities Act. The Superintendent may recommend this paragraph's use when circumstances strongly suggest that the teacher or other licensed employee returned to work intermittently in order to avoid this paragraph's application. This paragraph shall not be considered a limitation on the Board's authority to take any action concerning an employee that is authorized by State and federal law.

Any employee may be required to have an examination, at the District's expense, by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervisor to perform health examinations if the examination is job-related and consistent with business necessity.

LEGAL REF.: Americans with Disabilities Act, 42 U.S.C. §12102.  
105 ILCS 5/10-22.4, 5/24-12, and 5/24-13.  
Elder v. School Dist. No.127 1/2, 208 N.E.2d 423 (Ill.App.1, 1965).  
School District No. 151 v. ISBE, 507 N.E.2d 134 (Ill.App.1, 1987).

CROSS REF.: 5:30 (Hiring Process and Criteria), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

ADOPTED: October 22, 2009

#### **Commented [AP1]:**

**Update 1:** Until February 2014, this paragraph in the PRESS sample policy applied to all employees. We limited its application to teachers in response to feedback that the paragraph should align with the statute. Section 24-13, which this paragraph implements, applies only to teachers and, thus, we amended the paragraph to make it applicable only to teachers. **This change may trigger a bargaining requirement with a bargaining unit for educational support personnel.**

**Important:** A district should consult the board attorney before determining that a teacher's temporary illness or incapacity became permanent.

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#### **Commented [AP2]:**

**Update 2:** This sentence recognizes that the board may take action concerning an employee in situations beyond this policy's scope.

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# DRAFT UPDATE

Meridian Community Unit School District #223

5:240

## Professional Personnel

### Suspension

#### Suspension Without Pay

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within 5 calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the professional employee of the alleged charges and the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

#### Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.

#### Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.

**Commented [AP1]:** The policy is updated in response to feedback. The edits give the superintendent or designee authority to begin proceedings to suspend a professional staff member without pay.

A superintendent or board should consult the board attorney before taking any action to suspend a licensed employee, with or without pay. A difference of opinion exists among attorneys concerning whether a board is permitted to authorize the superintendent to suspend teachers without pay. See the Update Memo for more information.

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# ***DRAFT UPDATE***

LEGAL REF.: 5 ILCS 430/5-60(b).  
105 ILCS 5/24-12.  
Cleveland Board of Education v. Loudermill, 105 S.Ct. 1487 (1985).  
Barszcz v. Community College District No. 504, 400 F.Supp. 675 (N.D. Ill., 1975).  
Massie v. East St. Louis School District No.189, 561 N.E.2d 246 (Ill.App.5, 1990).

CROSS REF.: 5:290 (Educational Support Personnel - Employment Termination and Suspensions)

ADOPTED: November 15, 2012